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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

GIANNI VERSACE, S.R.L.,

Plaintiff,

v.

TZ PROMISE INC and YONGHAO ZHOU,
both individual and doing business as
“YONGHZHO” and “UPTOWN BOUTIQUE
EMPIRE;” and JOHN DOES 1-5,

Defendants.

CASE NO.

COMPLAINT

Gianni Versace S.r.l. (“Versace”) by and through its attorneys of record, complaining of defendants TZ Promise Inc. and Yonghao Zhao, both individual and doing business as “yonghzho” and “Uptown Boutique Empire;” and John Does 1-5 (hereinafter collectively referred to as “Defendants”) hereby alleges as follows:

STATEMENT OF THE CASE

1. Versace is the designer and distributor of some of the most iconic, world-famous, and recognizable luxury products in the world. Unfortunately, great success attracts clandestine companies and individuals unjustly enriching themselves by distributing cheap unauthorized imitation Versace merchandise in order to fool unsuspecting consumers and the public.

2. This action concerns the offering for sale, actual sale, and other distribution of a significant amount of merchandise bearing counterfeits and infringements of Versace’s distinctive

trademarks and copyrights. Versace is forced to take action against Defendants, who have failed to stop distributing their knock-off products despite being put on notice of their infringement. Defendants' infringement of Versace's intellectual property is knowing and willful.

3. By this conduct, Defendants have willfully infringed Versace's valuable intellectual property, creating a strong likelihood of confusion among consumers who expect that merchandise bearing trademark and copyrights confusingly similar to Versace's are genuine Versace products when they are not. Further, Defendants actions tarnish the goodwill associated with Versace and its products.

4. Versace has expended a great amount of resources working to create and distribute its luxury line of products and they are compelled to take action for (i) trademark counterfeiting in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1114(a); (ii) trademark infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1114(a); (iii) federal trademark dilution in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c); (iv) unfair competition, false designation or origin and false description in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); (v) copyright infringement in violation of the Copyright Act of 1976, 17 U.S.C. § 501; and (vi) unfair and deceptive business practices in violation of N.Y.Gen.Bus.L. § 349. The aforementioned conduct is causing monetary damage and other irreparable injuries to the general public and Versace.

PARTIES

5. Gianni Versace, S.r.l. is a company with its principal place of business located at Piazza Luigi Einaudi 4, 20124 Milan, Italy.

6. Upon information and belief, defendant TZ Promise Inc ("TZ Promise") is a New York corporation with its principal place of business located at 22 Madison Avenue, Jericho, NY

11753.

7. Upon information and belief, defendant Yonghao Zhou (“Zhou”) is the Owner of TZ Promise and therefore has the right and ability to control the action of the corporate defendants. Zhou also resides at 22 Madison Avenue, Jericho, NY 11753,

8. The identity of John Does 1-5 are not currently known to Versace. These John Doe defendants are the operators of TZ Promise and others associated with the company and its illegal activities. Versace will use its best efforts to identify these individuals, and upon further knowledge and investigation, Versace will amend its pleadings accordingly.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the federal trademark claims asserted in this action under 15 U.S.C. § 1121 and the federal trademark and copyright claims under 28 U.S.C. § 1331 and 28 U.S.C. § 1338. This Court has supplemental subject matter jurisdiction over state law claims pursuant to 28 U.S. C. § 1367(a) in that the state law claims form part of the same case or controversy as the federal claims.

10. Defendants are subject to the Court’s jurisdiction because they have committed the acts complained of herein in this District, reside in this District, and do business in this District.

11. Defendants are subject to the jurisdiction of this Court pursuant to and in accordance with Rule 4 of the Federal Rules of Civil Procedure.

12. Venue is proper in this judicial District pursuant to 28 U.S.C. § 1391(b).


FACTUAL ALLEGATIONS

A. Versace’s Intellectual Property

13. Versace is a global, luxury, and lifestyle brand, founded in 1978, which designs, markets, and distributes a wide variety of high-quality merchandise including, but not limited to, apparel, handbags, wallets, watches, footwear, jewelry, and other accessories. Versace stores are operated, either directly or through licensing partners, in some of the most prestigious cities in the world, with more than 200 boutiques and over 1,500 wholesalers worldwide.

14. Since its inception, Versace has used the VERSACE trademark and trade name to distinguish its fine quality merchandise. Throughout its storied history, Versace has expended great amounts of time, money, and effort advertising and promoting its trademarks globally, including throughout the United States and in this District. As a result of these investments and its widespread success, Versace has developed considerable goodwill and a reputation for the highest quality products. Versace has continuously used its trademarks to distinguish its products and uphold this reputation.


