

CONFIRMED
COPYUNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) ACE TEXTILE, INC., a California corporation (b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): Los Angeles (c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) LARRY F. GITLIN, ESQ. RAPKIN, GITLIN & BEAUMONT 21650 Oxnard Street, Suite 1620 Woodland Hills, CA 91367 Tel: 818-884-9998; Fax: 818-884-1087	DEFENDANTS SAMSHID SAZEGAR dba CONTINENTAL FABRIC; ELLIS SHARON GEOLA dba CONTINENTAL FABRIC and Does 1 through 10, inclusive County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only): Los Angeles Attorneys (If Known)																		
II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 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.) <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2</td> <td>DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td>PTF <input type="checkbox"/> 5</td> <td>DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3</td> <td>DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6</td> <td>DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6														
IV. ORIGIN (Place an X in one box only.) <input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): _____ <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																			
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input type="checkbox"/> 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.) Copyright infringement under 17 U.S.C. Sections 101 et seq.																			
VII. NATURE OF SUIT (Place an X in one box only.)																			
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities /Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609														

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

FOR OFFICE USE ONLY: Case Number: _____

CV08-00107

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

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

VIII(b). RELATED CASES: Have any cases been previously filed 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: List the California County, or State if other than California, in which EACH named plaintiff resides (Use an additional sheet if necessary)

☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.

LOS ANGELES COUNTY

List the California County, or State if other than California, in which EACH named defendant resides. (Use an additional sheet if necessary).

☐ Check here if the U.S. government, its agencies or employees is a named defendant.

LOS ANGELES COUNTY

List the California County, or State if other than California, in which EACH claim arose. (Use an additional sheet if necessary)

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

LOS ANGELES COUNTY

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____

Date January 7, 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))

**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 George H. Wu and the assigned discovery Magistrate Judge is Margaret A. Nagle.

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

CV08 - 107 GW (MANx)

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.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ACE TEXTILE, INC.,
a California corporation,

PLAINTIFF(S)

v.

SAMSHID SAZEGAR dba CONTINENTAL
FABRIC; ELLIS SHARON GEOLA dba
CONTINENTAL FABRIC, and Does 1-10,
DEFENDANT(S).

CASE NUMBER

CV08-00107 GW(MAN)

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
Larry F. Gitlin, Esq., whose address is:

RAPKIN, GITLIN & BEAUMONT
21650 Oxnard Street, Suite 1620
Woodland Hills, California 91367

an answer to the ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim
which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
demanded in the complaint.

Clerk, U.S. District Court

Dated: JAN - 8 2008

By: Natalie Hongerich
Deputy Clerk

(Seal of the Court)

CONFIRMED
COPY

Law Offices

Rapkin, Gitlin & Beaumont

a partnership including professional corporations
21650 Oxnard Street, Suite 1620
Woodland Hills, CA 91367-4620
Telephone (818) 884-9998
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Larry F. Gitlin, Esq.

Attorneys for Plaintiff ACE TEXTILE, INC.

2008 JAN -8 PM 2:11
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

ACE TEXTILE, INC.,
a California corporation,

Plaintiff,

vs.

SAMSHID SAZEGAR dba CONTINEN-
TAL FABRIC; ELLIS SHARON GEOLA
dba CONTINENTAL FABRIC; and Does
1 through 10, inclusive,

Defendants.

CASE NO.

CV08-00107

GW (MANX)

COMPLAINT FOR DAMAGES
AND INJUNCTION FOR
COPYRIGHT INFRINGEMENT,
FALSE DESIGNATION OF
ORIGIN AND UNFAIR
COMPETITION; JURY DEMAND

ACE TEXTILE, INC. ("Plaintiff"), for its complaint against SAMSHID
SAZEGAR dba CONTINENTAL FABRIC ("Sazegar") and ELLIS SHARON GEOLA
dba CONTINENTAL FABRIC ("Geola") (collectively "Defendants"), alleges as follows:

I. JURISDICTION AND VENUE

1. This is an action for copyright infringement arising under the Copyright Act
of 1976, 17 U.S.C. §§101 et seq.; the Lanham Act of 1946, as amended, 15 U.S.C.
§§1051 et seq.; and related claims of unfair competition under federal and California
law. This Court has jurisdiction of this action under 28 U.S.C. §§1331, 1338(a) and

1 1338(b), and under its supplemental jurisdiction (28 U.S.C. §1367).

