

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Judge Pauley

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RIVER LIGHT V, LP,

07 CV 2038
Civil Action No.

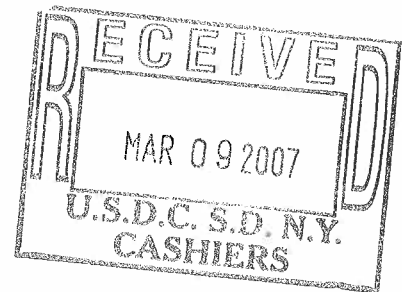
Plaintiff,

-against-

COMPLAINT

WANTED STORES, INC., ORVA STORES,
INC., and A & E STORES, INC.,

Defendants.
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Plaintiff River Light V, LP ("River Light"), by its attorneys Dreier LLP, alleges on knowledge as to its own acts and otherwise on information and belief as follows:

NATURE OF THE ACTION

1. This is an action for trademark infringement, false designation of origin, false advertising, and unfair competition in violation of the laws of the United States and the State of New York. Plaintiff seeks an injunction, damages and related relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338 and 1367. Plaintiff's claims are predicated upon the Lanham Trademark Act of 1946, as amended, 15 U.S.C. § 1051, et seq., and related claims under the

statutory and common law of the State of New York. Venue is properly founded in this district pursuant to 28 U.S.C. § 1391 (b) and (c).

THE PARTIES

3. Plaintiff River Light is a New York limited partnership with its principal place of business at 99 Madison Avenue, New York, New York 10016.

4. Defendant Wanted Stores, Inc. (“Wanted”) is a New Jersey corporation and maintains its principal place of business at 48 Ethel Road, Edison, NJ 08817. Wanted (i) has sold (and is selling) the infringing products at issue in this case and other products in New York and this judicial district and/or (ii) expected, intended and directed that those products be resold in New York and this judicial district by its distributors and/or retail accounts, and had full knowledge that those products were resold in New York and this judicial district or could reasonably be expected to be resold in New York and this judicial district.

5. Defendant Orva Stores, Inc. (“Orva”) is a New York corporation and maintains a place of business at 155 East 8th Street, New York, NY 10028.

6. Defendant A&E Stores, Inc. (“A&E”), carrying on business as “Strawberry Stores,” is a New Jersey corporation and maintains its principal place of business at 1000 Huyler Street, Teterboro, NJ 07608. A&E has sold (and is selling) the infringing products at issue in this case and other products in New York and this judicial district.

THE RIVER LIGHT TRADEMARKS

7. River Light is engaged in the manufacture, distribution and sale in interstate and foreign commerce of high quality sportswear and accessories for women, including shoes

and ballet flats. This merchandise is sold throughout the United States, Canada and Europe in high quality retail stores, high-end department stores, and specialty stores.

8. Since early 2004, River Light merchandise has been widely advertised, offered for sale and sold throughout the United States under various registered and common law trademarks, including but not limited to, TORY BURCH and the “TT” Design (collectively, the “River Light Trademarks”). The River Light Trademarks have at all times been owned exclusively by River Light or its predecessors.

9. Among the products marketed by River Light using the River Light Trademarks is River Light’s “Reva” ballet flat, which prominently features the “TT” Design Trademark. The “Reva” ballet flat has achieved substantial success in the marketplace.

10. As a result of River Light’s exclusive and extensive use and promotion of the River Light Trademarks, these marks have acquired enormous value and recognition in the United States, Canada and Europe. The River Light Trademarks are well known to the consuming public and trade as identifying and distinguishing River Light exclusively and uniquely as the source of the high quality merchandise to which the River Light Trademarks are applied.

11. On December 6, 2005, the “TT” Design Trademark was entered on the Principal Register of the United States Patent and Trademark Office as Registered Trademark Nos. 3,024,142. This registration is valid and subsisting and in full force and effect. A copy of this registration is attached as Exhibit A. River Light is also the owner of the federal trademark application for the TORY BURCH Trademark, in International Class 025, Serial No. 78773232.

DEFENDANTS' WRONGFUL ACTS

12. Defendants, without the consent of River Light, are manufacturing, distributing, advertising, shipping, offering for sale, and selling, throughout the United States, goods, including but not limited to "Wanted" ballet flats, bearing a confusingly similar logo to the "TT" Design trademark (the "Infringing Products"). Such goods are competitive with, related to, and are directed and targeted towards the same group of ultimate consumers as River Light's "Reva" ballet flat.