15. Versace is the owner of various trademarks registered with the United States Patent and Trademark Office (“USPTO”). Such trademarks include, but are not limited to the following, among others:

| Trademark | USPTO Registration Number | Registration Date | Goods |
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|  | 2,980,455 | 08/02/2005 | IC 003. US 001 004 006 050 051 052. G & S: Cosmetics, namely night and day creams, cleaning preparations for the care of the face and body, bath-foam, shaving foam, aftershaves, foundation makeup, nail polish, deodorants for men and women, hand and body soaps, |


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| | | <p>hair shampoos and rinses, hair spray, toothpaste and fragrances, namely perfume, toilet water and essential oils for personal use for men and women.</p> <p>IC 008. US 023 028 044. G & S: Tableware, namely cutlery; forks, knives and spoons; sterling silver table forks, knives and spoons; domestic fireplace bellows.</p> <p>IC 009. US 021 023 026 036 038. G & S: Optical instruments, apparatus and equipments, namely eyeglasses; reading glasses, and optical glasses; sunglasses; spectacles; spectacles frames; monocles; lorgnettes.</p> <p>IC 011. US 013 021 023 031 034. G & S: Apparatus for lighting, namely, electric lighting fixtures for use on ceilings, chandeliers, electric, incandescent, and halogen light bulbs, safety lamps, candle, electric, oil, and portable paper lanterns, standard lamps; fireplaces; decorative water fountains; lamps.</p> <p>IC 014. US 002 027 028 050. G & S: Articles made of precious metals and alloys of precious metals with or without precious stones, namely rings, necklaces, bracelets, brooches, earrings, tie clips, cuff-links, diamonds, jewelry cases made of precious metal, watches, clocks, chronometers, watch cases, costume jewelry.</p> <p>IC 018. US 001 002 003 022 041. G & S: Leather and imitation of leather sold in bulk, handbags, wallets, luggage, attache cases, tote</p> |
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| | | <p>bags, briefcases, sport bags, traveling trunks, carry-on bags, shoulder bags, garment bags for traveling, key cases, umbrellas, parasols, walking sticks, whips, harnesses, saddlery; leather key chains.</p> <p>IC 019. US 001 012 033 050. G & S: Fireplace surround; floor tiles; wood tile floors; glass tiles; parquet flooring; statuettes of stone, concrete, or marble; non-metal wall panels.</p> <p>IC 020. US 002 013 022 025 032 050. G & S: Furniture; mirrors, namely looking glasses; picture frames; chairs; cupboards; cushions; desks; divans; plastic and wood doorknobs; figures of bone, ivory, plaster, plastic, wax and wood; plastic and wood furniture handles for doors, plastic key chains; magazine racks; office furniture; pillows; fitted furniture covers.</p> <p>IC 021. US 002 013 023 029 030 033 040 050. G & S: Household or kitchen utensils and containers, namely, dinnerware; beverage-ware; glassware; sugar bowls; beer mugs; bottle openers; bowls; candle holders not of precious metal; china ornaments; cookware, namely non-electric frying pans; corkscrews; soap dispensers; figurines in China, crystal, earthenware, glass, porcelain and terracotta; holders for flowers and plants; perfume atomizers sold empty; plates; pots; soapboxes; soap holders; vases; flower baskets; porcelain and earthenware doorknobs and furniture handles for doors.</p> <p>IC 024. US 042 050. G & S: Fabric for textile use, fabric of imitation animal skins, fabric for boots and shoes, bath</p> |
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| | | | <p>linen; bed linen; blankets; curtains; unfitted furniture covers; handkerchiefs; kitchen towels; textile wall hangings.</p> <p>IC 025. US 022 039. G & S: Clothing for men, women and children, namely belts, coats, raincoats, waistcoats, blouses and pullovers, jackets, trousers, skirts, dresses, suits, shirts and chemises, T-shirts, sweaters, underwear, socks and stockings, gloves, ties, scarves, hats and caps, boots, shoes and slippers.</p> <p>IC 027. US 019 020 037 042 050. G & S: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; non-textile wall hangings; non-textile wall decorations.</p> |