2 2. Venue is proper in this district, under 28 U.S.C. §§1391(b) and 1400(a), as
3 Defendants and/or their agents reside or may be found in this district, and under 28
4 U.S.C. § 1391(b) and (c), as Defendants reside in this judicial district, a substantial part
5 of the events or omissions giving rise to the claims occurred in this district, and
6 Defendants otherwise may be found in this district.

7 8 **II. PARTIES**

9 3. Plaintiff is a California corporation with its principal place of business located
10 at 509½ E. 9th Street, Los Angeles, California 90015.

11 4. Plaintiff is informed and believes, and on that basis alleges, that Sazegar is a
12 resident of the County of Los Angeles. Plaintiff is further informed and believes, and
13 on that basis alleges, that Sazegar doing business as Continental Fabric, at 501 E. 9th
14 Street, Los Angeles, California 90015, regularly imports, purchases, distributes, markets
15 and sells goods in the State of California, County of Los Angeles, and in this judicial
16 district.

17 5. Plaintiff is informed and believes, and on that basis alleges, that Geola is a
18 resident of the County of Los Angeles. Plaintiff is further informed and believes, and
19 on that basis alleges, that Geola doing business as Continental Fabric, at 501 E. 9th
20 Street, Los Angeles, California 90015, regularly imports, purchases, distributes, markets
21 and sells goods in the State of California, County of Los Angeles, and in this judicial
22 district.

23 6. Plaintiff is ignorant of the true names and capacities of defendants sued herein
24 as DOES 1-10, inclusive, and therefore sues these defendants by such fictitious names.
25 Plaintiff will amend its complaint to allege their true names and capacities when
26 ascertained.

27 7. Plaintiff is and at all times relevant to the facts alleged in this complaint was
28 and continues to be engaged in the business of importing, purchasing, producing,

1 marketing, distributing and selling textile products and creating distinctive and original
2 works of designs therefor.

3 8. Plaintiff has created distinctive and original works of design made part of a
4 collection of fabric patterns entitled Eden Collection, which contains material wholly
5 original to Plaintiff that is copyrightable subject matter under the laws of the United
6 States. One such original work of design from the Eden Collection is designated Pattern
7 SD2350A ("Subject Work").

8 9. The Subject Work was created no later than December 31, 2005.

9 10. On or about June 6, 2007, Plaintiff applied to the U.S. Copyright Office
10 ("U.S.C.O.") for a Certificate of Registration for the work entitled Eden Collection,
11 depositing with the application copies of the created works, specifically swatches of
12 fabrics bearing the copyrighted designs.

13 11. Thereafter, the U.S.C.O. issued Certificate of Registration No. VAu747-055
14 (the "Registration") for the entire Eden Collection, including the Subject Work, a copy
15 of which is attached hereto as Exhibit A, along with a photograph of an actual swatch of
16 fabric bearing the Subject Work submitted with the application.

17 12. Plaintiff currently is and at all times relevant herein has been the sole and
18 exclusive owner of all right, title, and interest in and to the copyright in the Subject Work
19 and the Registration. Plaintiff has imported, purchased, marketed, distributed and sold
20 textile fabrics bearing the Subject Work ("Fabrics") in strict conformity with the
21 provisions of the Copyright Act of 1976 and all other laws in the U.S. and elsewhere
22 governing copyrights.

23 13. Plaintiff has expended considerable amounts of monies and skill in the
24 development, promotion and marketing of the Fabrics and the Subject Work. As a
25 result, the Fabrics and the Subject Work have acquired a substantial renown and market
26 value in the trade and among the public.

27 14. The Fabrics bearing the Subject Work imported, purchased, marketed,
28 distributed and sold by Plaintiff include a copyright notice in appropriate form, as

1 required by law.

2 15. The Fabrics bearing the Subject Work are widely available throughout the
3 United States and in this judicial district.

4 16. Plaintiff is informed and believes, and on that basis alleges, that at all times
5 relevant hereto, Defendants had knowledge of or through reasonable inquiry should have
6 known of Plaintiff's ownership of the Fabrics, the Subject Work and the copyright
7 therefor.

