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Attorneys for Plaintiff

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

L.A. PRINTEX INDUSTRIES, INC., a
California Corporation,

Plaintiff,

vs.

THE DRESS BARN, INC., a Connecticut
Corporation; GLORIA LANCE, INC., a
California Corporation, DOES 1-10,

Defendants.

Case No.:

CV08-00299 DSF PJW

PLAINTIFF'S COMPLAINT FOR:

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

Jury Trial Demanded

Plaintiff, L.A. PRINTEX INDUSTRIES, INC. (hereinafter "LAP" or
"Plaintiff"), by and through its undersigned attorneys, hereby prays to this honorable
Court for relief based on the following:

INTRODUCTION

Plaintiff creates and obtains rights to unique two-dimensional graphic artworks
for use on textiles, which textiles are transacted primarily in the fashion industry.
Plaintiff owns these designs in exclusivity and makes sales of products bearing these

1 designs for profit. Plaintiff's business is predicated on its ownership of these designs
2 and it spends a considerable amount of time and resources creating and obtaining top-
3 quality, marketable and aesthetically-appealing designs. This action is brought to
4 recover damages for direct, vicarious and contributory copyright infringement arising
5 out of the misappropriation of Plaintiff's intellectual property rights in certain of
6 these designs by the Defendants, and each of them.

7 **JURISDICTION AND VENUE**

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

10 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
11 1338 (a) and (b).

12 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
13 1400(a) in that this is the judicial district in which a substantial part of the acts and
14 omissions giving rise to the claims occurred.

15 **PARTIES**

16 4. Plaintiff LAP is a corporation organized and existing under the laws of the
17 State of California with its principal place of business located at 3270 East 26th
18 Street, Vernon, California 90023.

19 5. Plaintiff is informed and believes and thereon alleges that Defendant THE
20 DRESS BARN, INC. ("DRESS BARN") is a corporation organized and existing
21 under the laws of the State of Connecticut with its principal place of business at 30
22 Dunnigan Drive, Suffern, New York, 10901, and doing business in and with the
23 State of California.

24 6. Plaintiff is informed and believes and thereon alleges that Defendant
25 GLORIA LANCE, INC. ("GLORIA") is a California corporation with its principal
26 place of business at 15616 South Broadway, Gardena, California 90248.
27
28

1 7. Plaintiff is informed and believes and thereon alleges that some of
2 Defendants DOES 1 through 3, inclusive, are manufacturers and/or vendors of
3 garments to Defendant, which DOE Defendants have manufactured and/or supplied
4 and are manufacturing and/or supplying fabrics and other product printed with
5 Plaintiff's copyrighted designs (as hereinafter defined) without Plaintiff's knowledge
6 or consent or have contributed to said infringement. The true names, whether
7 corporate, individual or otherwise of Defendants DOES 1-3, inclusive, are presently
8 unknown to Plaintiff, which therefore sues said Defendants by such fictitious names
9 and will seek leave to amend this complaint to show their true names and capacities
10 when same have been ascertained.

11 8. Defendants DOES 4 through 10, inclusive, are other parties not yet
12 identified who have infringed Plaintiff's copyrights, have contributed to the
13 infringement of Plaintiff's copyrights, or have engaged in one or more of the
14 wrongful practices alleged herein. The true names, whether corporate, individual or
15 otherwise, of Defendants 4 through 10, inclusive, are presently unknown to Plaintiff,
16 which therefore sues said Defendants by such fictitious names, and will seek leave to
17 amend this Complaint to show their true names and capacities when same have been
18 ascertained.

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

CLAIMS RELATED TO DESIGN F60146

10. At least as early as December 12, 2002, Plaintiff was publishing and offering for sale a two-dimensional artistic rendering of floral elements and ethnic symbols which it had allocated Internal Design Code F60146 ("Subject Design A"). A copy of Subject Design A is attached hereto as Exhibit 1. This artwork is, and at all relevant times was, owned in exclusivity by Plaintiff.

11. On August 17, 2005, Plaintiff applied for and received a United States Copyright Registration for Subject Design A. A true and correct copy of this document, which reflects the allocation of registration code VA 1-319-272 to Subject Design A, is attached hereto as Exhibit 2.

