

**COMPLAINT FOR COUNTERFEITING,
FALSE DESIGNATION OF ORIGIN AND TRADEMARK INFRINGEMENT**

Plaintiffs, Kate Spade LLC, Gucci America, Inc., Burberry Limited (UK) and Burberry Limited (US), Tiffany (NJ) Inc. and Tiffany & Company (collectively referred to herein as "Plaintiffs"), for their Complaint against Defendant, Mary Curran ("Curran"), allege as follows:

STATEMENT OF THE CASE

1. This is an action for damages under the Lanham Act and the common law based on Defendant's offering for sale counterfeit Kate Spade, Gucci, Burberry and Tiffany products.

JURISDICTION AND VENUE

2. This claim arises under the Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.*, particularly under 15 U.S.C. § 1114(1)(a), 15 U.S.C. § 1117(c) and 15 U.S.C. § 1125. This Court has subject matter jurisdiction over the claims in this action, which relate to trademark counterfeiting and infringement, and false designations of origin and false descriptions pursuant to the provisions of 28 U.S.C. §§ 1331 and 1338 and 15 U.S.C. § 1121.

3. This Court has supplemental jurisdiction over the claims in this Complaint which arise under state statutory and common law pursuant to 28 U.S.C. § 1367(a), since the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative fact.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1392(a).

THE PARTIES

5. Plaintiff, Kate Spade LLC ("Kate Spade") is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 48 West 25th Street, New York, New York 10010-2708.

6. Plaintiff, Gucci America, Inc. ("Gucci") is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 685 Fifth Avenue, New York, New York 10022.

7. Plaintiff, Burberry Limited ("Burberry (UK)") is a corporation organized and existing under the laws of the United Kingdom and having its principal place of business at 18-22 Haymarket, London, SW1Y 4DQ, United Kingdom. Burberry (UK) is a wholly owned subsidiary of Burberry Group PLC.

8. Plaintiff, Burberry Limited ("Burberry (US)") is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 1350 Avenue of Americas, New York, NY 10019. Burberry (US) is an affiliate of Burberry (UK) and is also a wholly owned subsidiary of Burberry Group PLC. (Burberry (UK) and Burberry (US) are collectively referred to herein as "Burberry" or "Plaintiff Burberry".)

9. Plaintiff, Tiffany (NJ) Inc. ("Tiffany (NJ)") is a corporation organized and existing under the law of the State of New Jersey, with its principal place of business at 15 Sylvan Way, Parsippany, New Jersey 07054. Tiffany (NJ) is the proprietor of the TIFFANY and TIFFANY & CO. trademarks at issue herein.

10. Plaintiff, Tiffany and Company is a corporation organized and existing under the laws of the State of New York, with its principal place of business at 727 Fifth Avenue, New York, NY 10022. Tiffany & Company is the licensee and user of the TIFFANY and TIFFANY

& CO. trademarks at issue herein. (Tiffany (NJ) and Tiffany & Company are collectively referred to herein as “Plaintiff Tiffany”.)

11. Upon information and belief, Curran is an individual residing at 9072 Moors Place North, Dublin, Ohio. At all times relevant hereto Curran purchased and/or sold and/or distributed merchandise wrongfully bearing counterfeits of Plaintiffs' trademarks.

PLAINTIFFS' ACTIVITIES

Kate Spade

12. Since 1993, Plaintiff, Kate Spade, has been engaged in the sale in interstate commerce of high fashion articles, including, handbags, all-purpose carrying bags, tote bags, shoulder bags, clutch purses, all-purpose athletic bags, backpacks, wallets, coin purses, organizers, paper goods and printed matter, cosmetic bags sold empty, shoes, fragrance and eyewear (the “Products”).

13. For many years, and since long prior to the acts of Defendant complained of herein, Plaintiff, Kate Spade, has been the user, inter alia, of the trademarks, KATE SPADE, KATE SPADE (in stylized form), and KATE SPADE NEW YORK (hereinafter referred to as Kate Spade Trademarks or marks), which have been used continuously by Kate Spade on, and in connection with, the advertising and sale of the Products in interstate and intrastate commerce.

