

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TACORI ENTERPRISES, :
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 Plaintiff, :
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 v. :
 :
 MALIDANI JEWELRY CORP., :
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 Defendant. :
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JUDGE SCHEINDLIN

Case No. 06 CV 2957 (SAS)

**PROPOSED CONSENT JUDGMENT AND PERMANENT INJUNCTION
AGAINST DEFENDANT MALIDANI JEWELRY CORP.**

Plaintiff, Tacori Enterprises (“Tacori”), and Defendant Malidani Jewelry Corp. (“Malidani”), having settled this action on the terms and conditions stated herein, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. This case is a civil action arising under the Copyright Act, 17 U.S.C. §§ 101, *et seq.*, the Lanham Act of 1946 as amended, 15 U.S.C. §§ 1051, *et seq.*, and New York statutory and common laws. This Court has jurisdiction over these claims under 15 U.S.C. § 1121, 17 U.S.C. § 501, and 28 U.S.C. §§ 1331, 1338(a) and 1367(a).
2. Venue is proper in this court pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).
3. Tacori is a California corporation with its principal place of business at 1736 Gardena Avenue, Glendale, California.
4. Malidani has its principal place of business at 77 West 47th Street, New York, New York 10036.
5. For over 30 years, Tacori has been an innovator in the design, creation, and marketing of fine jewelry. Tacori designs its own jewelry and has created exclusive collections from only top quality platinum and 18 or 22 karat gold.

6. Among Tacori's original jewelry designs are HT 2229 Tacori "Crescent Silhouette" Ring Design; HT 2229A Tacori "Crescent Silhouette" Ring Design; HT 2255 Tacori "Crescent Silhouette" Ring Design; HT 2256 Tacori "Crescent Silhouette" Ring Design; HT 2257 Tacori "Crescent Silhouette" Ring Design; HT 2258 Tacori "Crescent Silhouette" Ring Design; HT 2259 Tacori "Crescent Silhouette" Ring Design; HT 2259B Tacori "Crescent Silhouette" Ring Design; HT 2260 Tacori "Crescent Silhouette" Ring Design; HT 2260D Tacori "Crescent Silhouette" Ring Design; HT 2261 Tacori "Crescent Silhouette" Ring Design; HT 2262 S Tacori "Crescent Silhouette" Ring Design; HT 2263 A Tacori "Crescent Silhouette" Ring Design; HT 2264 Tacori "Crescent Silhouette" Ring Design; HT 2264 Tacori "Crescent Silhouette" Ring Design; HT 2265 A Tacori "Crescent Silhouette" Ring Design; HT 2266 A Tacori "Crescent Silhouette" Ring Design; HT 2267 S Tacori "Crescent Silhouette" Ring Design; HT 2271 Tacori "Crescent Silhouette" Ring Design; HT 2272 Tacori "Crescent Silhouette" Ring Design; HT 2273 Tacori "Crescent Silhouette" Ring Design; HT 2275 Tacori "Crescent Silhouette" Ring Design; HT 2276 Tacori "Crescent Silhouette" Ring Design; HT 2277 Tacori "Crescent Silhouette" Ring Design; HT 2278 Tacori "Crescent Silhouette" Ring Design; HT 2280 Tacori "Crescent Silhouette" Ring Design; HT 2283 D Tacori "Crescent Silhouette" Ring Design; HT 2284 Tacori "Crescent Silhouette" Ring Design; HT 2319 Tacori "Crescent Silhouette" Ring Design; HT 2324 Tacori "Crescent Silhouette" Ring Design; HT 2326 Tacori "Crescent Silhouette" Ring Design; HT 2352 Tacori "Crescent Silhouette" Ring Design; and HT 2353 Tacori "Crescent Silhouette" Ring Design (collectively the "Crescent Silhouette Rings"). Each of the Crescent Silhouette Rings is an original design comprising copyrightable subject matter under the laws of the United States.

