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10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 UNICOLORS, INC., a California
 13 Corporation,

14 Plaintiff,

15 vs.

16
 17 JIANGSU GLOBAL DEVELOPMENT,
 18 INC., a New York Corporation,
 19 individually and d/b/a "T.MILANO";
 20 ROSS STORES INC., a California
 21 Corporation, individually, and d/b/a
 22 "DD'S DISCOUNTS"; PHOOL
 23 FASHION LTD., a New York limited
 24 company; THE VERMONT COUNTRY
 25 STORE, INC., a Vermont Corporation;
 26 CITI TRENDS INC., a Delaware
 27 Corporation; and DOES 1 through 10,
 28 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

1 Plaintiff, UNICOLORS, INC. (hereinafter “UNICOLORS”), by and through its
2 undersigned attorneys, hereby prays to this honorable Court for relief based on the
3 following:

4 **JURISDICTION AND VENUE**

5 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
6 *et seq.*

7 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
8 1338 (a) and (b).

9 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
10 1400(a) in that this is the judicial district in which a substantial part of the acts and
11 omissions giving rise to the claims occurred.

12 **PARTIES**

13 4. Plaintiff UNICOLORS is a corporation organized and existing under the
14 laws of the State of California with its principal place of business located in Los
15 Angeles County.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant
17 JIANGSU GLOBAL DEVELOPMENT, INC, individually and doing business as
18 “T.MILANO” (collectively “T.MILANO”) is a corporation organized and existing
19 under the laws of the state of New York, with its principal place of business located
20 at 1407 Broadway Room 2510, New York, NY 10018 and is doing business in and
21 with the state of California.

22 6. Plaintiff is informed and believes and thereon alleges that Defendant ROSS
23 STORES, INC., individually and doing business as “DD’S DISCOUNTS”
24 (collectively “ROSS”), is a corporation organized and existing under the laws of the
25 state of California with its principal place of business located at 5130 Hacienda
26 Drive, Dublin, CA 94568 and is doing business in and with the state of California.

27 7. Plaintiff is informed and believes and thereon alleges that Defendant

1 PHOOL FASHION LTD (“PHOOL”) is a limited company organized and existing
2 under the laws of the state of New York, with its principal place of business located
3 at 241 West 37th St Room 518, New York, NY 10018 and is doing business in and
4 with the state of California.

5 8. Plaintiff is informed and believes and thereon alleges that Defendant THE
6 VERMONT COUNTRY STORE, INC., (“VERMONT”) is a corporation organized
7 and existing under the laws of the state of Vermont, with its principal place of
8 business located at 5650 Main Street, Manchester CTR., VT, 05255 and is doing
9 business in and with the state of California.

10 9. Plaintiff is informed and believes and thereon alleges that Defendant CITI
11 TRENDS INC., (“CITI TRENDS”) is a corporation organized and existing under the
12 laws of the state of Delaware, with its principal place of business located at 104
13 Coleman Blvd., Savannah, GA, 31408 and is doing business in and with the state of
14 California.

15 10. Plaintiff is informed and believes and thereon alleges that some of
16 Defendants DOES 1 through 5, inclusive, are manufacturers and/or vendors of
17 garments to named Defendant, which DOE Defendants have manufactured and/or
18 supplied and are manufacturing and/or supplying garments comprised of fabric
19 printed with Plaintiff’s copyrighted designs (as hereinafter defined) without
20 Plaintiff’s knowledge or consent or have contributed to said infringement. The true
21 names, whether corporate, individual or otherwise of Defendants DOES 1-5,
22 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
23 by such fictitious names and will seek leave to amend this complaint to show their
24 true names and capacities when same have been ascertained.

25 11. Defendants DOES 6 through 10, inclusive, are other parties not yet
26 identified who have infringed Plaintiff’s copyrights, have contributed to the
27 infringement of Plaintiff’s copyrights, or have engaged in one or more of the

1 wrongful practices alleged herein. The true names, whether corporate, individual or
2 otherwise, of Defendants DOES 6 through 10, inclusive, are presently unknown to
3 Plaintiff, which therefore sues said Defendants by such fictitious names, and will
4 seek leave to amend this Complaint to show their true names and capacities when
5 same have been ascertained.

6 12. Plaintiff is informed and believes and thereon alleges that at all times
7 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
8 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
9 at all times acting within the scope of such agency, affiliation, alter-ego relationship
10 and/or employment; and actively participated in or subsequently ratified and
11 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
12 all the facts and circumstances, including, but not limited to, full knowledge of each
13 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
14 caused thereby.