14. Kate Spade is the owner of the following registrations in the U.S. Patent and Trademark Office:

Trademark	Reg. No.	Reg. Date	Goods Covered
KATE SPADE	2,064,708	5/27/97	handbags, all purpose carrying bags, tote bags, traveling bags, shoulder bags, clutch purses, all purpose athletic bags, backpacks, wallets, coin purses and cosmetic bags sold empty
KATE SPADE (in stylized form)	2,068,911	6/10/97	handbags, all purpose carrying bags, tote bags, traveling bags, shoulder bags, clutch purses, all purpose athletic bags, backpacks, wallets, coin purses and cosmetic bags

Trademark	Reg. No.	Reg. Date	Goods Covered
			sold empty
KATE SPADE & Design	2,073,406	6/24/97	handbags, all purpose carrying bags, tote bags, traveling bags, shoulder bags, clutch purses, all purpose athletic bags, backpacks, wallets, coin purses and cosmetic bags sold empty
KATE SPADE NEW YORK	2,537,318	2/5/02	handbags, all purpose carrying bags, tote bags, traveling bags, shoulder bags, clutch purses, all purpose athletic bags, backpacks, wallets, coin purses and cosmetic bags sold empty
KATE SPADE	2,384,267	9/5/00	personal organizers and planners, sketchbooks, calendars, address books, desk accessories comprising pencil holders, pencil cases, erasers, pencils and pens, and pencil sharpeners, stationery, photo albums, agendas and appointment books
KATE SPADE NEW YORK	2,446,491	4/24/01	personal organizers and planners, sketchbooks, calendars, address books, desk accessories comprising pencil holders, pencil cases, erasers, pencils and pens, and pencil sharpeners, stationery, photo albums, agendas and appointment books
KATE SPADE	2,522,892	12/25/01	eyewear, namely sunglasses, eyeglass frames and eyeglass cases

(hereinafter collectively referred to as the “Kate Spade Registrations”). Copies are attached as Exhibit 1. Said certificates of registration are valid and subsisting, and Kate Spade owns record title in the described registered trademarks

15. The certificates of registration are prima facie evidence of the validity of the registered trademarks, Kate Spade’s ownership of the registered trademarks, and Kate Spade’s exclusive right to use the registered trademarks in connection with the goods and services specified in the certificates of registration enumerated above. See 15 U.S.C. Section 1057(b). Section 8 and 15 Affidavits have been filed in connection with registration numbers 2,064,708, 2,068,911 and 2,073,406, and those registrations are now incontestable. See 15 U.S.C. Section 1065.

16. Kate Spade has used the Kate Spade Trademarks for many years on and in connection with Kate Spade merchandise. The Kate Spade Trademarks identify high quality products originating with Kate Spade.

17. Kate Spade spends approximately \$1,000,000 annually in advertising and promoting its aforesaid products to the trade and public and Kate Spade continues to engage in such advertising and promotion.

18. Since long prior to the acts of the Defendant herein complained of, as a result of Plaintiff, Kate Spade's extensive advertising and promotion, and resulting widespread sales, the care and skill utilized in the manufacture of its handbags and other products, the uniform high quality of the handbags and other products sold under, or in connection with, Plaintiff's Kate Spade Trademarks, and the public acceptance and widespread recognition of the Products, Plaintiff, Kate Spade's handbags and other products have acquired a fine reputation. Plaintiff, Kate Spade, has created invaluable goodwill throughout the United States and elsewhere by the sale of handbags and other products of dependable quality and by its fair and honorable dealing with the trade and public in the sale of such handbags and other products.

19. Plaintiff Kate Spade is the exclusive distributor or licensor in the United States of Kate Spade merchandise, all of which bears one or more of the Kate Spade Trademarks.

20. Plaintiff Kate Spade is responsible for designing and/or licensing, assembling, finishing, marketing and selling in interstate commerce high quality, handbags and many other products. Kate Spade merchandise is sold exclusively in department stores, boutiques, Kate Spade stores and via other legitimate retail establishments, with annual retail sales of nearly \$200,000,000.

21. Based on these sales and the wide popularity of Plaintiff Kate Spade's goods, the Kate Spade trademarks have become famous and developed a secondary meaning and significance in the minds of the purchasing public, have been and now are recognized by the trade and public, worldwide and in the State of Ohio, as those of Plaintiff, Kate Spade, exclusively.

22. Plaintiff Kate Spade has gone to great lengths to protect its name and enforce its trademarks. Plaintiff's Kate Spade Trademarks have become strong, famous marks entitled to a broad scope of protection, and are among Plaintiff Kate Spade's most important business assets. Plaintiff Kate Spade will suffer irreparable harm if any third parties, including defendant herein, are allowed to continue engaging in services and selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.

Gucci

23. Gucci America, Inc. owns the trademarks and trade name "GUCCI" and related trademarks (hereinafter collectively referred to as the "Gucci Trademarks"). Gucci markets high-quality products bearing the Gucci Trademarks and Gucci is the exclusive distributor in the United States of Gucci products, all of which bear one or more of the Gucci Trademarks.

24. Commencing at least as early as the 1960's, Gucci adopted one or more of the Gucci Trademarks for handbags, luggage, accessories and related products and caused said trademarks to be registered in the United States Patent and Trademark Office.