8 17. Plaintiff is informed and believes, and on that basis alleges, that Defendants
9 knowingly and willfully or with reckless disregard for and willful blindness to Plaintiff's
10 rights, substantially, if not identically, copied the Subject Work onto fabric, including,
11 without limitation, brocade fabric, which is identical to the type of fabric upon which the
12 Subject Work is depicted. Plaintiff is further informed and believes, and on that basis
13 alleges, that Defendants copied or caused to have copied the Subject Work for the
14 specific purpose of infringing Plaintiff's copyright and selling illegal and unauthorized
15 copies of the Subject Work on brocade and other fabrics. Defendants are not now, nor
16 have they ever been, authorized or licensed to use or sell the Fabrics or use or make
17 counterfeits, reproductions, and/or colorable imitations of the Subject Work or Fabrics
18 bearing the Subject Work. A true and correct photographic copy of Defendants' actual
19 fabric product bearing the design that infringes Plaintiff's copyright ("Infringing Fabric")
20 is attached hereto, as Exhibit B.

21 18. Plaintiff is informed and believes, and on that basis alleges, that since at least
22 as early as January 1, 2007, Defendants have been reproducing and/or manufacturing (or
23 causing to be reproduced and/or manufactured), importing (or causing to be imported),
24 distributing, promoting, offering for sale and selling illegal and unauthorized copies of
25 the Subject Work, including the Infringing Fabric.

26 19. Plaintiff is informed and believes, and on that basis alleges, that Defendants
27 are attempting to pass off the Infringing Fabric as if it is Plaintiff's product in a manner
28 calculated to deceive Defendants' customers and members of the general public, in that

1 Defendants have substantially, if not identically, copied the copyrighted design of the
2 Subject Work onto the brocade fabric, the same as used by Plaintiff on which the Subject
3 Work is printed, in an effort to make the Infringing Fabric appear confusingly similar to
4 Plaintiff's product.

5 20. The natural, probable, and foreseeable result of Defendants' wrongful conduct
6 has been and will continue to deprive Plaintiff of the benefits of selling Plaintiff's
7 Fabrics and the Subject Work depicted on brocade and other fabrics, to deprive Plaintiff
8 of good will, and to injure Plaintiff's relations with its present and prospective
9 customers.

10 21. Plaintiff is informed and believes, and on that basis alleges, that it has lost and
11 will continue to lose revenues as a result of Defendants' sales of the Infringing Fabric
12 and will sustain damages as a result of Defendants' wrongful conduct, including, without
13 limitation, Defendants' importation, production, promotion, reproduction, distribution
14 and sale of the Infringing Fabric. Defendants' wrongful conduct has also deprived and
15 will continue to deprive Plaintiff of opportunities for expanding its goodwill.

16 22. Plaintiff is informed and believes, and on that basis alleges, that unless
17 enjoined by this Court, Defendants intend to continue their course of conduct and to
18 wrongfully use, infringe upon, sell and otherwise profit from the sale of the Infringing
19 Fabric. As a direct and proximate result of the acts of Defendants alleged herein,
20 Plaintiff has already suffered irreparable damage and has sustained lost profits. Plaintiff
21 has no adequate remedy at law to redress the injuries that Defendants have caused and
22 intend to cause by their conduct. Plaintiff will continue to suffer irreparable damage and
23 sustain lost profits until Defendants' actions alleged above are enjoined by this Court.

24
25 **III. FIRST CLAIM FOR RELIEF**
26 **COPYRIGHT INFRINGEMENT**
27 **(17 U.S.C. §§101 et seq.)**

28 23. Plaintiff realleges each and every allegation set forth in Paragraphs 1 through

22, inclusive, and incorporates them herein by reference.

24. By its actions alleged above, Defendants have infringed and will continue to infringe Plaintiff's copyright in and relating to the Subject Work and the Registration by reproducing, manufacturing (or causing to be reproduced and/or manufactured), importing (or causing to be imported), distributing, marketing, offering for sale and selling product which bears a design that is substantially similar to, if not direct and identical copies of, the copyrighted Subject Work throughout the United States and within this judicial district.