15 **CLAIMS RELATED TO DESIGN CE169**

16 13. Prior to the conduct complained of herein, Plaintiff composed an original
17 two-dimensional artwork for purposes of textile printing. It allocated this design the
18 name CE169 (hereinafter "Subject Design"). This artwork was a creation of Plaintiff
19 and Plaintiff's design team, and is, and at all relevant times, was owned exclusively
20 by Plaintiff.

21 14. Plaintiff applied for and received a United States Copyright Registration
22 for the Subject Design.

23 15. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
24 bearing Subject Design to numerous parties in the fashion and apparel industries.

25 16. Following this distribution of product bearing the Subject Design,
26 Plaintiff's investigation revealed that certain entities within the fashion and apparel
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1 industries had misappropriated the Subject Design, and were selling fabric and
2 garments bearing illegal reproductions and derivations of the Subject Design.

3 17. Plaintiff is informed and believes and thereon alleges that, without
4 Plaintiff's authorization, T.MILANO and certain DOE Defendants created, sold,
5 manufactured, caused to be manufactured, and distributed garments comprised of
6 fabric featuring designs which are identical to or substantially similar to the Subject
7 Design (hereinafter "Infringing Garment A") to at least one retailer, ROSS, who then
8 sold said garments to the public. These garments include but are not limited to the
9 garment shown below with Style Number 70006897QS.

10 18. It is apparent from a comparison of the Subject Design and Infringing
11 Garment A that the elements, composition, colors, arrangement, layout, and
12 appearance of the designs are substantially similar.

Subject Design	Infringing Garment A
	

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1 19. Plaintiff is informed and believes and thereon alleges that, without
2 Plaintiff’s authorization, PHOOL and certain DOE Defendants created, sold,
3 manufactured, caused to be manufactured, and distributed garments comprised of
4 fabric featuring designs which are identical to or substantially similar to the Subject
5 Design (hereinafter “Infringing Garment B”) to at least one retailer, VERMONT,
6 who then sold said garments to the public. These garments include but are not
7 limited to the garment shown below with Style Number 63454.

8 20. It is apparent from a comparison of the Subject Design and Infringing
9 Garment B that the elements, composition, colors, arrangement, layout, and
10 appearance of the designs are substantially similar.

Subject Design	Infringing Garment B
	

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1 21. Plaintiff is informed and believes and thereon alleges that, without
2 Plaintiff’s authorization, T.MILANO and certain DOE Defendants created, sold,
3 manufactured, caused to be manufactured, and distributed garments comprised of
4 fabric featuring designs which are identical to or substantially similar to the Subject
5 Design (hereinafter “Infringing Garment C”) to at least one retailer, CITI TRENDS,
6 who then sold said garments to the public. These garments include but are not
7 limited to the garment shown below with Style Number 70006890QS.

8 22. It is apparent from a comparison of the Subject Design and Infringing
9 Garment C that the elements, composition, colors, arrangement, layout, and
10 appearance of the designs are substantially similar.

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Subject Design	Infringing Garment C
	

1 **FIRST CLAIM FOR RELIEF**

2 (For Copyright Infringement – Against All Defendants, and Each)

3 23. Plaintiff repeats, realleges, and incorporates herein by reference as though
4 fully set forth, the allegations contained in the preceding paragraphs of this
5 Complaint.

6 24. Plaintiff is informed and believes and thereon alleges that Defendants, and
7 each of them, had access to the Subject Design, including, without limitation,
8 through (a) access to Plaintiff’s showroom and/or design library; (b) access to
9 illegally distributed copies of the Subject Design by third-party vendors and/or DOE
10 Defendants, including without limitation international and/or overseas converters
11 and printing mills; (c) access to Plaintiff’s strike-offs and samples, and (d) garments
12 manufactured and sold to the public bearing fabric lawfully printed with the Subject
13 Design by Plaintiff for its customers.

14 25. Plaintiff is informed and believes and thereon alleges that one or more of
15 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
16 further informed and believes and thereon alleges that said Defendant(s) has an
17 ongoing business relationship with Defendant retailer, and each of them, and
18 supplied garments to said retailer, which garments infringed the Subject Design in
19 that said garments were composed of fabric which featured unauthorized print
20 design(s) that were identical or substantially similar to the Subject Design, or were
21 an illegal derivation or modification thereof.