25. Gucci is the owner of all rights in and to numerous Gucci Trademarks including, but not limited to, the Gucci Trademarks that are the subject of the following trademark registrations:

Mark	Registration / Serial No.	Date of Registration
GUCCI	876,292	09/09/69
NON-INTERLOCKING GG MONOGRAM	1,107,311	11/28/78
GUCCI CREST	1,097,483	07/25/78
GREEN-RED-GREEN STRIPE	1,122,780	07/24/79
SQUARE G	2,042,805	03/11/97

26. Copies of the above-referenced certificates of registration and/or other evidence of ownership are attached as Exhibit 2. Said certificates of registration are valid and subsisting, and Gucci owns record title in the described registered trademarks. The certificates of registration are prima facie evidence of the validity of the registered trademarks, Gucci's ownership of the registered trademarks, and Gucci's exclusive right to use the registered trademarks in connection with the goods and services specified in the certificates of registration enumerated above. See 15 U.S.C. Section 1057(b). Section 8 and 15 Affidavits have been filed in connection with each of these registrations, and those registrations are now incontestable. See 15 U.S.C. Section 1065.

27. The Gucci Trademarks are in full force and effect. The Gucci Trademarks and the goodwill of Plaintiff Gucci's businesses in connection with which the Gucci Trademarks are used and have never been abandoned. Plaintiff Gucci intends to continue to preserve the maintain its rights with respect to the Gucci Trademarks.

28. The Gucci Trademarks are world-renowned and signify to customers the identity and quality of the product. The Gucci Trademarks are used extensively in advertising and contribute to Gucci's overall success in the marketplace. Over the years, Plaintiff Gucci has spent many millions of dollars advertising and promoting its products bearing the Gucci Trademarks in interstate commerce throughout the United States, including in this district, and

sales of its products bearing these marks throughout the country, including in this district, have been tremendous, amounting to many millions of dollars annually.

29. Plaintiff Gucci's services and products utilizing and/or bearing one or more of the Gucci Trademarks, by reason of their style, distinctive designs and quality have come to be known by the purchasing public throughout the United States as being of the highest quality. As a result thereof, the Gucci Trademarks and the goodwill associated therewith are of inestimable value to Plaintiff Gucci.

30. Based on the extensive sales of Plaintiff Gucci's products and their wide popularity, the Gucci Trademarks have become famous and have developed a secondary meaning and significance in the minds of the purchasing public, and the products utilizing and/or bearing such marks and names are immediately identified by the purchasing public, worldwide and in the State of Ohio, as being those of the Plaintiff Gucci.

31. Accordingly, Plaintiff's Gucci Trademarks have become strong, famous marks entitled to a broad scope of protection, and are among Plaintiff Gucci's most important business assets. Plaintiff Gucci will suffer irreparable harm if any third parties, including defendant herein, are allowed to continue engaging in services and selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.

Burberry

32. Plaintiff Burberry is a global luxury brand company involved in the design, manufacture, advertising, distribution and sale of fine quality clothing, handbags and accessories.

33. The mark BURBERRY has been used by Burberry and its predecessors since its founder Mr. Thomas Burberry opened an outfitters shop in Hampshire, UK in 1856.

34. The “Burberry Check” -- a distinctive red, camel, black and white check trademark -- has been used by Burberry since at least the 1920s in relation to various products including but not limited to clothing, handbags, luggage, umbrellas and other items.

35. The Equestrian Knight Device -- a distinctive horse and rider logo -- has been used by Burberry since at least the 1900s in relation to various products including but not limited to clothing, handbags, luggage, umbrellas and other items.

36. For many years past and since long prior to the acts of Defendant complained of herein, Plaintiff Burberry has been using its BURBERRY name and trademark, its Equestrian Knight Device, and its well known Burberry Check (hereinafter, the “Burberry Trademarks”) in connection with its products in interstate and intrastate commerce.

37. Burberry (US) is authorized to sell and distribute Burberry Merchandise, all of which bears one or more of the Burberry Trademarks.