7. At all relevant times, Tacori complied in all respects with the Copyright Act, 17 U.S.C. § 101, *et seq.*, and secured the exclusive rights and privileges in and to the copyright in the Crescent Silhouette Rings. The Crescent Silhouette Rings are an original work, copyrightable under the Copyright Act, and they have been copyrighted in full compliance with the Copyright Act (collectively the “Tacori Copyrights”). Copies of the Certificates of Registration and Supplementary Registrations from the Register of Copyrights for the Tacori Copyrights are attached to this Consent Judgment as Exhibit A.

8. Malidani acknowledges the validity and enforceability of the Tacori Copyrights. Malidani further acknowledges that it has manufactured, sold, distributed or advertised ring designs which are substantially similar to some of the Tacori Copyrights.

9. Since the introduction of its first distinctive Crescent Silhouette Rings, Tacori has introduced additional rings and other types of jewelry, all of which incorporate the same distinctive design elements, referred to herein as the “Tacori Trade Dress.” The Tacori Trade Dress consists of two essentially concentric rings, with one ring having a larger diameter than the other. Embedded between the concentric rings are at least two semi-circles or arcs which appear contiguous to each other. Contained within each semi-circle or arc is a stone. A space is created between the contiguous semi-circles or arcs. Pictures reflecting the Tacori Trade Dress are attached to this Consent Judgment as Exhibit B.

10. Tacori has made and continues to make a substantial investment of time, effort and expense in the design, manufacturing and marketing of its jewelry featuring the Tacori Trade Dress. Tacori’s jewelry featuring the Tacori Trade Dress has had outstanding commercial success. As a result, jewelers and the public recognize the Tacori Trade Dress as designating an exclusive source, thereby creating a goodwill which inures to Tacori’s benefit.

11. Malidani acknowledges the validity and enforceability of the Tacori Trade Dress. Malidani further acknowledges that it has manufactured, sold, distributed or advertised ring designs which are likely to cause confusion with the Tacori Trade Dress.

12. Since the filing of the Complaint, Tacori and Malidani have agreed to a full and final settlement of this action as contained herein, and in a private agreement between the parties, and have agreed to the entry of this Consent Judgment and Permanent Injunction. Accordingly, it is hereby ORDERED that Malidani, and Malidani's officers, directors, employees, representatives, agents, successors-in-interest, parent corporations, subsidiary corporations, affiliated companies, and all other persons, firms or entities acting in concert or participating with them, are hereby permanently enjoined, directly or indirectly, from:

(a) imitating, copying or making unauthorized use of, or engaging in any unauthorized distribution of products protected by the Tacori Copyrights and Tacori Trade Dress;

(b) using any simulation, reproduction, counterfeit, copy or colorable imitation of products protected by the Tacori Copyrights and Tacori Trade Dress;

(c) engaging in any other activity constituting an infringement of the Tacori Copyrights and Tacori Trade Dress, or constituting any dilution of the Tacori Trade Dress, or constituting any infringement of Tacori's rights in, or right to use or exploit the Tacori Copyrights and Tacori Trade Dress;

(d) using any false designation of origin or false description which can or is likely to lead the public, or individual members thereof, erroneously to believe that any product or service was or is circulated, displayed, distributed, offered for sale, sold, manufactured, licensed, sponsored, approved or authorized by or for Tacori, when such is not true in fact; and

(e) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs 12(a) through 12(d) above.

13. The parties waive notice of entry of this Consent Judgment and Permanent Injunction and the right to appeal therefrom or to test its validity and consent to its immediate entry in accordance with its terms. This Court expressly retains jurisdiction over this matter to enforce, implement or construe this Consent Judgment and Permanent Injunction.

14. The parties shall bear their own attorneys' fees and costs.

SO ORDERED.

DATED: 8/18/06



UNITED STATES DISTRICT JUDGE

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FOR THE COURT
CLERK

The individuals executing this Consent Judgment and Permanent Injunction represent or confirm that they are duly authorized to do so, and are similarly authorized to bind each of the signatories to this Consent Judgment and Permanent Injunction.

CONSENTED TO:

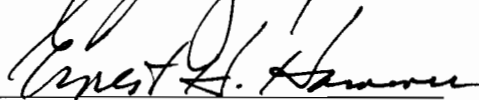
DATED: August 17, 2006



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