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|  | <p>3,199,127</p> | <p>05/26/2005</p> | <p>IC 003. US 001 004 006 050 051 052. G & S: [Cosmetics, including night and day creams, cleaning] preparations for the care of the [ace and] body, bath-foam, [shaving foam, aftershaves, foundation makeup, nail polish, deodorants for men and women, hand and] body soaps, [hair shampoos and rinses, hair spray, toothpaste, and] fragrances, namely, perfume, toilet water [and essential oils for personal use for men and women]</p> <p>IC 009. US 021 023 026 036 038. G & S: Optical instruments, apparatus and equipment, namely, glasses, sunglasses, spectacles, spectacle frames, [monocles, lorgnettes,] accessories in the nature of eyeglass chains, and parts, fittings, components and cases for all the aforesaid goods</p> <p>IC 014. US 002 027 028 050. G & S: Articles made of precious metals and alloys of precious metals, with or without precious stones, namely, rings, necklaces, bracelets, brooches, earrings, tie clips, cuff-links, [diamonds, jewel cases,] watches, [clocks, chronometers,] watch cases, costume jewellery, parts and fittings for all the aforesaid goods</p> <p>IC 016. US 002 005 022 023 029 037 038 050. G & S: Stationery articles, namely, paper, letter paper, loose-leaf paper, [exercise books, address books and notebooks, numerical and alphabetical inserts,] envelopes, cards, [albums, file books;] writing [and marking] instruments, namely, pens, [felt-tipped</p> |
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| | | <p>pens, marking pens, pencils and pencil leads, ink refills for pens, erasers; printing type;] printed matter, namely, periodical magazines, books, and leaflets in the field of fashion, interior design, cosmetics, optical wear and fashion accessories</p> <p>IC 018. US 001 002 003 022 041. G & S: Leather and imitation leather goods, namely, handbags, wallets, luggage, [attache cases,] tote bags, briefcases, sport bags, [traveling trunks,] carry-on bags, shoulder bags, garment bags for traveling, key cases [, umbrellas, parasols, walking sticks, whips, harnesses, saddlery]</p> <p>IC 024. US 042 050. G & S: Fabric for textile use, fabric of imitation animal skins, fabric for boots and shoes, bath linen, bed linen; bed blankets; [curtains; unfitted fabric furniture covers; handkerchiefs;] and kitchen towels</p> <p>IC 026. US 037 039 040 042 050. G & S: Lace and embroidery, ribbons [and braid; clothing buttons, hooks and eyes, safety pins and needles; artificial flowers]</p> |
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|  | <p>3,194,501</p> | <p>01/02/2007</p> | <p>IC 003. US 001 004 006 050 051 052. G & S: [Cosmetics, including night and day creams, cleaning preparations for the care of the face and body,] bath foam, [shaving foam, aftershaves, foundation makeup, nail polish,] deodorants for men and women, [hand and body soaps, hair shampoos and rinses, hair spray, toothpaste and] fragrances, namely, perfume, toilet water [and essential oils for personal use for men and women]</p> <p>IC 009. US 021 023 026 036 038. G & S: [Optical instruments, apparatus and equipment, namely,] glasses, sunglasses, spectacles, spectacle frames, [monocles, lorgnettes, accessories in the nature of eyeglass chains, and parts, fittings, components] and cases [for all the aforesaid goods]</p> <p>IC 014. US 002 027 028 050. G & S: Articles made of precious metals and alloys of precious metals, with or without precious stones, namely, rings, necklaces, bracelets, [brooches,] earrings, tie clips, cuff-links, [diamonds, jewel cases,] watches, [clocks, chronometers, watch cases,] costume jewellery [, parts and fittings for all the aforesaid goods]</p> <p>IC 016. US 002 005 022 023 029 037 038 050. G & S: [Stationery articles, namely, paper, letter paper, loose-leaf paper, exercise books, address books and notebooks, numerical and alphabetical inserts, envelopes, cards, albums, file books;] writing and marking instruments, namely, pens [, felt-tipped pens, marking pens, pencils</p> |
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| | | | <p>and pencil leads, ink refills for pens, erasers; printing type; printed matter, namely, periodical magazines, books, and leaflets in the field of fashion, interior design, cosmetics, optical wear, and fashion accessories]</p> <p>IC 018. US 001 002 003 022 041. G & S: Leather and imitation leather goods, namely, handbags, wallets, luggage, attaché cases, tote bags, briefcases, sport bags, traveling trunks, carry-on bags, shoulder bags, garment bags for traveling [, key cases, umbrellas, parasols, walking sticks, whips, harnesses, saddlery]</p> <p>IC 024. US 042 050. G & S: Fabric for textile use, [fabric of imitation animal skins,] fabric for boots and shoes, bath linen, bed linen; bed blankets; [curtains;] unfitted fabric furniture covers [; handkerchiefs; and kitchen towels]</p> <p>IC 025. US 022 039. G & S: Clothing for men, women and children, namely belts, coats, raincoats, waistcoats, blouses and pullovers, jackets, trousers, skirts, dresses, suits, shirts and chemises, t-shirts, sweaters, underwear, socks and stockings, gloves, ties, scarves, hats and caps, boots, shoes and slippers.</p> |
|  | <p>1875093</p> | <p>01/24/1995</p> | <p>IC 009. US 026. G & S: spectacles and spectacles frames</p> <p>IC 014. US 027 028. G & S: goods of precious metals or coated therewith, namely necklaces, earrings, bracelets, broches, rings, necktie pins, badges of precious metal, medallions, belt buckles of precious metal (for clothing),</p> |