38. In recognition of Plaintiff Burberry’s exclusive rights to its Burberry Trademarks, Burberry (UK) is the owner and Burberry (US) is an authorized user of the following federal trademark registrations for these trademarks for a variety of clothing, scarves, wallets, handbags, and accessories, including the following:

Trademark	Registration No.	Registration Date
BURBERRY	260,843	August 27, 1929
BURBERRY	1,133,122	April 15, 1980
BURBERRY	1,607,316	July 24, 1990
BURBERRY	1,747,765	January 19, 1993
BURBERRY CHECK Design	1,241,222	June 7, 1983
BURBERRY CHECK Design	1,855,154	September 20, 1994
BURBERRY CHECK Design	2,022,789	December 17, 1996
BURBERRY CHECK Design	2,845,852	May 25, 2004
B B PRORSUM AND EQUESTRIAN KNIGHT Design	863,179	January 7, 1969

B B PRORSUM AND EQUESTRIAN KNIGHT Design	1,622,186	November 13, 1990
B B PRORSUM AND EQUESTRIAN KNIGHT Design	1,903,508	July 4, 1995
EQUESTRIAN KNIGHT Design	2,512,119	November 27, 2001

Copies of these certificates of registration are attached as Exhibit 3.

39. The trademark registrations set forth in paragraph 38 above are valid, subsisting and in full force, and Burberry (UK) owns record title in the described registered trademarks. The certificates of registration are prima facie evidence of the validity of the registered trademarks, Burberry (UK's) ownership of the registered trademarks, and Burberry (UK)'s exclusive right to use the registered trademarks in connection with the goods and services specified in the certificates of registration enumerated above. See 15 U.S.C. Section 1057(b). Section 8 and 15 Affidavits have been filed in connection with registration numbers 260,843; 1,133,122; 1,607,316; 1,747,765; 1,241,222; 1,855,154; 2,022,789; 863,179; 1,622,186; and 1,903,508; and those registrations are now incontestable. See 15 U.S.C. Section 1065.

40. Over the years, Plaintiff Burberry has spent many millions of dollars advertising and promoting its products bearing the Burberry Trademarks in interstate commerce throughout the United States, including in this district, and sales of its products bearing these marks throughout the country, including in this district, have been tremendous, amounting to many millions of dollars annually.

41. By virtue of the extensive sales, advertising and promotions of products bearing the Burberry Trademarks, and the high quality of the goods themselves, such products have become widely known and recognized by the Burberry Trademarks, which have become famous and universally recognized and relied upon by the public and trade, and have developed a secondary meaning and significance in the minds of the purchasing public, worldwide and in the

State of Ohio, as identifying Plaintiff Burberry as the source of the high quality goods in connection with which these marks are used, and distinguishing those goods from the goods of others.

42. As such, Plaintiff's Burberry Trademarks have become strong, famous marks entitled to a broad scope of protection, and are among Plaintiff Burberry's most important business assets. Plaintiff Burberry will suffer irreparable harm if any third parties, including defendant herein, are allowed to continue engaging in services and selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.

Tiffany

43. Tiffany is recognized as one of the most famous trademarks in the United States and around the world and represents a great and valuable goodwill owned by Tiffany (NJ).

44. For over 150 years, Plaintiff Tiffany has achieved great renown as a purveyor of high quality goods, including specialty gift items, such as jewelry, silver, china, glassware, decorative objects, crystal, and clocks, under the trademark and trade name TIFFANY and its variant TIFFANY & CO.

45. Over the years, Plaintiff Tiffany has expended millions of dollars advertising and promoting said jewelry and specialty gift items and has achieved hundreds of millions of dollars of sales of said products. In the past decade, Plaintiff Tiffany's sales of goods bearing, or marketed under, the Tiffany mark and name in the United States, including the State of Ohio, have exceeded \$10.9 billion in retail. During the same period, Tiffany & Co. has spent in excess of \$460 million in advertising and promoting said products in the United States, including the State of Ohio.

46. Tiffany and Tiffany & Co. are subject to the following registrations, among many others, on the Principal Register in the United States Patent and Trademark Office (the “Tiffany Trademarks”):

<u>Trademark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Goods & Services</u>	<u>First Use</u>
TIFFANY & CO.	23,573	Sept. 5, 1893	Jewelry and Watches	1868
TIFFANY	133,063	July 6, 1920	Jewelry for Personal Wear, Not Including Watches; Precious Stones and Flat and Hollow Ware Made of or Plated with Precious Metal	1868
TIFFANY & CO.	1,228,189	Feb. 22, 1983	Decorative Art Objects Made in Whole or in Part of Precious or Semi-Precious Metals – Namely, Figurines, Boxes, Bowls, Trays, and Flowers, Jewelry, Semi-Precious Stones, and Natural and Natural and Cultured Pearls	1868
TIFFANY	1,228,409	Feb. 22, 1983	Decorative Art Objects Made in Whole or in Part of Precious or Semi-Precious Metals – Namely, Figurines, Boxes, Bowls, Trays, and Flowers, Jewelry, Semi-Precious Stones, and Natural and Natural and Cultured Pearls	1868

Evidence of Tiffany’s ownership of the foregoing registrations are attached as Exhibit 4.

