

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

LOUIS VUITTON MALLETIER,

Plaintiff,

v.

CASE NO. _____

HOME SHOPPING NETWORK, INC.,
and AMERICAN ELITE, INC.,

Defendants.

_____ /

COMPLAINT
(Injunctive Relief Requested)

Plaintiff, by its attorneys, complaining of Defendants, alleges upon information and belief, as follows:

NATURE OF ACTION

1. This is a trademark case. Plaintiff is suing Defendants as a result of Defendants' sale, offers of sale, distribution, display, promotion, marketing and advertisement of products bearing infringement and/or counterfeits of Plaintiff's federally registered trademarks.

JURISDICTION AND VENUE

2. This Court has jurisdiction of this action under 28 U.S.C. § 1331 and 28 U.S.C. § 1338.

3. Defendants do business in this District and have committed the acts complained of herein in this District. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

4. Defendants engage in substantial and not isolated activities within the State of Florida. Defendants are subject to the jurisdiction of this Court pursuant to and in accordance with the laws of Florida and Rule 4 of the Federal Rules of Civil Procedure.

PARTIES

5. Plaintiff Louis Vuitton Malletier (hereinafter "Louis Vuitton") is a societe anonyme duly organized and existing under the laws of France, having an office and principal place of business in Paris, France.

6. Defendant Home Shopping Network, Inc. ("HSN") is a foreign corporation that has its principal place of business in this District. HSN is a global multichannel retailing giant, offering thousands of products in fashion, beauty, home, jewelry and electronics. Its retail platforms include television, the Internet and catalogues. For its headquarters, HSN maintains a 500,000 square-foot facility on 66 acres in St. Petersburg, Florida.

7. Defendant American Elite, Inc. ("Elite") is a foreign corporation that wholesales imported luggage and manufactures leather luggage, apparel carrying cases, suitcases and attache' cases. Elite has engaged in substantial transactions with HSN in this District that are the subject of this action. In this regard, Elite sold HSN some of the infringing items that are the subject of this lawsuit that HSN in turn sold to the public.

8. Defendants HSN and Elite will sometimes hereinafter be collectively referred to as "Defendants."

FACTUAL ALLEGATIONS

Louis Vuitton's Famous Trademarks and Products

9. Louis Vuitton is engaged in the manufacture, sale and distribution in interstate and foreign commerce of prestigious high-quality, luxury merchandise.

10. Louis Vuitton is the sole and exclusive distributor in the United States of its products. Louis Vuitton's products include, but are not limited to, a wide variety of luggage, handbags, trunks, garment bags, brief cases, wallets, key chains, shoes, small leather goods and other items. Louis Vuitton's products are sold on eluxury.com, throughout the United States in company owned boutiques, and in highly quality retail stores such as Saks Fifth Avenue and Neiman Marcus.

11. Louis Vuitton owns many different federally registered trademarks, including, but not limited to: the Pattern Design - U.S. Trademark Registration No. 297,594 of September 20, 1932; the Floral Decor - U.S. Trademark Registration No. 1,841,850 of June 28, 1994; the Flower - U.S. Trademark Registration No. 2,177,828 of August 4, 1998; the Flower in a Circle - U.S. Trademark Registration No. 2,181,753 of August 18, 1998; the Damier mark (U.S. Trademark Registration No. 2,421,618 of January 16, 2001); and the Flower in a Rhombus - U.S. Trademark Registration No. 2,773,107 of October 14, 2003 (hereinafter sometimes collectively referred to as the "Louis Vuitton Trademarks").

12. Said registrations are in full force and effect.

13. One or more of the Louis Vuitton Trademarks appears on each of Louis Vuitton's products.

14. Louis Vuitton has used the Louis Vuitton Trademarks in the United States and in interstate commerce for many years.

15. The Louis Vuitton Trademarks and the goodwill associated therewith are of inestimable value to Louis Vuitton.

16. At great expense to Louis Vuitton, its merchandise (bearing one or more of the Louis Vuitton Trademarks) has been widely advertised, offered for sale, sold and distributed throughout the United States. As a result of the extensive advertising of Louis Vuitton's products, the widespread sale of its merchandise and the celebrity that Louis Vuitton and its Louis Vuitton Trademarks have achieved, Louis Vuitton's goods bearing the Louis Vuitton Trademarks have been and are recognized by consumers, the public and the trade as originating from a single and exclusive source, Louis Vuitton.

Defendants' Infringing Activities

17. After Louis Vuitton's adoption and use of the Louis Vuitton Trademarks on its products, Defendants began selling, offering for sale, distributing, displaying, promoting, marketing and advertising merchandise bearing infringements and/or counterfeits of most, if not all, of the Louis Vuitton Trademarks.