25. Plaintiff is entitled to an injunction restraining Defendants, their officers, agents and employees, and all persons acting in concert and participating with them, from engaging in any further such acts in violation of the U.S. copyright laws.

26. Plaintiff is incurring irreparable harm, actual damages, and lost profits, from Defendants' wrongful acts, and will continue to incur such harm and damage, and has no adequate remedy at law.

27. Plaintiff is further entitled to recover from Defendants statutory damages or actual damages it has sustained and will sustain and any gains, profits, and advantages obtained by Defendants as a result of Defendants' acts of infringement alleged above, and attorneys' fees. At present, the amount of such damages, gains, profits and advantages cannot be fully ascertained by Plaintiff.

**IV. SECOND CLAIM FOR RELIEF FOR FALSE
DESIGNATION OF ORIGIN & UNFAIR COMPETITION
(15 U.S.C. § 1125 AND CALIFORNIA LAW)**

28. Plaintiff realleges each and every allegation set forth in Paragraphs 1 through 22 and Paragraphs 24 through 27, inclusive and incorporates them herein by reference.

29. By its wrongful acts alleged above, Defendants are passing off their textile product, which incorporates the copyrighted Subject Work, as a product and design emanating from Plaintiff, and seeks to capitalize on the fame and recognition and

1 goodwill that Plaintiff has generated in Plaintiff's distinctive and original copyrighted
2 fabric design, thereby deceiving relevant purchasers and the consuming public, including
3 persons within this judicial district.

4 30. Defendants, by importing, producing, reproducing (or causing to be imported,
5 produced and/or reproduced), marketing, selling and using the Infringing Fabric, which
6 bears a design that is substantially and confusingly similar, if not identical, to, and a
7 counterfeit and/or colorable imitation of, the Subject Work in commerce, including in
8 this judicial district, created, and continue to create a false designation of origin and/or
9 false or misleading description or representation of fact, or have otherwise passed off the
10 Infringing Fabric as Plaintiff's Fabrics, all of which are likely to cause confusion,
11 mistake, or to deceive relevant purchasers and the consuming public as to the affiliation,
12 connection or association of Defendants, their products and/or business, and/or as to the
13 origin, sponsorship, or approval of Defendants' goods or commercial activities. Further,
14 on information and belief, by said acts, Defendants have misrepresented the nature,
15 characteristics, qualities, and/or source of the Infringing Fabric, including the design
16 therefor, reproduced, produced, imported (or caused to be reproduced, produced and/or
17 imported), marketed, used and sold by Defendants.

18 31. Defendants, by their wrongful acts alleged above, have intentionally and
19 willfully, directly and indirectly, passed off their goods as those of Plaintiff, have
20 promoted Defendants' goods as those of Plaintiff, and have represented that Defendants'
21 goods have the sponsorship, approval, status, affiliation, connection or association with
22 Plaintiff, which Defendants' goods do not have; and further, Defendants, by such acts,
23 have disparaged Plaintiff's goods and/or represented that the goods reproduced,
24 produced, imported (or caused to be reproduced, produced and/or imported), marketed,
25 used and sold by Defendants are of a particular standard, quality or style which said
26 goods are not, and have caused a likelihood of, and on information and belief, actual
27 confusion or misunderstanding as to the source, sponsorship, approval, affiliation,
28 connection, and/or association of such goods of Defendants with Plaintiff, its goods

1 and/or its business.

2 32. By reason of the acts alleged above, Defendants have committed false
3 designation and representation of origin and unfair competition in violation of 15 USC
4 §1125(a), California Business and Professions Code §§17200 et seq., and the common
5 law.

6 33. Plaintiff is informed and believes, and on that basis alleges, that the aforesaid
7 acts of Defendants of false representation and designation of origin and unfair
8 competition entitle Plaintiff to recover its actual and/or general damages and the profits
9 of Defendants. Defendants' acts are also willful, wanton, and without any claim of right,
10 thereby entitling Plaintiff to increased and/or exemplary damages in an amount treble the
11 amount of actual and/or general damages recoverable by Plaintiff, for which Defendants
12 are liable.

13 34. The acts of false representation and designation of origin and unfair
14 competition of Defendants, render this an exceptional case entitling Plaintiff to recover
15 its attorney's fees, for which Defendants are liable.