47. All of the above marks and registrations are valid and subsisting and Registration Nos. 1,228,189 and 1,228,409 have become incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065.

48. By virtue of the extensive sales, advertising and promotions of products bearing the Tiffany Trademarks, and the high quality of the goods themselves, such products have become widely known and recognized by the Tiffany Trademarks, which have become famous and universally recognized and relied upon by the public and trade, and have developed a secondary meaning and significance in the minds of the purchasing public, worldwide and in the

State of Ohio, as identifying Plaintiff Tiffany as the source of the high quality goods in connection with which these marks are used, and distinguishing those goods from the goods of others.

49. As such, Plaintiff's Tiffany Trademarks have become strong, famous marks entitled to a broad scope of protection, and are among Plaintiff Tiffany's most important business assets. Plaintiff Tiffany will suffer irreparable harm if any third parties, including defendant herein, are allowed to continue engaging in services and selling infringing goods utilizing and/or bearing identical or substantially similar trademarks.

THE SCOURGE OF COUNTERFEITING

50. Counterfeiting is a multi-billion dollar industry in the United States and worldwide. Indeed, the global trade in counterfeit goods has been estimated at \$450 billion, which is between 5 and 7 percent of the total value of global trade. Given the vast sums of money involved, the harm from counterfeiting is not limited to the financial bottom line of a few upscale luxury goods manufacturers. Rather, while investigations by federal, state and local law enforcement have long revealed links between counterfeiters and organized crime, these investigations are increasingly showing possible links between intellectual property crimes and terrorism.

51. On July 16, 2003, the Committee on International Relations of the United States House of Representatives held hearings on the links between intellectual property crime and terrorism. Speaker after speaker gave testimony on counterfeiting as a low risk/high return activity that provides enormous sums of cash without the risks that other criminal activities, such as drug trafficking, entail. Similarly, in an article in the November 2002 issue of U.S. Customs Today, entitled "Financing Terror: Profits from counterfeit goods pay for attacks", Kathleen

Millar, Public Affairs Specialist for the U.S. Customs Service stated:

Today, in a post 9/11 environment, agencies like Customs and Interpol understand that the international underworld is a breeding ground for terrorism, providing groups like al Qaida, Hamas, Hezbollah, and the Irish Republican Army with funds generated by illegal scams, and with opportunities to launder millions in terrorist dollars. Behind the army of hijackers, suicide bombers, and terrorist gunmen stands an even greater number of "company men" -- criminal entrepreneurs and financiers in suits who understand the best way to bankroll Armageddon is through the capitalist system.

52. The Canal Street section of New York City is widely recognized as a hub of counterfeiting activity. In one highly-publicized raid in May of 2002, New York City Police uncovered a labyrinth of underground tunnels and vaults containing an estimated \$125 million worth of counterfeit luxury goods. Despite this raid, counterfeiting activities continue -- indeed, well-known travel guides list the Canal Street area as a shopping destination for "knockoffs" and The Village Voice published an article in April of 2004 entitled "Louis, Louis: An Informed Guide to the Fakes of Canal Street."

DEFENDANT'S INFRINGING ACTIVITIES

53. Defendant is well-known in the Midwest as a purveyor of counterfeit luxury goods via "purse parties" -- in-home sales where customers meet at private homes, view various counterfeit merchandise and either purchase it on the spot or place orders for other colors or styles. On December 16, 2003, Plaintiff Kate Spade served Defendant with a cease and desist order demanding that she cease selling counterfeit products bearing the Kate Spade Trademarks. A copy of the December 16, 2003 letter is attached hereto as Exhibit 5. On December 18, 2003, Defendant responded to Kate Spade, acknowledged receipt of the cease and desist order, but

denied that she was selling any counterfeit merchandise. A copy of Defendant's December 18, 2003 response is attached hereto as Exhibit 6.

54. On December 23, 2003, a private investigator retained by Plaintiffs purchased a counterfeit handbag bearing the Kate Spade Trademark from the Defendant at the Defendant's home. On February 9, 2004, the investigator received an email from Defendant announcing a purse party to be held on February 11, 2004. The investigator attended the party and purchased a counterfeit wallet bearing the Kate Spade trademark. Other counterfeit merchandise was available at the purse party that bore trademarks of other luxury goods manufacturers, including those of Plaintiff Gucci, Plaintiff Burberry, and Plaintiff Tiffany, as well as Louis Vuitton, Prada, Fendi, and Chanel. After inspecting high-quality digital photographs of the Kate Spade products obtained from Defendant, Kate Spade confirmed that the products were, in fact, counterfeit. *See* Affidavit of Ann G. Wilson, and accompanying photographs of counterfeit handbag, attached hereto as Exhibit 7 (hereinafter, the "Wilson Affidavit").