22 26. Plaintiff is informed and believes and thereon alleges that Defendants, and
23 each of them, infringed Plaintiff’s copyrights by creating, making, and/or developing
24 directly infringing and/or derivative works from the Subject Design and by
25 producing, distributing and/or selling garments which infringe the Subject Design
26 through a nationwide network of retail stores, catalogues, and through on-line
27 websites.

1 27. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
2 damages to its business in an amount to be established at trial.

3 28. Due to Defendants' acts of infringement, Plaintiff has suffered general and
4 special damages in an amount to be established at trial.

5 29. Due to Defendants' acts of copyright infringement as alleged herein,
6 Defendants, and each of them, have obtained direct and indirect profits they would
7 not otherwise have realized but for their infringement of the Subject Design. As
8 such, Plaintiff is entitled to disgorgement of Defendant's profits directly and
9 indirectly attributable to Defendant's infringement of the Subject Design in an
10 amount to be established at trial.

11 30. Plaintiff is informed and believes and thereon alleges that Defendants, and
12 each of them, have committed acts of copyright infringement, as alleged above,
13 which were willful, intentional and malicious, which further subjects Defendants,
14 and each of them, to liability for statutory damages under Section 504(c)(2) of the
15 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)
16 per infringement. Within the time permitted by law, Plaintiff will make its election
17 between actual damages and statutory damages.

18 **SECOND CLAIM FOR RELIEF**

19 (For Vicarious and/or Contributory Copyright Infringement - Against All
20 Defendants)

21 31. Plaintiff repeats, realleges, and incorporates herein by reference as though
22 fully set forth, the allegations contained in the preceding paragraphs of this
23 Complaint.

24 32. Plaintiff is informed and believes and thereon alleges that Defendants
25 knowingly induced, participated in, aided and abetted in and profited from the illegal
26 reproduction and/or subsequent sales of garments featuring the Subject Design as
27 alleged herein.

1 33. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, are vicariously liable for the infringement alleged herein because they
3 had the right and ability to supervise the infringing conduct and because they had a
4 direct financial interest in the infringing conduct.

5 34. By reason of the Defendants', and each of their acts of contributory and
6 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
7 suffer substantial damages to its business in an amount to be established at trial, as
8 well as additional general and special damages in an amount to be established at
9 trial.

10 35. Due to Defendants', and each of their acts of copyright infringement as
11 alleged herein, Defendants, and each of them, have obtained direct and indirect
12 profits they would not otherwise have realized but for their infringement of the
13 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
14 directly and indirectly attributable to Defendants' infringement of the Subject
15 Design, in an amount to be established at trial.

16 36. Plaintiff is informed and believes and thereon alleges that Defendants, and
17 each of them, have committed acts of copyright infringement, as alleged above,
18 which were willful, intentional and malicious, which further subjects Defendants,
19 and each of them, to liability for statutory damages under Section 504(c)(2) of the
20 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000.00)
21 per infringement. Within the time permitted by law, Plaintiff will make its election
22 between actual damages and statutory damages.

23 **PRAYER FOR RELIEF**

24 Wherefore, Plaintiff prays for judgment as follows:

25 **Against All Defendants**

26 **With Respect to Each Claim for Relief**

- 1 a. That Defendants, their agents and employees be enjoined from
2 infringing Plaintiff’s copyrights in any manner, specifically those for the
3 Subject Design;
- 4 b. That Plaintiff be awarded all profits of Defendants plus all losses of
5 Plaintiff, plus any other monetary advantage gained by the Defendants
6 through their infringement, the exact sum to be proven at the time of
7 trial, or, if elected before final judgment, statutory damages as available
8 under the Copyright Act, 17 U.S.C. § 101 et seq.;
- 9 c. That a trust be imposed over the revenues derived by Defendants, and
10 each of them, through the sales or distribution of the product at issue;
- 11 d. That Plaintiff be awarded its attorneys’ fees as available under the
12 Copyright Act U.S.C. § 101 et seq.;
- 13 e. That Defendants, and each of them, account to Plaintiff for their profits
14 and any damages sustained by Plaintiff arising from the foregoing acts
15 of infringement;
- 16 f. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 17 g. That Plaintiff be awarded the costs of this action; and
- 18 h. That Plaintiff be awarded such further legal and equitable relief as the
19 Court deems proper.

20 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
21 38 and the 7th Amendment to the United States Constitution.

22 Respectfully submitted,

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24 Dated: January 25, 2016

25 By: /s/ Scott Alan Burroughs
26 Scott Alan Burroughs, Esq.
27 DONIGER / BURROUGHS
28 Attorneys for Plaintiff
UNICOLORS, INC.