12. On February 2, 2005, and again on March 17, 2005, Plaintiff's investigation into the unlawful use of its proprietary designs revealed that DRESS BARN was purchasing, distributing and selling for profit, garments which infringed Subject Design A. A true and correct copy of an exemplar of a garment sold by DRESS BARN in violation of Plaintiff's copyright in Subject Design A is attached hereto as Exhibit 3.

13. Plaintiff's investigation further revealed that the garments set forth in the preceding paragraph were supplied to DRESS BARN by GLORIA, a clothing vendor based in Gardena, California, and operating in the same market as Plaintiff. This transaction was not authorized by Plaintiff and violated Plaintiff's intellectual property rights in Subject Design A.

14. On October 7, 2005, Plaintiff issued cease and desist demands to DRESS BARN and GLORIA in an attempt to prompt said parties to refrain from selling product which infringed Plaintiff's rights in Subject Design A.

CLAIMS RELATED TO DESIGN D40094

15. At least as early as October 31, 2003, Plaintiff was publishing and offering for sale a two-dimensional artistic rendering of multi-planed tropical floral elements

1 which it had allocated Internal Design Code D40094 ("Subject Design B"). A copy
2 of Subject Design B is attached hereto as Exhibit 4. This artwork is, and at all
3 relevant times was, owned in exclusivity by Plaintiff.

4 16. On February 23, 2004, Plaintiff applied for and received a United States
5 Copyright Registration for Subject Design B. A true and correct copy of this
6 document, which reflects the allocation of registration code Vau 612-272 to Subject
7 Design B, is attached hereto as Exhibit 5.

8 17. On May 3, 2007, Plaintiff's investigation into the unlawful use of its
9 proprietary designs revealed that DRESS BARN was purchasing, distributing and
10 selling for profit, garments which infringed Subject Design B. A true and correct
11 copy of an exemplar of a garment sold by DRESS BARN in violation of Plaintiff's
12 copyright in Subject Design B is attached hereto as Exhibit 6.

13 18. Plaintiff's investigation further revealed that the garments set forth in the
14 preceding paragraph were supplied to DRESS BARN by GLORIA, a clothing
15 vendor based in Gardena, California, and operating in the same market as Plaintiff.
16 This transaction was not authorized by Plaintiff and violated Plaintiff's intellectual
17 property rights in Subject Design B.

18 19. On June 27, 2007, Plaintiff issued cease and desist demands to DRESS
19 BARN and GLORIA in an attempt to prompt said parties to refrain from selling
20 product which infringed Plaintiff's rights in Subject Design B.

21 20. Subject Design A and Subject Design B will be collectively referred to as
22 "Subject Designs."

23 21. Prior to the alleged infringement, Plaintiff had formatted the Subject
24 Designs for use on textiles, sampled the Subject Designs to prospective customers
25 and negotiated sales of fabric bearing the Subject Design.

26 22. Plaintiff is informed and believes and thereon alleges that, without
27 Plaintiff's authorization, Defendants, and each of them, purchased, sold,
28

1 manufactured, caused to be manufactured, imported and/or distributed fabric and/or
2 garments comprised of fabric featuring a design which is identical to, or substantially
3 similar to, the Subject Designs. Plaintiff is informed and believes that this conduct
4 continued to occur subsequent to Defendants, and each of their, receipt of the
5 aforementioned cease and desist demands.

6 23. The garments, as which garments were manufactured under the direction of
7 the Defendants, and each of them. Plaintiff is informed and believes and thereon
8 alleges that one or more of the named Defendants owns and/or otherwise controls
9 these labels and caused garments under those labels to be manufactured.

10 **FIRST CLAIM FOR RELIEF**

11 (For Copyright Infringement - Against All Defendants)

12 24. Plaintiff repeats, realleges and incorporates herein by reference as though
13 fully set forth the allegations contained in the preceding paragraphs of this
14 Complaint.

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

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

1 27.Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, infringed Plaintiff's copyright by creating, making and/or developing
3 directly infringing and/or derivative works from the Subject Designs and by
4 producing, distributing and/or selling garments which infringe the Subject Designs
5 through a nationwide network of retail stores and on-line outlets.

6 28.Due to Defendants' acts of infringement, Plaintiff has suffered substantial
7 damages to its business in an amount to be established at trial.

8 29.Due to Defendants' acts of infringement, Plaintiff has suffered general and
9 special damages in an amount to be established at trial.