55. Based on information from the private investigator and the Wilson Affidavit, police detectives for the City of Dublin obtained search warrants for Defendant's residence and her vehicle. Copies of the search warrants are attached hereto as Exhibit 8. On February 13, 2004, the police detectives surveilled Defendant's residence, and followed her as she drove from her residence to a nearby storage unit. Once she entered the storage unit, she was approached by the police detectives and by uniformed Dublin police officers, who explained the search warrants. Defendant subsequently gave her consent for a search of the storage unit.

56. A total of 602 counterfeit articles were seized from Defendant's vehicle and from the storage unit, including 44 wallets and handbags, and 21 cloth labels which bore the Kate Spade trademarks; 43 assorted wallets, handbags and watches which bore the Gucci Trademarks;

17 assorted scarves, handbags and wallets which bore the Burberry Trademarks and 103 items of jewelry bearing the Tiffany Trademarks. In an interview by the police at the storage unit, Defendant admitted that she had been engaged in the sale of counterfeit merchandise, including merchandise bearing the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks, for approximately one year, and that her suppliers were located on Canal Street in New York City. A copy of the Dublin Police Department Case Summary is attached hereto as Exhibit 9.

57. Defendant was arrested by the Dublin Police and charged with trademark counterfeiting in violation of Ohio Rev. Code § 2913.34(A)(4), a felony of the fourth degree. Defendant avoided having to enter a plea to the charges, agreed to be placed in the Franklin County (Ohio) Diversion Program, and forfeited her 1999 Lexus SUV and over \$3000 in cash that was seized at the time of the police raid.

58. Defendant has infringed Plaintiffs' trademarks by distributing and selling unauthorized merchandise, including but not limited to scarves, handbags, wallets, watches and jewelry bearing the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks, and by possessing at least 15 black fabric labels bearing the famous "KATE SPADE NEW YORK" trademark. The unauthorized products that were distributed and sold by Defendant are simulations and unauthorized copies of products bearing the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks. The marketing of such infringing products by Defendant is an unauthorized distribution of copies of products bearing the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks.

59. Long after Plaintiffs' adoption and use of their trademarks on handbags and other products, and long after Plaintiffs' federal registrations of their trademarks, Defendant commenced the distribution and sale of handbags and other merchandise bearing counterfeits and infringements of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks as those trademarks appear on Plaintiffs' products and as shown in the U.S. Trademark Registrations annexed to this Complaint.

60. The activities of Defendant complained of herein constitute willful and intentional infringement of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks; are in total disregard of the Plaintiffs' rights and were commenced in spite of Defendant's knowledge that the use of any of the trademarks of Plaintiffs, or a copy or colorable imitation thereof, was in direct contravention of Plaintiffs' rights.

61. The use by Defendant of copies of the Plaintiffs' trademarks has been without Plaintiffs' consent, is likely to cause confusion and mistake in the minds of the purchasing public and, in particular, tends to and does falsely create the impression that the goods sold by Defendant are authorized, sponsored, or approved by Plaintiffs when, in fact, they are not. Defendants' actions have caused irreparable injury to Plaintiffs' goodwill and reputation. An award of monetary damages alone cannot fully compensate Plaintiffs for their injuries and Plaintiffs lack an adequate remedy at law.

COUNT I
TRADEMARK COUNTERFEITING

15 U.S.C. § 1114

62. Plaintiffs incorporates all prior allegations set forth in paragraphs 1 through 61 of this Complaint as if fully restated herein.

63. Defendant has used spurious designations that are identical with, or substantially indistinguishable from, the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks on goods covered by registrations for those marks.

64. Defendant has intentionally and willfully used these spurious designations knowing they are counterfeit in connection with the advertising, sale, offering for sale and distribution of goods for her own personal financial gain and such intentional and willful conduct by the Defendant makes this an exceptional case.

65. Defendant's use of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks to advertise, offer for sale, sell and distribute Defendant's counterfeit products was without the consent of Plaintiffs.

66. Defendant's unauthorized use of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks on and in connection with the advertising and sale of counterfeit goods constitutes Defendant's use of the Registered Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks in commerce.

67. Defendant's unauthorized use of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks as set forth above is likely to:

- (a) cause confusion, mistake and deception;
- (b) cause the public to believe that Defendant's counterfeit products are the same as Plaintiffs' products and/or that Defendant is authorized, sponsored or approved by Plaintiffs or that Defendant is affiliated, connected or associated with or in some way related to Plaintiffs;
- (c) result in Defendant unfairly benefiting from Plaintiffs' advertising and promotion and profiting from the reputation of Plaintiffs' advertising and promotion and profiting from the reputation of Plaintiffs and their Registered Trademarks, all to

the substantial and irreparable injury of the public, Plaintiffs and Plaintiffs' Trademarks and the substantial goodwill represented thereby.