16 35. Plaintiff has suffered and will continue to suffer, irreparable harm and damage
17 as a result of the false representation and designation of origin, and acts of unfair
18 competition by Defendants, and has no adequate remedy at law.

19 36. Defendants will continue their false representations and designation of origin
20 and acts of unfair competition, as aforesaid, unless enjoined by this Court from doing so.

21
22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them,
24 as follows:

25 1. That the Court find that Defendants have infringed Plaintiff's copyright
26 in the Subject Work.

27 2. That the Court find a substantial likelihood that Defendants will continue
28 to infringe Plaintiff's copyright in the Subject Work unless enjoined preliminarily and

1 permanently from doing so.

2 3. That Defendants, their directors, officers, agents, servants and
3 employees, and all other persons in active concert or privity, or in participation with
4 them, be preliminarily and permanently enjoined from directly or indirectly using or
5 conspiring to use in any manner the Infringing Fabric shown in Exhibit B hereto, or
6 using or conspiring to use any copy, counterfeit or colorable imitation of Plaintiff's
7 copyrighted fabric design shown in Exhibit A hereto, in connection with the
8 manufacture, importation, warehousing, advertising, promotion, distribution, offering for
9 sale, and/or sale, of any fabric products, or for or in connection with any goods, business,
10 and/or commercial activities of Defendants; and falsely representing or designating the
11 origin of or otherwise unfairly competing with Plaintiff, in any manner alleged herein.

12 4. That Defendants, their directors, officers, agents, servants and
13 employees, and all other persons in active concert or privity or in participation with
14 them, be preliminarily and permanently enjoined from directly or indirectly infringing
15 or conspiring to infringe Plaintiff's copyright in the Subject Work or continuing to
16 market, offer, sell, dispose of, license, lease, transfer, display, advertise, reproduce,
17 develop, manufacture or warehouse any works or designs derived or copied from the
18 Subject Work or to participate or assist in any such activity.

19 5. That Defendants, their directors, officers, agents, servants and
20 employees, and all other persons in active concert or privity or in participation with
21 them, be preliminarily and permanently enjoined and, thus, ordered to deliver to Plaintiff
22 the Infringing Fabric, including any and all fabric products bearing designs that are
23 substantially similar or identical to, or originals, copies, facsimiles, colorable imitations
24 or duplicates of, the Subject Work in its possession, custody or control.

25 6. That Defendants, their directors, officers, agents, servants and,
26 employees, and all other persons in active concert or privity or in participation with
27 them, be preliminarily and permanently enjoined and, thus, ordered to recall from all
28 distributors, wholesalers, jobbers, dealers, and retailers, and all others known to

1 Defendants, any originals, copies, facsimiles, or duplicates of the Infringing Fabric,
2 including any fabric products shown by the evidence to infringe the copyright in the
3 Subject Work.

4 7. That Defendants be enjoined to deliver under oath, to be impounded
5 during the pendency of this action and destroyed pursuant to judgment herein, all
6 originals, copies, facsimiles, or duplicates of the Infringing Fabric, including any fabric
7 products shown by the evidence to infringe the copyright in the Subject Work.

8 8. That Defendants be required to file with the Court and to serve on
9 Plaintiff, within 30 days after service of the Court's order as herein prayed, a report in
10 writing under oath setting forth in detail the manner and form in which Defendants have
11 complied with the Court's order.

12 9. That judgment be entered for Plaintiff and against Defendants for
13 Plaintiff's actual damages or statutory damages (up to \$150,000) based upon Defendants'
14 acts of infringement, pursuant to the Copyright Act of 1976, 17 U.S.C. §§101 et seq.,
15 specifically because of the willful acts described herein and Defendants' blatant and
16 reckless disregard of Plaintiff's rights.

17 10. That Defendants be required to pay Plaintiff treble the amount of
18 Plaintiff's actual damages plus Defendants' profits recoverable by Plaintiff.

19 11. That Defendants be required to account for all gains, profits, and
20 advantages derived from their acts of infringement and for their other violations of law.

21 12. That all gains, profits and advantages derived by Defendants from their
22 acts of infringement and other violations of law be deemed to be held in constructive
23 trust for the benefit of Plaintiff.