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

16
17 **SECOND CLAIM FOR RELIEF**

18 (For Vicarious and/or Contributory Copyright Infringement - Against All
19 Defendants)

20 31.Plaintiff repeats, realleges and incorporates herein by reference as though
21 fully set forth the allegations contained in the preceding paragraphs of this
22 Complaint.

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

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

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

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

16 **PRAYER FOR RELIEF**

17 Wherefore, Plaintiff prays for judgment as follows:

18 **Against All Defendants**

19 1. **With Respect to Each Claim for Relief**

- 20 a. That Defendants, their agents and employees be enjoined from
21 infringing Plaintiff's copyrights in any manner, specifically those for the
22 Subject Designs;
- 23 b. That Plaintiff be awarded all profits of Defendants plus all losses of
24 Plaintiff, plus any other monetary advantage gained by the Defendants
25 through their infringement, the exact sum to be proven at the time of
26 trial, or, if elected before final judgment, statutory damages as available
27 under the Copyright Act, 17 U.S.C. § 101 et seq.;
- 28

- 1 c. That Plaintiff be awarded its attorneys' fees as available under the
2 Copyright Act U.S.C. § 101 et seq.;
- 3 d. That Defendants, and each of them, account to Plaintiff for their profits
4 and any damages sustained by Plaintiff arising from the foregoing acts
5 of infringement;
- 6 e. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 7 f. That Plaintiff be awarded the costs of this action; and
- 8 g. That Plaintiff be awarded such further legal and equitable relief as the
9 Court deems proper.

10 A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
11 CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

12 Dated: January 17, 2008

DONIGER LAW FIRM

13
14 By: 

15 Scott A. Burroughs, Esq.

16 Attorneys for Plaintiff

17 L.A. PRINTEX INDUSTRIES, INC.
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Exhibit 1



Exhibit 2

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

VA 1-319-272



August 17 2005

Month Day Year

LATE CONTINUATION SHEET.

NATURE OF THIS WORK ▼ See instructions

LAPRINTEX GROUP F-1 *1

TEXTILE DESIGN

Previous or Alternative Titles ▼ **F60146**

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 ▼

2

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.

NAME OF AUTHOR ▼

a LA PRINTEX INDUSTRIES, INC.

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 ▼

b LA PRINTEX INDUSTRIES, INC.

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

3

Year in Which Creation of This Work Was Completed

2002

This information must be given Year in U.S. Court.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work has been published.

Month ***12**

Day **12**

Year **2002**

USA

Nation

4

See instructions before completing this space.

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

LA PRINTEX INDUSTRIES, INC.