68. Defendant's acts as set forth herein constitute willful trademark counterfeiting in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114. Such conduct entitles Plaintiffs to injunctive relief, compensatory damages, treble damages, disgorgement of profits, and costs and attorney's fees or to statutory damages of up to \$1,000,000 per counterfeit mark per type of goods sold, offered for sale, or distributed, pursuant to 15 U.S.C. § 1117(c)(2).

COUNT II
TRADEMARK INFRINGEMENT

15 U.S.C. § 1114

69. Plaintiff incorporates all prior paragraphs set forth in paragraphs 1 through 68 of this Complaint as if fully restated herein.

70. The Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks are fanciful and arbitrary and are associated in the mind of the public with Plaintiffs.

71. Based on Plaintiffs' extensive advertising, sales and the wide popularity of Plaintiffs' products, the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks have acquired secondary meaning so that any product and advertisement bearing such trademarks is immediately associated by purchasers and the public as being a product and affiliate of one of the Plaintiffs.

72. Defendant uses the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks in connection with Defendant's sale, distribution and advertising of its counterfeit goods.

73. Defendant's activities as set forth herein constitute Defendant's use in commerce of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks.

74. Defendant has used the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks without Plaintiffs' consent or authorization. Defendant's use, including the sale and distribution of infringing products in interstate commerce, is likely to cause confusion and mistake in the minds of the public, leading the public to believe that Defendant's products emanate or originate from Plaintiffs, or that Plaintiffs have approved, sponsored or otherwise associated themselves with Defendant, which is untrue.

75. Defendant has intentionally used the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks knowing they are the exclusive property of Plaintiffs in connection with the offering for sale, sale and distribution of counterfeit goods.

76. Defendant's conduct is intended to exploit the goodwill and reputation associated with the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks.

77. Plaintiffs have no control over the quality of Defendant's counterfeit merchandise. Because of the very real likelihood of confusion as to the source of Defendant's products, Plaintiffs' reputation and valuable goodwill in its trademarks is at the mercy of Defendant's unscrupulous tactics.

78. Defendant's activities as aforesaid creates the false and misleading impression that Defendant is sanctioned, assigned or authorized by Plaintiffs to use the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks to

advertise, manufacture, distribute, appraise, offer for sale or sell counterfeit products bearing Plaintiffs' Trademarks when Defendant is not so authorized.

79. Defendant engages in the aforementioned activity with the intent to confuse and deceive consumers into believing that Defendant and the goods they sell are in some way sponsored by, affiliated or associated with Plaintiffs, when the Defendant is not.

80. Defendant's unauthorized use of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks as set forth above has resulted in Defendant unfairly benefiting from Plaintiffs' advertising and promotion, and profiting from Plaintiffs' reputation and their Registered Trademarks, to the substantial and irreparable injury of the public, Plaintiffs and Plaintiffs' Trademarks and the substantial goodwill represented thereby.

81. Defendant's acts constitute trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114. Defendant's infringement is both intentional and egregious, entitling Plaintiffs to injunctive relief, compensatory damages, treble damages, disgorgement of profits, and costs and attorney's fees.

COUNT III
FALSE DESIGNATIONS OF ORIGIN,
FALSE DESCRIPTIONS AND REPRESENTATIONS

15 U.S.C. § 1125(A)

82. Plaintiffs incorporate all prior allegations set forth in paragraphs 1 through 81 of this Complaint as if fully restated herein.

83. Defendant has, in connection with its goods, used in commerce the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks.

84. Defendant has affixed, applied and used in connection with the sale of goods, false designations of origin and false and misleading descriptions and representations, including the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks, which tend falsely to describe the origin, sponsorship, association or approval by Plaintiffs of the goods sold by the Defendant.

85. Defendant has used one or more of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks with full knowledge of the falsity of such designations of origin, descriptions and representations, all to the detriment of Plaintiffs.

86. Defendant's use of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks on the counterfeit goods constitutes false descriptions and representations tending to falsely describe or represent Defendant and Defendant's products as being authorized, sponsored, affiliated or associated with Plaintiffs.

87. Defendant uses one or more of the Kate Spade Trademarks, the Gucci Trademarks, the Burberry Trademarks and the Tiffany Trademarks on counterfeit goods with the express intent to cause confusion and mistake, to deceive and mislead the purchasing public, to trade upon the high quality reputation of Plaintiffs and to improperly appropriate to themselves the valuable trademark rights of Plaintiffs.