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| | | | <p>jewelry, precious gemstones, watches, clocks, chronometers</p> <p>IC 016. US 037. G & S: stationery articles, namely notebook paper, letter paper, writing paper, looseleaf paper; paper expanding files, writing and marking instruments, namely fountain pens, roller ballpoint pens, felt tipped pens, roller pens, markers, marking pens, pencil and pencil leads, refills for pens, non-electric erasers</p> <p>IC 021. US 002 003 013 023 030 033. G & S: kitchen utensils, namely serving spoons, basting spoons, cork screws, and napkin rings not of precious metal; household containers, namely ice buckets, containers for food and soap; beverage glassware; porcelain dishes in general, earthenware, namely mugs, basins, baskets, beverage ware, bowls, buckets, cakeservers, candle holders, chamber pots, commemorative plates, cookware, decorative plates, dishes, doorknobs made of porcelain or earthenware, figurines made of china, crystal, earthenware, glass, porcelain, or terracotta, vases</p> |
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(hereinafter collectively referred to as the “Versace Trademarks”).



16. The Versace Trademarks are valid, in full force and effect, protectable, and exclusively owned by Versace. Versace has continuously used the Versace Trademarks during all time periods relevant to Versace’s claims.

17. The Versace Trademarks have been used regularly in interstate commerce, including within this District, to identify and distinguish Versace’s high-quality products.

18. Due to the overwhelming amount of resources exhausted by Versace in order to create, protect, enforce, and promote the Versace Trademarks, the Versace Trademarks have achieved secondary meaning as identifiers of high-quality products.

19. The Versace Trademarks are well-known and recognized around the world and throughout the United States by consumers as signifying authentic, high quality Versace products. As such, the Versace Trademarks qualify as famous marks as the term is used in 15 U.S.C. § 1125(c)(1) and achieved such fame prior to Defendants’ conduct that is the subject of this Complaint.

20. Further, Versace is the sole owner of the copyright to numerous copyright registrations with the United States Copyright Office which copyrighted images appear on authorized Versace merchandise. Such copyright registrations include, but are not limited to the following, among others:

| Copyrighted Image | US Copyright Registration Number | Registration Date |
|-------------------------------------------------------------------------------------|----------------------------------|-------------------|
|  | VA 1-110-970 | 12/07/2001 |
|  | VA 1-111-0971 | 12/07/2001 |

(hereinafter collectively referred to as the “Versace Copyrights”) (the Versace Trademarks and the Versace Copyrights are hereinafter collectively referred to as the “Versace IP Rights”).

