

06 CV 13714
JUDGE PRESKA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BELLE MAISON USA Ltd.,)
)
 Plaintiff,) 2006 Civ.)
)
 - against -) **COMPLAINT**
) **JURY TRIAL DEMANDED**
)
 TEXTILES FROM EUROPE, INC. d/b/a)
 VICTORIA CLASSICS,) ECF CASE)
)
 Defendant.)

06 CV 13714
Judge Preska

Plaintiff BELLE MAISON USA, Ltd., by its attorneys Law Office of Richard B. Klar,
alleges the following as and for its complaint against defendant:

PARTIES, VENUE, AND JURISDICTION

1. BELLE MAISON USA Ltd., is a New York corporation ("BELLE MAISON") authorized to do business in New York with offices in the State, City, and County of New York.
2. Upon information and belief, defendant ("VICTORIA CLASSICS") Textiles from Europe, Inc., d/b/a VICTORIA CLASSICS is a corporation organized under the laws of the State of New York authorized to do business in New York with a principal place of business at 277 5th Ave. New York, NY 10011.
3. Upon information and belief, VICTORIA CLASSICS transacts business in New York, regularly engages in persistent courses of conduct in New York, and derives substantial revenues from interstate commerce.

4. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §1125 and 28 U.S.C. §1338; this Court has supplemental jurisdiction over plaintiff's state and common claims pursuant to 28 U.S.C. §1367(a) inasmuch as those claims are so related to the federal claims as to form part of the same case or controversy.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391 (b) and (c).

BACKGROUND

6. BELLE MAISON, is a company that designs and markets a broad range of textiles products that include curtains, draperies, valances panels, table cloths runners, placemats, doilies, scarves, bedspreads, comforters, sheets, towels, rugs, shams, dust ruffles, canopies, shower curtains, fabric on rolls, shades, blinds , rods, tassels, tiebacks, cording.
7. BELLE MAISON distributes and sells its textile products under the service Mark and Trademark BELLE MAISON and BELLEMAISON (herewith "the BELLE MAISON marks").
8. As a result of BELLE MAISON's advertising and sales of its textile products under the marks BELLE MAISON and BELLEMAISON, potential purchasers have come to associate its textile products and to identify BELLE MAISON as the source of the textile products sold under the BELLE MAISON marks.
9. Upon information and belief, VICTORIA CLASSICS is a privately held company, which markets and manufactures textiles under various brand names.
10. Recently, VICTORIA CLASSICS has begun marketing textiles products using the mark BELLE MAISON ("the Infringing Products"). The front of the infringement products package is dominated by an insert with the words BELLE MAISON appearing prominently (See Exhibit A).

11. VICTORIA Classic's sale of the Infringing Products is leading potential purchasers to believe that the Infringing Products originate with, are sponsored by, or are approved by BELLE MAISON.

12. Through its actions as alleged above, VICTORIA CLASSICS is intentionally inducing the sale of Infringing Products by retailers and contributing to that infringement.

13. By reason of its wrongful conduct, VICTORIA CLASSICS has intentionally created and intended to create confusion among potential customers with the intention of diverting such customers and capitalizing on the good will developed by BELLE MAISON in the BELLE MAISON's textiles Products.

FIRST CLAIM

Federal Unfair Competition, False Description and False Designation of Origin
(15 U.S.C. §1125(a))

14. BELLE MAISON repeats, reiterates, and realleges the allegations contained in paragraphs 1 through 13 above as if fully set forth herein.
15. The mark BELLE MAISON on VICTORIA CLASSICS' products is confusingly similar to that of the BELLE MAISON Marks.
16. VICTORIA CLASSICS use of the BELLE MAISON mark is intentional and willful.
17. VICTORIA CLASSICS use of the BELLE MAISON marks constitutes a false designation of origin and a false description or representation that VICTORIA Classic's products originate from, or are offered, sponsored, authorized, licensed by or otherwise somehow connected with Plaintiff and is thereby likely to confuse consumers.
18. By reason of the foregoing, defendant has violated and is continuing to violate Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).
19. By reason of the foregoing, BELLE MAISON has been damaged in that its goodwill has been diluted and potential customers of BELLE MAISON have been deceived and diverted into purchasing the Infringing Products.
20. As a result VICTORIA CLASSICS' acts, BELLE MAISON has suffered and is suffering financial injury in an amount to be determined at trial, and is entitled to the remedies provided for in 15 U.S.C. § 1117 et seq.

SECOND CLAIM

Contributory Infringement
(15 U.S.C. §1125(a))

21. BELLE MAISON repeats, reiterates, and realleges the allegations contained in paragraphs 1 through 20 above as if fully set forth herein.
22. Through its actions, VICTORIA CLASSICS has contributed to the infringement of plaintiff's Belle Maison Marks by others, in violation of 15 U.S.C. §1125(a).
23. By reason of the foregoing, BELLE MAISON has been damaged in that its goodwill has been diluted and potential customers of BELLE MAISON have been deceived and diverted into purchasing the Infringing Products.
24. As a result VICTORIA CLASSICS' acts, BELLE MAISON has suffered and is suffering financial injury in an amount to be determined at trial, and is entitled to the remedies provided for in 15 U.S.C. § 1117 et seq.

THIRD CLAIM

Common law unfair competition

25. BELLE MAISON repeats, reiterates, and realleges the allegations contained in paragraphs 1 through 24 above as if fully set forth herein.
26. VICTORIA CLASSICS use of the BELLE MAISON mark constitutes a false designation of origin and a false description or representation that VICTORIA CLASSICS products originate from, or are offered, sponsored, authorized, licensed by or otherwise somehow connected with Plaintiff and is thereby likely to confuse consumers.
27. VICTORIA CLASSICS' actions as alleged above constitute unfair competition.

28. BELLE MAISON has been damaged by VICTORIA CLASSICS' actions.
29. As a result VICTORIA CLASSICS' acts, BELLE MAISON has suffered financial injury in an amount not yet ascertained.

FOURTH CLAIM

Deceptive Trade Practices
(N.Y. G.B.L. §349)

30. VICTORIA CLASSICS repeats, reiterates, and realleges the allegations contained in paragraphs 1 through 29 above as if fully set forth herein.
31. By reason of the acts set forth above, VICTORIA CLASSICS has been and is engaged in deceptive acts or practices in the conduct of a business, trade or commerce in violation of Section 349 of the New York General business Law.
32. The public is likely to be damaged as a result of VICTORIA CLASSICS' deceptive trade practices.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38, Plaintiff hereby demands a trial by jury on all issue so triable.

WHEREFORE, BELLE MAISON demands judgment against VICTORIA CLASSICS:

a) That Defendant, its agents, servants, employees, officers, attorneys, successors, and assigns, and all those persons in active concert or participation with each or any of them be enjoined, during the pendency of this action and permanently from directly or indirectly infringing the service mark and trademark of the Plaintiff in any manner.

b) on its first and second claims for damages in an amount to be determined at trial, for the amount of profits generated by VICTORIA CLASSICS' wrongful actions, treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;

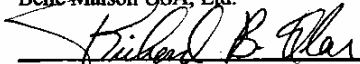
c) on its third and fourth claims, damages in an amount to be determined at trial plus punitive damages;

d) on all claims, for the costs and disbursements of this action as well as interest on any award running from the date VICTORIA CLASSICS first sold and/or advertised the Infringing Products; and

e) for such other and further relief as this Court deems just and necessary.

Dated: December 4, 2006
Hicksville, NY

LAW OFFICE OF RICHARD B. KLAR
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BELLE MAISON

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EXHIBIT A