88. Defendant's acts as set forth herein constitute the use in commerce of false designations of origin and false and/or misleading descriptions or representations, tending to falsely or misleadingly describe and/or represent Defendant's products as those of one of the Plaintiffs in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

89. Plaintiffs are entitled to injunctive relief, compensatory damages, treble damages, disgorgement of profits, and costs and attorney's fees on account of Defendant's actions as set forth herein.

COUNT IV
COMMON LAW TRADEMARK INFRINGEMENT

90. Plaintiffs incorporate all prior allegations set forth in paragraphs 1 through 89 of this Complaint as if fully restated herein..

91. Defendant's acts previously alleged herein constitute common law trademark infringement.

92. Defendant committed the above alleged acts oppressively, fraudulently, maliciously and in conscious disregard of Plaintiffs' rights, and Plaintiffs are therefore entitled to exemplary and punitive damages pursuant to the common law of the State in an amount sufficient to punish, deter and make an example of Defendant.

93. The distribution and sale of the unauthorized and infringing products by Defendant is without any permission, license or other authorization from Plaintiffs. The said unauthorized products were being distributed and sold in interstate commerce.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against the Defendant as follows:

I. That Defendant be ordered to deliver up for destruction to Plaintiffs all unauthorized products and advertisements in her possession or under her control bearing any of Plaintiffs' Registered Trademarks or any simulation, reproduction, counterfeit, copy or colorable imitation thereof, pursuant to 15 U.S.C. §1118.

II. That a permanent injunction be issued enjoining and restraining Defendant and her officers, agents, servants, employees and attorneys and all those in active concert or participation with them, from:

- A. Using any reproduction, counterfeit, copy or colorable imitation of the Plaintiffs' Trademarks to identify any goods or the rendering of any services not authorized by Plaintiffs;
- B. Engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure Plaintiffs' business reputation or dilute the distinctive quality of Plaintiffs' Trademarks;
- C. Using a false description or representation including words or other symbols tending to falsely describe or represent Defendant's unauthorized goods as being those of Plaintiffs or sponsored by or associated with Plaintiffs and from offering such goods into commerce;
- D. Further infringing Plaintiffs' Trademarks by manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting, displaying or otherwise disposing of any products not authorized by Plaintiffs bearing any simulation, reproduction, counterfeit, copy or colorable imitation of Plaintiffs' Registered Trademarks;
- E. Using any simulation, reproduction, counterfeit, copy or colorable imitation of Plaintiffs' Trademarks in connection with the rental, 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 Plaintiffs, or to any goods sold, manufactured, sponsored or approved by, or connected with Plaintiffs;

- F. 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 products manufactured, distributed, sold or rented by Defendant is in any manner associated or connected with Plaintiffs, or is sold, manufactured, licensed, sponsored, approved or authorized by Plaintiffs;
- G. Constituting an infringement of any of Plaintiffs' Registered Trademarks or of Plaintiffs' rights in, or to use or to exploit, said Registered Trademarks, or constituting any dilution of Plaintiffs' name, reputation or goodwill;

III. That this Court order such other relief as the Court may deem appropriate to prevent the trade and public from deriving any erroneous impression that any products manufactured, sold or otherwise circulated or promoted by Defendant is authorized by Plaintiffs or related in any way to Plaintiffs' products.

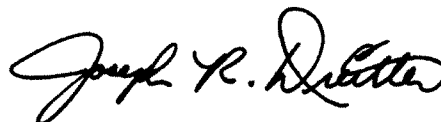
IV. That Plaintiffs be awarded statutory damages pursuant to 15 U.S.C. § 1117 (c) of up to \$1,000,000 for each trademarked item that Defendant has willfully counterfeited and infringed.

V. That Plaintiffs recover the costs of this action together with reasonable attorneys' and investigators' fees and prejudgment interest in accordance with 15 U.S.C. § 1117.

VI. That this Court retain jurisdiction of this action for the purpose of enabling Plaintiffs 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.

VII. That Plaintiffs be awarded such other and further relief as the Court may deem just and proper, together with the costs and disbursements which Plaintiffs have incurred in connection with this action.

Respectfully submitted,



Joseph R. Dreitler, Trial Attorney (0012441)
Mary R. True (0046880)
Brian J. Downey (0069163)
JONES DAY
41 South High Street, Suite 1900
Columbus, OH 43215
Telephone: (614) 469-3939
Facsimile: (614) 461-6350

Attorneys for Plaintiffs
Kate Spade, LLC, Gucci America, Inc.,
Burberry Limited (UK), Burberry Limited
(US), Tiffany (NJ) Inc. and Tiffany and
Company