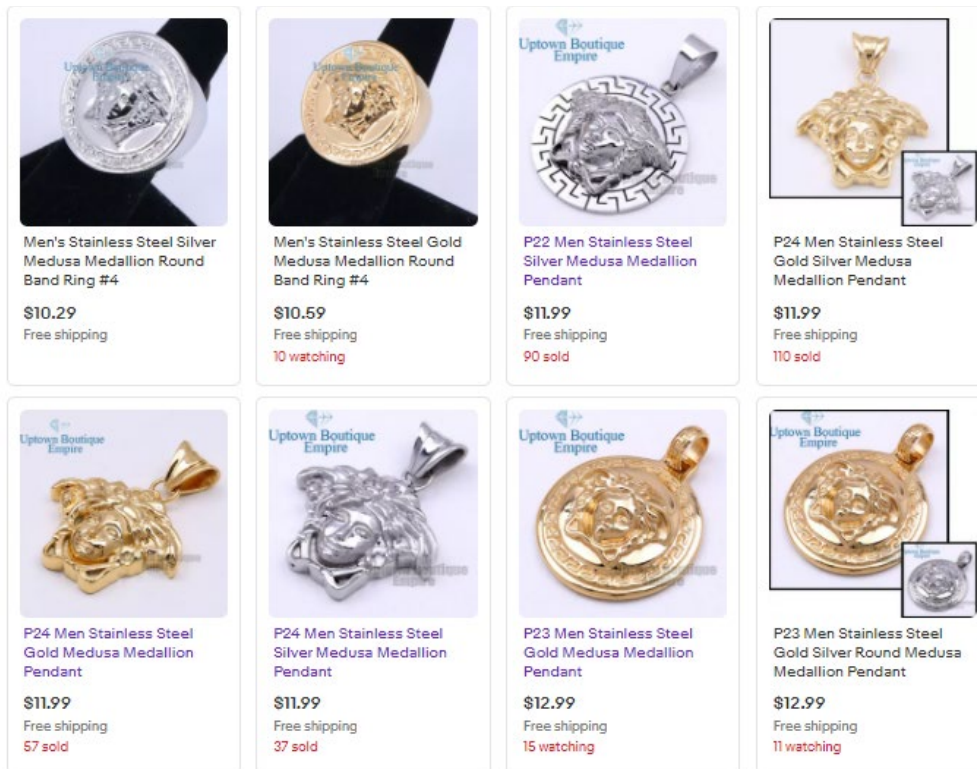
B. Defendants' Unauthorized Activities

21. Upon information and belief, Defendants are offering for sale, selling, and using in interstate commerce products bearing counterfeits and/or infringements of the Versace Trademarks and / or infringements of the Versace Copyrights (the "Infringing Products").



22. Defendants are willful infringers of the Versace IP Rights, causing irreparable harm to Versace and the unsuspecting public who are being defrauded into purchasing such unauthorized merchandise.

23. Defendants had been advertising, offering for sale, and selling a great amount of Infringing Products on the eBay.com ("eBay") website under the "yonghzho" and "Uptown Boutique Empire" user names located at <https://www.ebay.com/usr/yonghzho> and <https://www.ebay.com/str/uptownboutiqueempire>.

24. Below are some examples of Infringing Products that are being sold by Defendants.



25. A closer view can be seen below:

| Versace IP Rights | Infringing Products |
|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
|  |  |

It is clear that the Infringing Products bear confusingly similar reproductions of the Versace Trademarks and substantially similar reproductions of the Versace Copyrights. Due to the Infringing Products being practically identical to legitimate Versace merchandise, Defendants are knowingly infringing the Versace IP Rights.

26. On or about November 13, 2020, an agent for Versace made a purchase of a “fashion stainless steel Gold Silver big round ring for Mens” for \$9.99 from Defendants (the “First Purchase”). This price is drastically below the retail price of authentic Versace merchandise.

27. Subsequently, Versace’s agent received and Versace reviewed the Purchase and confirmed that the Purchase was not authentic Versace merchandise and did, in fact, bear counterfeits and infringements of the Versace IP Rights. The return address for the First Purchase stated “TZ PROMISE, 22 Madison AVE, Jericho NY 11753.”

28. The First Purchase was reported to eBay as infringing and eBay disclosed that the owner of the eBay account was Zhou.

29. On or about January 7, 2021, Versace sent Defendants a cease and desist letter warning them of the consequences of their unauthorized activity concerning the Versace IP Rights, demanding such unauthorized activity stop immediately, and requesting a response.

30. Defendants did not respond to this letter or comply in any other way. Instead, Defendants continued to offer for sale and sell Infringing Product.

31. On or about January 18, 2021, an agent for Versace made a purchase of a “P22 Men Stainless Steel Silver Medusa Medallion Pendant” for \$11.99 from Defendants (the “Second Purchase”). This price is drastically below the retail price of authentic Versace merchandise.

32. Subsequently, Versace’s agent received and Versace reviewed the Second Purchase and confirmed that the Second Purchase was not authentic Versace merchandise and did, in fact, bear counterfeits and infringements of the Versace IP Rights.

33. On January 21, 2021, Versace’s counsel spoke with Zhou over the telephone and again demanded that he cease his illegal activity concerning the Versace IP Rights and comply with the other demands as set forth in the cease and desist letter.

34. Despite this phone call, Defendants continued to offer for sale Infringing Product on eBay.

35. In total, despite the cease and desist letter, several follow ups, and a telephone conversation, as of the date of the filing of this action, Defendants unabashedly continued to offer Infringing Product proving their willfulness.

36. As confirmed through conversations with Zhou, Zhou is directly involved with and authorized the unauthorized activities described herein; Zhou was aware of the infringing activity and continued personally and to permit his company to distribute Infringing Product; and Zhou has a financial interest in and the right and ability to control the action of the herein corporate

defendant. Therefore, Zhou is directly, contributorily, and / or vicariously liable for the infringement of the Versace IP Rights.

37. Based upon the continued sale of Infringing Products despite receiving actual notice from Versace, Defendants are fully aware of their unauthorized activities and it is clear that Defendants' infringement of the Versace IP Rights is willful.

38. Defendants' offer for sale and actual sale of the Infringing Products constitutes an unauthorized use in commerce of the Versace IP Rights in connection with the sale, offering for sale, and/or distribution of the Infringing Products.

39. The Infringing Products offered for sale, sold, and distributed by Defendants were not manufactured, authorized, or sponsored by Versace. Thus, consumers will be confused and disappointed by the differences between the Infringing Products distributed by Defendants and genuine Versace merchandise.