13. Defendants' aforementioned acts are likely to cause confusion and mistake among consumers that (a) the Infringing Products originated with River Light, (b) there is some affiliation, connection or association of Defendants and/or the Infringing Products with River Light, and/or (c) such Infringing Products are being offered to consumers with the sponsorship and/or approval of River Light.

14. Defendants' aforementioned acts were willful and intentional, in that Defendants either knew that said flats bore a logo confusingly similar to the River Light Trademarks, or willfully ignored such fact. Defendants' acts were undertaken in a deliberate effort to cause confusion and mistake among the consuming public as to the source, affiliation and/or sponsorship of said products, and to gain the benefit of the enormous goodwill associated with the River Light Trademarks.

FIRST CLAIM FOR RELIEF
(TRADEMARK INFRINGEMENT)

15. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 14 above as if fully set forth herein.

16. Defendants' use of the River Light Trademarks, without River Light's consent, constitutes trademark infringement in violation of 15 U.S.C. § 1114, in that, among other things, such use is likely to cause confusion, deception and mistake among the consuming public and trade as to the source, approval or sponsorship of the Infringing Products.

17. Defendants' misconduct has injured River Light in an amount to be determined at trial and has caused and will continue to cause irreparable injury to River Light, for which River Light has no adequate remedy at law.

SECOND CLAIM FOR RELIEF
(FALSE DESIGNATION OF ORIGIN)

18. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 17 above as if fully set forth herein.

19. Defendants' use of the River Light Trademarks, without River Light's consent, constitutes the use of false or misleading designations of origin and/or the making of false or misleading representations of fact in violation of 15 U.S.C. § 1125(a), in that, among other things, such use is likely to cause confusion, deception and mistake among the consuming public and trade as to the source, approval or sponsorship of the Infringing Products distributed, sold and offered for sale by Defendants bearing infringing River Light Trademarks.

20. Defendants' misconduct has injured River Light in an amount to be determined at trial and has caused and will continue to cause irreparable injury to River Light, for which River Light has no adequate remedy at law.

THIRD CLAIM FOR RELIEF
(FALSE ADVERTISING)

21. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 20 above as if fully set forth herein.

22. Defendants, without River Light's consent, have made use of false advertising and/or false or misleading representations of fact which are likely to cause confusion and mistake among the consuming public that the Infringing Products bearing infringing River Light Trademarks, and distributed, advertised, offered for sale and sold by Defendants, emanate from, or are otherwise associated with River Light in violation of 15 U.S.C. § 1125(a).

23. Defendant's misconduct has injured River Light in an amount to be determined at trial and has caused and will continue to cause irreparable injury to River Light, for which River Light has no adequate remedy at law.

FOURTH CLAIM FOR RELIEF
(COMMON LAW TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION)

24. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 23 above as if fully set forth herein.

25. Defendants' foregoing actions constitute trademark infringement and unfair competition in violation of the common law of the State of New York.

26. Defendants' misconduct has injured River Light in an amount to be

determined at trial and has caused and will continue to cause irreparable injury to River Light, for which River Light has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF
(N.Y. GENERAL BUSINESS LAW § 349)

27. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 26 above as if fully set forth herein.

28. The aforementioned acts of Defendants constitute deceptive acts and practices, and cause consumer injury. These aforementioned acts of Defendants not only harm River Light, but also harm the public interest, all in violation of New York General Business Law § 349.

29. Defendants' misconduct has injured River Light and has caused and will continue to cause irreparable injury to River Light, for which River Light has no adequate remedy at law.

WHEREFORE, River Light demands that a judgment be entered granting the following relief:

1. Preliminarily and permanently enjoining and restraining Defendants and their affiliates, divisions, officers, directors, principals, servants, employees, successors and assigns, and all those in active concert or participation with them from:

(a) Imitating, copying or making unauthorized use of the River Light Trademarks;

(b) Manufacturing, importing, exporting, distributing, circulating, selling, offering for sale, advertising, promoting or displaying the Infringing Products or any other products bearing any marks confusingly similar to the River Light Trademarks,

either individually or in conjunction with other words, marks or designs;

(c) Using any mark confusingly similar to any of the River Light Trademarks in connection with the manufacture, promotion, advertisement, display, sale, offering for sale, production, import, export, circulation or distribution of any product in such manner as to relate or connect, or tend to relate or connect, such product in any way with River Light or to any goods sold, sponsored, approved by, or connected with River Light;

(d) Engaging in any other activity constituting unfair competition with River Light, or constituting an infringement of any of the River Light Trademarks or of River Light's rights in, or its rights to use or exploit such trademarks, or the reputation and the goodwill associated with the River Light Trademarks;

(e) Making any statement or representation whatsoever, with respect to the Infringing Products, that falsely designates River Light as the origin of the goods, or that is false or misleading with respect to River Light; and

(f) Engaging in any other activity, including the effectuation of assignments or transfers of their interests in marks confusingly similar to the River Light Trademarks, the formation of other corporations, partnerships, associations or other entities or the utilization of any other devices, for the purpose of circumventing, evading, avoiding or otherwise violating the prohibitions set forth in subsections 1(a) through 1(e) above.