18. In this regard, the merchandise Elite sold to HSN - which HSN in turn sold, offered for sale, distributed, displayed, promoted, marketed and advertised - beared infringements and/or counterfeits of all of the Louis Vuitton Trademarks, except for the Damier mark. Moreover, apart from its dealings with HSN, Elite has sold, offered for sale, distributed, displayed, promoted, marketed and advertised items bearing infringements and/or counterfeits of the Damier mark.

19. Louis Vuitton has never authorized or consented in any way to the use by Defendants of the Louis Vuitton Trademarks, and/or copies or infringements thereof.

20. The use by Defendants of the Louis Vuitton Trademarks, and/or copies or infringements thereof, on Defendants' products is likely to cause consumers, the

public and the trade to erroneously believe that the goods Defendants sell and have sold are authorized, sponsored, or approved by Louis Vuitton when, in fact, they are not.

21. Defendants have acted with reckless disregard for Louis Vuitton's rights and/or were willfully blind in connection with their unlawful activities. Alternatively, Defendants intentionally engaged in their illegal activities. Therefore, this case constitutes an exceptional case under 15 U.S.C. § 1117(a) and/or a case of intentional counterfeiting under 15 U.S.C. § 1117(b).

22. By using infringements and/or counterfeits of the Louis Vuitton Trademarks, Defendants have traded on the goodwill and reputation of Louis Vuitton and have created the false impression that their goods are Louis Vuitton's legitimate products.

23. Among other things, the distribution, sale, offers of sale, display, promotion, marketing and advertisement of products bearing infringements and/or counterfeits of the Louis Vuitton Trademarks has and will: reflect adversely on the Louis Vuitton as the believed source of origin thereof; hamper continuing efforts by Louis Vuitton to protect its outstanding reputation for high quality, originality and distinctive goods; and tarnish the goodwill and demand for genuine Louis Vuitton merchandise.

24. Defendants have disparaged Louis Vuitton, its Louis Vuitton Trademarks and its products by creating a false association and comparing Defendants' goods (bearing infringements and/or counterfeit of the Louis Vuitton Trademarks) with Louis Vuitton's genuine goods and Louis Vuitton Trademarks.

25. Defendants have misappropriated Louis Vuitton's advertising ideas and style of doing business with regard to the advertisement, promotion, marketing and sale of Louis Vuitton's genuine products.

26. Defendants' infringement and/or counterfeiting of the Louis Vuitton Trademarks is likely to cause, is causing and will continue to cause a likelihood of confusion, deception and mistake on the part of consumers, the public and the trade. This confusion causes irreparable harm to Louis Vuitton and dilutes the distinctive quality of the Louis Vuitton Trademarks. Accordingly, Defendants must be restrained and enjoined from any further infringement and/or counterfeiting of the Louis Vuitton Trademarks.

27. Louis Vuitton has no adequate remedy at law.

28. Louis Vuitton has suffered harm and damages as a result of the acts of Defendants in an amount thus far not determined. The injuries and damages sustained by Louis Vuitton have been directly and proximately caused by Defendants' wrongful advertisement, promotion, marketing, display, distribution, sale and offers of sale of their goods bearing infringements and/or counterfeits of the Louis Vuitton Trademarks.

29. Moreover, Defendants have been unjustly enriched by illegally using and misappropriating Louis Vuitton's intellectual property for their own financial gain.

FIRST CLAIM FOR RELIEF
(Trademark Infringement and Counterfeiting)

30. Louis Vuitton hereby incorporates by reference the allegations set forth above in paragraphs 1 through 29.

31. Defendants' wrongful and illegal acts set forth above constitute trademark infringement in violation of 15 U.S.C. §1114.

32. Defendants' willfully blind, reckless, and/or intentional use of counterfeit marks, identical with, or substantially indistinguishable from the Louis Vuitton Trademarks, in the sale, offering for sale, distribution, display, promotion, marketing and advertisement of Defendants' goods, violates 15 U.S.C. § 1117(b) of the Lanham Act.

33. The unlawful acts of Defendants have and will continue to cause irreparable injury to Louis Vuitton.

34. By reason of the foregoing, Defendants are liable to Louis Vuitton for any and all remedies provided by 15 U.S.C. § 1117.

SECOND CLAIM FOR RELIEF
(False Designation Of Origin)

35. Louis Vuitton hereby incorporates by reference the allegations set forth above in paragraphs 1 through 29.

36. Defendants have affixed, applied, or used in connection with their sale, offers of sale, distribution, display, advertisement, marketing and promotion of goods, false designations of origin and false descriptions and representations, including words or other symbols which tend falsely to describe or represent such goods and have caused such goods to enter into commerce with actual and/or constructive knowledge of the falsity of such designations of origin and such descriptions and representations, all to the detriment of Louis Vuitton.