40. As a result of Defendants' actions, Versace is losing profits from lost sales of genuine product, suffering a loss of enormous goodwill created in its Versace IP Rights, and will continue to suffer such loss if Defendants are allowed to continue their illegal activity.

41. Upon information and belief, Defendants have knowingly and willfully engaged in their illicit activities in direct violation of Versace's rights and/or have shown a blatant disregard for the same. For these reasons, this qualifies as an exceptional case under 15 U.S.C. § 1117(a).

42. Versace has suffered irreparable injury as a direct and proximate result of Defendants' wrongful distribution of the Infringing Products.

43. Versace has no adequate remedy at law.

44. Defendants' unlawful acts will undoubtedly persist without judicial intervention. As such, Defendants must be restrained and enjoined from further violating Versace's well-established rights in and to the Versace Trademarks.

FIRST CLAIM FOR RELIEF
(Trademark Counterfeiting, 15 U.S.C. § 1114)

45. Versace hereby realleges and incorporates by reference all prior allegations as set forth in Paragraphs 1 through 44.

46. Defendants have knowingly, intentionally, and without the consent of Versace, used in commerce reproductions, counterfeits, and/or copies and/or spurious designations that are identical with, or substantially indistinguishable from the Versace Trademarks, in connection with the sale, offering for sale, distribution, or advertising of goods covered by USPTO registrations for the Versace Trademarks. Such use is likely to: cause confusion or mistake or deceive consumers; cause consumers to believe Defendants' counterfeit merchandise is affiliated with, sponsored by, authorized or approved by, or is otherwise associated with Versace despite the fact that it is not.

47. Defendants have intentionally used these reproductions, counterfeits, and/or copies and/or spurious designations that are identical with, or substantially indistinguishable from the Versace Trademarks, knowing they are counterfeit, in connection with the advertisement, promotion, sale, offering for sale, and distribution of goods.

48. Defendants' use of the Versace Trademarks to advertise, promote, offer for sale, distribute and sell goods bearing counterfeits was and is without the consent of Versace.

49. Defendants' use of the Versace Trademarks was willful and done with the knowledge that the marks are counterfeit, and as such, Defendants' acts constitute willful trademark counterfeiting in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

50. Defendants' acts constitute use in commerce of the Versace Trademarks.

51. For the aforementioned reasons, Versace is entitled to: (a) damages for all of Defendants' profits derived from their unlawful conduct and/or Versace's lost profits from sales of genuine goods due to Defendants' conduct, trebled, to the full extent provided under Sections 35(a) and 35(b) of the Lanham Act, 15 U.S.C. § 1117(a)-(b), or alternatively, statutory damages in the amount of up to \$2,000,000 for each mark counterfeited as provided by 15 U.S.C. § 1117(c) of the Lanham Act; and (b) reasonable attorneys' fees, investigative fees, and pre-judgment interest according to 15 U.S.C. § 1117(b).

52. Versace has no adequate remedy at law for Defendants' ongoing wrongful conduct. Versace has been, and absent injunctive relief will continue to be, irreparably harmed by Defendants' actions.

SECOND CLAIM FOR RELIEF
(Trademark Infringement, 15 U.S.C. §1114)

53. Versace hereby realleges and incorporates by reference all prior allegations as set forth in Paragraphs 1 through 44.

54. Based on Versace's extensive advertising under the Versace Trademarks, its extensive sales and the wide popularity of Versace merchandise, the Versace Trademarks have acquired secondary meaning such that any product and advertisement bearing such trademarks is immediately associated by purchaser and the public as being a product and affiliate of Versace.

55. Defendants' activities constitute Defendants' use in commerce of the Versace Trademarks. Defendants use the Versace Trademarks in connection with Defendants' sale, offers for sale, distribution, promotion, and advertisement of their goods bearing infringements and/or counterfeits of the Versace Trademarks.

56. Defendants have used the Versace Trademarks, knowing that they are the exclusive property of Versace, in connection with their sale, offers for sale, distribution, promotion, and advertisement of their goods bearing counterfeits or infringements of the Versace Trademarks.

57. Defendants' activities create the false and misleading impression that Defendants are sanctioned, assigned, or authorized by Versace to use the Versace Trademarks to advertise, manufacture, distribute, offer for sale, or sell goods bearing the Versace Trademarks when Defendants are not so authorized.

58. Defendants engage in the aforementioned activity with the intent to confuse and deceive the public into believing that they and the goods they sell are in some way sponsored, affiliated, or associated with Versace, when in fact they are not.

59. Defendants' use of the Versace Trademarks has been without the consent of Versace, is likely to cause confusion and mistake in the minds of the public and, in particular, tends to and does falsely create the impression that the goods advertised, promoted, distributed, and sold by Defendants are warranted, authorized, sponsored, or approved by Versace when, in fact, they are not.