3270 E. 26th St.

VERNON, CA. 90023

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

AUG 17 2005

ONE DEPOSIT RECEIVED

AUG 17 2005

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

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

Exhibit 3



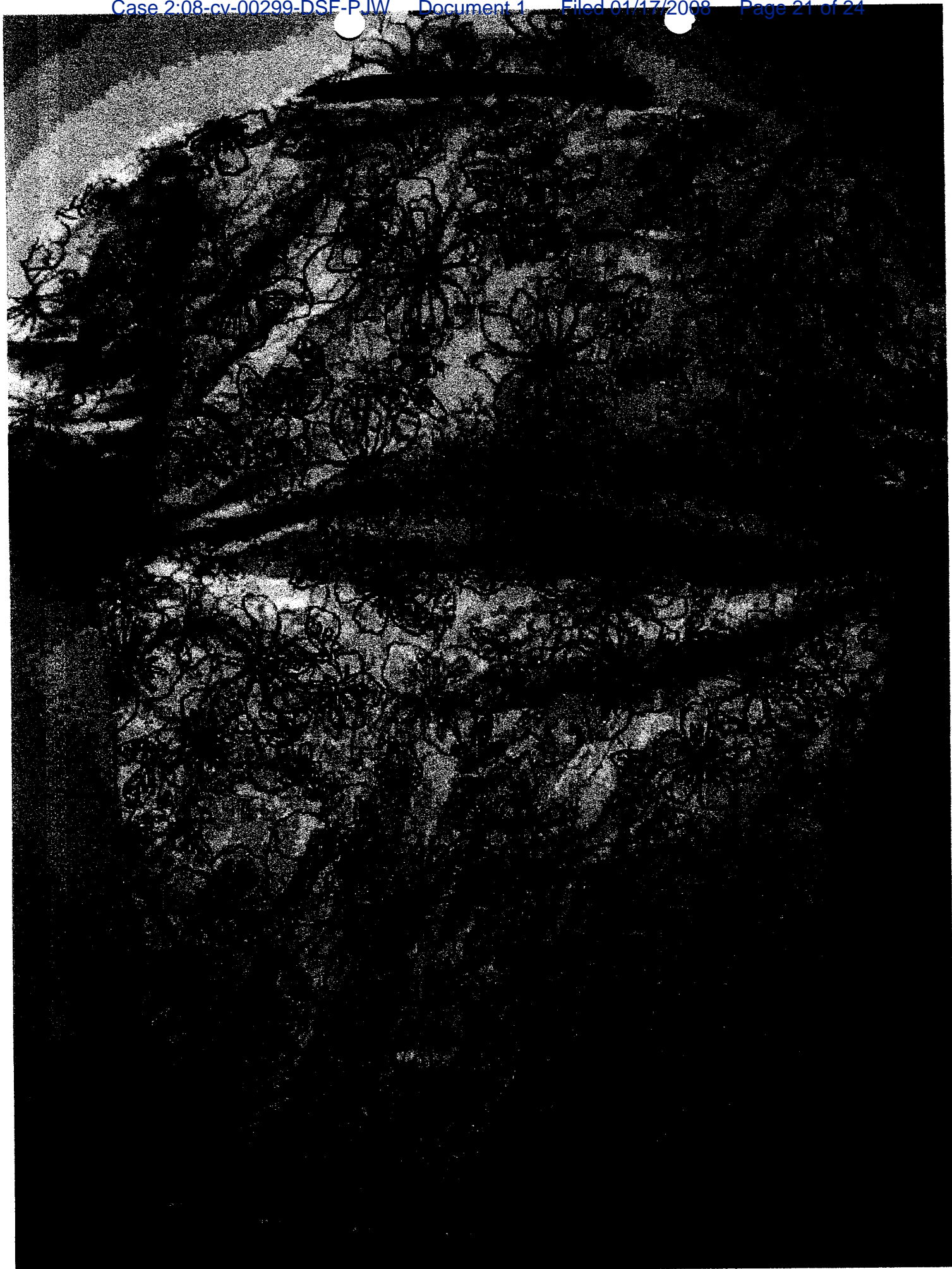
Exhibit 4

D40094.TIF



Exhibit 5

Exhibit 6



**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 Dale S. Fischer and the assigned discovery Magistrate Judge is Patrick J. Walsh.

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

CV08- 299 DSF (PJWx)

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 179314)
Scott A. Burroughs, Esq. (SBN 235718)
DONIGER LAW FIRM
300 Corporate Pointe, Suite 355
Culver City, CA 90230
Telephone: (310) 590-1820

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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v.

THE DRESS BARN, INC., a Connecticut
Corporation; GLORIA LANCE, INC., a California
Corporation; and DOES 1 through 10,
DEFENDANT(S).

CASE NUMBER

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
SCOTT A. BURROUGHS, whose address is:

300 Corporate Pointe, Suite 355
Culver City, CA 90230
Telephone: (310) 590-1820
Facsimile: (310) 417-3538
Email: Scott@DonigerLawFirm.com

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: 17 JAN 2008

By: M. Hernandez
Deputy Clerk

(Seal of the Court)

Stephen M. Doniger, Esq. (SBN 179314)
Scott A. Burroughs, Esq. (SBN 235718)
DONIGER LAW FIRM
300 Corporate Pointe, Suite 355
Culver City, CA 90230
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SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
SCOTT A. BURROUGHS, whose address is:

300 Corporate Pointe, Suite 355
Culver City, CA 90230
Telephone: (310) 590-1820
Facsimile: (310) 417-3538
Email: Scott@DonigerLawFirm.com

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.

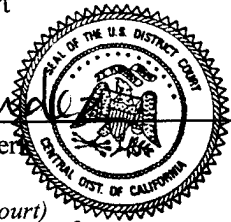
Clerk, U.S. District Court

Dated: 17 JAN 2008

By: H. Hernandez

Deputy Clerk

(Seal of the Court)



1196