2. Directing that Defendants deliver for destruction all products, labels, tags, artwork, prints, signs, packages, dies, wrappers, receptacles and advertisements in their possession, custody or control bearing any marks confusingly similar to the River Light

Trademarks, including all plates, molds, matrices and other means of making such infringements of the River Light Trademarks.

3. Directing such other relief as the Court may deem appropriate to prevent the trade and public from deriving any erroneous impression that any products at issue in this case that have been offered for sale, sold or otherwise circulated or promoted by Defendants are authorized by River Light or are related to or associated in any way with River Light's products.

4. Awarding River Light all damages sustained by it as a result of Defendants' wrongful acts, and trebling those amounts, pursuant to 15 U.S.C. § 1117.

5. Requiring Defendants to account and pay over to River Light all profits realized by their wrongful acts, and trebling those amounts, pursuant to 15 U.S.C. § 1117.

6. Awarding River Light its reasonable attorneys' fees, costs and pre-judgment interest.

7. Awarding River Light such other and further relief as the Court deems just and proper.

Dated: New York, New York
March 9, 2007

Respectfully submitted,



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Attorneys for Plaintiff

EXHIBIT A

Int. Cls.: 4, 14, 18, 20, 24, and 25

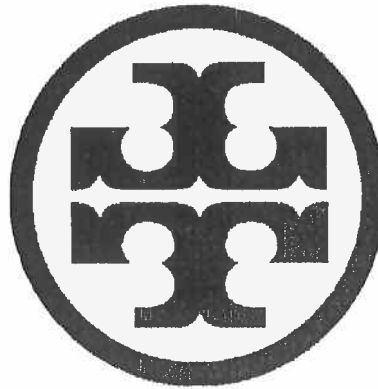
Prior U.S. Cls.: 1, 2, 3, 6, 13, 15, 22, 25, 27, 28, 32, 39,
41, 42, and 50

Reg. No. 3,029,795

Registered Dec. 13, 2005

United States Patent and Trademark Office

**TRADEMARK
PRINCIPAL REGISTER**



RIVER LIGHT V, LLC (DELAWARE LTD LIAB
CO)
685 KROMER AVENUE
BERWYN, PA 19312

FOR: CANDLES, IN CLASS 4 (U.S. CLS. 1, 6 AND
15).

FIRST USE 2-1-2004; IN COMMERCE 2-1-2004.

FOR: JEWELRY , IN CLASS 14 (U.S. CLS. 2, 27, 28
AND 50).

FIRST USE 2-1-2004; IN COMMERCE 2-1-2004.

FOR: ACCESSORIES, NAMELY, HANDBAGS,
UMBRELLAS AND COSMETIC BAGS SOLD EMP-
TY, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 2-1-2004; IN COMMERCE 2-1-2004.

FOR: HOUSEWARES, NAMELY, WOOD BOXES
AND FURNITURE, IN CLASS 20 (U.S. CLS. 2, 13, 22,
25, 32 AND 50).

FIRST USE 2-1-2004; IN COMMERCE 2-1-2004.

FOR: HOUSEWARES, NAMELY, BED SHEETS,
TABLE LINENS AND TOWELS , IN CLASS 24 (U.S.
CLS. 42 AND 50).

FIRST USE 2-1-2004; IN COMMERCE 2-1-2004.

FOR: CLOTHING, NAMELY, SHIRTS, TOPS,
SWEATERS, PANTS, SKIRTS, SHORTS, DRESSES,
BATHING SUITS, BIKINIS, SARONGS, SHOES,
SOCKS, BELTS, UNDERGARMENTS, ROBES AND
HEADWEAR; OUTERWEAR, NAMELY, SCARVES,
JACKETS, VESTS AND COATS, IN CLASS 25 (U.S.
CLS. 22 AND 39).

FIRST USE 2-1-2004; IN COMMERCE 2-1-2004.

SN 76-546,289, FILED 9-23-2003.

GEORGE LORENZO, EXAMINING ATTORNEY