60. Defendants' unauthorized use of the Versace Trademarks has resulted in Defendants unfairly benefiting from Versace's advertising and promotion, and profiting from the reputation of Versace and the Versace Trademarks, to the substantial and irreparable injury of the public, Versace, and the Versace Trademarks and the substantial goodwill represented thereby.

61. Defendants' acts constitute willful trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

62. By reason of the foregoing, Defendants are liable to Versace for: (a) an amount representing three (3) times Versace's damages and/or Defendants' illicit profits; and (b)

reasonable attorneys' fees, investigative fees, and pre-judgment interest pursuant to 15 U.S.C. § 1117.

63. Versace has no adequate remedy at law for Defendants' ongoing wrongful conduct. Versace has been, and absent injunctive relief will continue to be, irreparably harmed by Defendants' actions.

THIRD CLAIM FOR RELIEF
(Unfair Competition, False Designation of Origin & False Description, 15 U.S.C. § 1125(a))

64. Versace hereby realleges and incorporates by reference all prior allegations as set forth in Paragraphs 1 through 44.

65. Defendants' sale, offering for sale, distribution, or advertising of goods bearing the Versace Trademarks constitutes use in commerce of false designations of origin and false and misleading descriptions and representations that Defendants' counterfeit merchandise is affiliated with, sponsored by, authorized or approved by, or is otherwise associated with Versace despite the fact that it is not. As a result of Defendants' unauthorized use of the Versace Trademarks, the public is likely to be misled and confused as to the source, sponsorship, or affiliation of Defendants' counterfeit merchandise.

66. Defendants' sale, offering for sale, distribution, or advertising of goods bearing the Versace Trademarks constitutes unfair competition as it is intended to cause confusion and deceive consumers and trades upon the established reputation and goodwill of Versace.

67. Defendants' conduct is willful, intended to reap the benefit of Versace's established goodwill, and violates Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), all to the severe detriment of Versace.

68. Defendants' acts entitle Versace to damages for all of Defendants' profits derived

from their past unlawful conduct and/or for all of Versace's lost profits from lost sales of genuine goods due to Defendants' conduct, trebled, to the full extent provided under Sections 35(a) and 35(b) of the Lanham Act, 15 U.S.C. § 1117(a)-(b), or in the alternative to statutory damages under Section 35(c) of the Lanham Act, 15 U.S.C. § 1117(c).

69. Versace has no adequate remedy at law for Defendants' ongoing wrongful conduct. Versace has been, and absent injunctive relief will continue to be, irreparably harmed by Defendants' actions.

FOURTH CLAIM FOR RELIEF
(Federal Trademark Dilution, 15 U.S.C. § 1125(c))

70. Versace hereby realleges and incorporates by reference all prior allegations as set forth in Paragraphs 1 through 44.

71. Defendants' use of the Versace Trademarks or marks confusingly similar thereto in order to sell their products constitutes Defendants' commercial use in commerce of the Versace Trademarks.

72. The Versace Trademarks are world famous and distinctive. They achieved such status long prior to Defendants' activities complained of herein.

73. Defendants' use of the Versace Trademarks on the Internet to advertise unauthorized merchandise constitutes tarnishment of the Versace Trademarks.

74. Versace is suffering and will continue to suffer irreparable harm from Defendants' dilutive activities.

75. Defendants' acts as aforesaid are diluting the distinctive quality of the Versace Trademarks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

76. Defendants have intentionally and willfully appropriated the Versace Trademarks

and traded on Versace's reputation.

77. Defendants' wrongful acts of dilution will continue unless enjoined by this Court.

FIFTH CLAIM FOR RELIEF
(Copyright Infringement, 17 U.S.C. § 501)

78. Versace hereby realleges and incorporates by reference all prior allegations as set forth in paragraphs 1 through 44.

79. Versace is the sole owner of all right, title, and interest in and to the Versace Copyrights.

80. Pursuant to 17 U.S.C. § 106, Versace has the exclusive rights to copy, reproduce, distribute, publicly display, and prepare derivative works based on the Versace Copyrights.

81. Within the past three (3) years, Defendants have unlawfully copied, reproduced, distributed the Versace Copyrights which are protected and covered by Versace's copyright registrations.

82. Versace has never authorized Defendants, by license or otherwise, to duplicate, distribute, or in any other way utilize the Versace Copyrights.

83. Defendants' acts constitute infringement of the exclusive rights afforded to Versace under 17 U.S.C. § 106 and by virtue of Versace's copyright registrations.

84. Defendants have committed all the acts alleged herein deliberately, willfully, and with reckless disregard for Versace's rights.