24 13. That Defendants be compelled to pay Plaintiff's costs and attorney's
25 fees pursuant to 17 U.S.C. § 505 and 15 U.S.C. § 1117.

26 ///

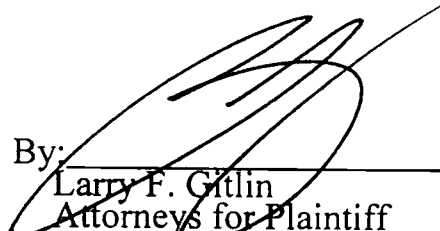
27 ///

28 ///

1 14. That the Court grant such other and further relief as the Court deems
2 just and proper.

3
4 RAPKIN, GITLIN & BEAUMONT

5
6
7 Dated: January 7, 2008

8 By: 
9 Larry F. Gitlin
10 Attorneys for Plaintiff
11 ACE TEXTILE, INC.

12 JURY DEMAND

13 Plaintiff hereby demands trial by jury on all issues triable to a jury.

14 RAPKIN, GITLIN & BEAUMONT

15 Dated: January 7, 2008

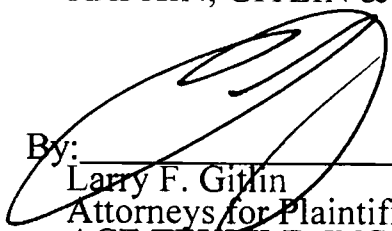
16 By: 
17 Larry F. Gitlin
18 Attorneys for Plaintiff
19 ACE TEXTILE, INC.

EXHIBIT “A”



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

REG **VAu747-055**

EFFECTIVE DATE OF REGISTRATION
6 12 07
Month Day Year

Title of This Work ▼

Eden Collection

Previous or Alternative Titles ▼

SEPARATE CONTINUATION SHEET.

NATURE OF THIS WORK ▼ See instructions

Fabric Design

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 ▼

Peyman Malekan

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

5-18-80

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

☐ Yes
☒ No

Author's Nationality or Domicile
Name of Country

OR Citizen of *USA*
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.

NOTE

Under the law, the author of a work made for hire is generally the employer, not the employee (see instructions). For any part of this work that was made for hire, check (Yes) in the space provided, give the employer (or other person for whom the work was prepared) as Author of that part, and leave the space for dates of birth and death blank.

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

2005

This information must be given Year in all cases.

Date and Nation of First Publication of This Particular Work

Month _____ Day _____ Year _____
ONLY if this work has been published.

Nation

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

Peyman Malekan
509 1/2 E. 9th Street
Los Angeles, CA 90015

See instructions before completing this space.

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. ▼

APPLICATION RECEIVED
JUN 12 2007

ONE DEPOSIT RECEIVED

JUN 12 2007

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

DO NOT WRITE HERE OFFICE USE ONLY

MORE ON BACK ►

Complete all applicable spaces (numbers 5-8) on the reverse side of this page.
See detailed instructions. Sign the form at line 8.

DO NOT WRITE HERE
Page 1 of 2 pages

EXAMINED BY

FORM VA

CHECKED BY

CORRESPONDENCE

☐ YesFOR
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 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. ▼

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 ▼

Peyman Malekan
509 1/2 E. 9th Street
Los Angeles, CA 90015

Area code and daytime telephone number (213) 438-0808

Fax number (213) 438-0887

Email ethanext@6@yahoo.com

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

check only one ►

☒ author☐ other copyright claimant☐ owner of exclusive right(s)☐ authorized agent of

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.

PEYMAN MALEKAN

Date

6/6/07

Handwritten signature (X) ▼

X

Certificate
will be
mailed in
window
envelope
to this
address:

Name ▼

Peyman Malekan

Number/Street/Apt ▼

509 1/2 E. 9th Street

City/State/ZIP ▼

Los Angeles, CA 90015

Complete all necessary spaces
Sign your application in space 6

1. Application form

2. Nonrefundable filing fee in check or money

order payable to Register of Copyrights

3. Deposit material

Library of Congress
Copyright Office
101 Independence Avenue SE
Washington, DC 20540-8000

*17 USC §506(e). Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.



EXHIBIT “B”