37. The use by Defendants of infringing and/or counterfeit marks substantially indistinguishable from the Louis Vuitton Trademarks on Defendants' products constitutes false descriptions and representations and is a false designation of origin which is likely to cause confusion and mistake in the minds of consumers, the public and the trade.

38. Defendants' wrongful and illegal acts set forth above constitute false designations of origin in violation of 15 U.S.C. § 1125.

39. The unlawful acts of Defendants have and will continue to cause irreparable injury to Louis Vuitton.

40. By reason of the foregoing, Defendants are liable to Louis Vuitton for any and all remedies provided by 15 U.S.C. § 1117.

PRAYER FOR RELIEF

WHEREFORE, Louis Vuitton prays for judgment as follows:

I. That preliminary and permanent injunctions be issued enjoining Defendants and their agents, servants, employees and those persons in active concert or participation with them, from:

A. manufacturing, promoting, advertising, marketing, distributing, displaying, selling, or offering to sell merchandise bearing infringements or counterfeits of any of the Louis Vuitton Trademarks;

B. reproducing, copying, infringing, or counterfeiting the Louis Vuitton Trademarks, including using any of the Louis Vuitton Trademarks, or any marks similar thereto in connection with manufacturing, promoting, advertising, distributing, displaying, selling, or offering to sell any unauthorized goods or unauthorized services;

C. using any logo, trade name, or trademark which may be calculated to falsely represent that the services or products of Defendants are sponsored by, authorized by, endorsed by, or in any way associated with Louis Vuitton;

D. falsely representing themselves as being connected with Louis Vuitton, or sponsored by or associated with Louis Vuitton, or engaging in any act which is likely to falsely cause the trade, retailers and/or members of the public to erroneously believe that Defendants and/or their products are in any way endorsed by, approved of, and/or associated with Louis Vuitton;

E. using any reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Trademarks in connection with manufacturing, promoting, advertising, distributing, displaying, selling, or offering to sell any unauthorized goods or services, including, without limitation, items bearing a reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Trademarks;

F. disposing, destroying, altering, moving, removing, concealing, tampering with or in any manner secreting any business records of any kinds, including invoices, correspondence, books of account, receipts or other documentation relating or referring in any manner to the manufacture, promotion, marketing, advertisement, receipt, acquisition, importation, distribution, purchase, display, sale or offer for sale of any merchandise bearing a reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Trademarks;

G. possessing, receiving, manufacturing, assembling, distributing, displaying, advertising, marketing, promoting, returning, selling, offering for sale or otherwise disposing of any products, labels, tags, signs, prints, packages, wrappers, receptacles, advertisements, or other items bearing a reproduction, infringement, counterfeit, copy, or colorable imitation of the Louis Vuitton Trademarks, or disposing of any means of producing these items; and

H. knowingly instructing, aiding or abetting any other person or business entity in engaging in any of the activities referred to in subparagraphs A through G above.

II. That Louis Vuitton be awarded statutory damages from each of the Defendants in an amount of up to \$1,000,000 for each mark counterfeited as provided by 15 U.S.C. § 1117(c) of the Lanham Act, or, at Louis Vuitton's election, that Defendants be

required to account to Louis Vuitton for all damages and/or profits resulting from Defendants' unlawful activities and that the award to Louis Vuitton be trebled as provided for under 15 U.S.C. §1117.

III. That Louis Vuitton be awarded a sum that is just under the circumstances as provided for by 15 U.S.C. § 1117.

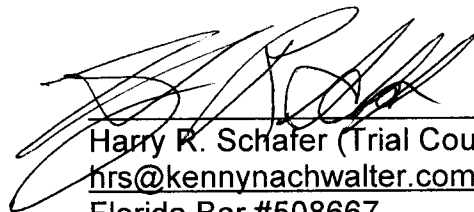
IV. That Louis Vuitton be awarded pre-judgment interest in accordance with 15 U.S.C. § 1117.

V. That Louis Vuitton have a recovery from Defendants of all costs and expenses of this action, including, but not limited to, Louis Vuitton's attorneys' fees and investigators' fees as provided for under 15 U.S.C. § 1117.

VI. That Louis Vuitton have all other and further relief as the Court may deem just and proper under the circumstances of this action.

Respectfully submitted,

Dated: May 30, 2007
Miami, FL



Harry R. Schafer (Trial Counsel)
hrrs@kennynachwalter.com
Florida Bar #508667
KENNY NACHWALTER, P.A.
201 S. Biscayne Blvd., Suite 1100
Miami, FL 33131-4327
Telephone: (305) 373-1000
Facsimile: (305) 372-1861

Attorneys for Louis Vuitton