85. Defendants have continued to infringe the Versace Copyrights and unless permanently enjoined by order of this Court, will continue to infringe the Versace Copyrights, all to Versace's irreparable injury and detriment leaving Versace without an adequate remedy at law.

86. Versace is entitled to actual damages and Defendants' profits attributable to their

infringement of the Versace Copyrights or, at Versace's election, pursuant to 17 U.S.C. § 504(c), statutory damages for Defendants' willful copyright infringement not to exceed \$150,000 per work.

SIXTH CLAIM FOR RELIEF
(Unfair and Deceptive Business Practices, N.Y. Gen. Bus. L. § 349)

87. Versace hereby realleges and incorporates by reference all prior allegations as set forth in paragraphs 1 through 44.

88. This wrongful conduct was consumer-oriented within the meaning of Section 349 as it is the intent of Defendants to distribute Infringing Products into the marketplace and therefore harm the general consuming public.

89. Because of this deceptive conduct, Versace has been and will continue to be damaged both monetarily and in ways impossible to remedy through monetary judgment.

PRAYER FOR RELIEF

WHEREFORE, Versace respectfully requests that the Court order the following relief:

I. That the Court enter an injunction ordering that Defendants, their agents, servants, employees, and all other persons in privity or acting in concert with them be enjoined and restrained from:

- a) using any infringement of the Versace IP Rights to identify any goods not authorized by Versace;
- b) counterfeiting or infringing the Versace Trademarks by importing, manufacturing, distributing, selling, offering for sale, advertising, promoting, displaying any products bearing any simulation, reproduction, counterfeit, or copy of the Versace Trademarks;
- c) using any simulation, reproduction, counterfeit, or copy of the Versace Trademarks in connection with the importation, promotion, advertisement, display, sale, offering for sale, manufacture, production, circulation or distribution of any unauthorized products in such fashion as to relate or connect, or tend to relate or connect, such products in any way to Versace, or to any goods sold, manufactured, sponsored or approved by, or connected with Versace,

d) making any statement or representation whatsoever, or using any false designation of origin or false description, or performing any act, which can or is likely to lead the trade or public, or individual members thereof, to believe that any services provided, products manufactured, distributed, sold or offered for sale, or rented by Defendants are in any way associated or connected with Versace;

e) engaging in any other conduct constituting an infringement of the Versace IP Rights, of Versace's rights in, or to use or to exploit, said rights, or constituting any weakening of Versace's name, reputation, and goodwill.

II. That Defendants be required to deliver to Versace for destruction all unauthorized materials bearing any of the Versace Trademarks in association with unauthorized goods and the means for production of same pursuant to 15 U.S.C. § 1118.

III. Requiring Defendants to pay to Versace such damages for all of Defendants' profits derived from their unlawful conduct and/or Versace's lost profits from sales of genuine goods due to Defendants' infringement, counterfeiting, false designation of origin, unfair competition trebled to the full extent provided under Sections 35(a) and 35(b) of the Lanham Act, 15 U.S.C. § 1117(a)-(b), or alternatively, statutory damages in the amount of up to \$2,000,000 for each mark counterfeited as provided by 15 U.S.C. § 1117(c) of the Lanham Act.

IV. That Defendants be required to pay to Versace any actual or statutory damages, if Versace so elects, of up to \$30,000 for each copyrighted work infringed for all infringements with respect to that work, pursuant to 17 U.S.C. § 504(c)(1). If the Court finds that any infringement was committed willfully, Versace prays for statutory damages, if Versace so elects, of up to \$150,000 for each copyrighted work infringed for all willful infringements with respect to that work, pursuant to 17 U.S.C. § 504(c)(2).

V. Ordering that Defendants compensate Versace for the costs of this action, reasonable attorneys' fees, investigative fees and pre-judgment interest according to 15 U.S.C. § 1117(b) and 17 U.S.C. § 512(f).

VI. Versace be awarded its actual damages and attorneys' fees pursuant to N.Y. Gen. Bus. L. § 349.

VII. Defendants be required to pay pre-judgment interest on all damages and profits awards.

VIII. Directing that this Court retain jurisdiction of this action for the purpose of enabling Versace to apply to the Court at any time for such further orders and interpretation or execution of any Order entered in this action, for the modification of any such Order, for the enforcement or compliance therewith and for the punishment of any violations thereof.

IX. Ordering that pursuant to 11 U.S.C. § 523(a)(6), Defendants be prohibited from a discharge under 11 U.S.C. § 727 for malicious, willful, and fraudulent injury to Versace.

X. Awarding to Versace such other and further relief as the Court may deem just and proper, together with the costs and disbursements that Versace have incurred in connection with this action.

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Dated: February 16, 2021



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