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9 CHANEL, INC.

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 CHANEL, INC.,
13 a New York Corporation,

14 Plaintiff,

15 vs.

16
17 MARC GIOVANNI, an individual, d/b/a
BOUTIQUELEBON.COM d/b/a BOUTIQUE-
18 MARCELLA.COM and TOP MODEA PURSES,
INC., a Nevada corporation, d/b/a
19 BOUTIQUELEBON.COM d/b/a BOUTIQUE-
MARCELLA.COM and DOES I-X,

20 Defendants.
21

Case No.: 2:09-CV-1420



COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF

22
23 Plaintiff, CHANEL, INC., a New York corporation ("Chanel") hereby sues Defendants,
24 MARC GIOVANNI, an individual, d/b/a BOUTIQUELEBON.COM d/b/a BOUTIQUE-
25 MARCELLA.COM ("Giovanni"), and TOP MODEA PURSES, INC., a Nevada corporation, d/b/a
26 BOUTIQUELEBON.COM d/b/a BOUTIQUE-MARCELLA.COM ("Top Modea Purses") and
27 DOES 1 – 10 (collectively the "Defendants") and alleges as follows:
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JURISDICTION AND VENUE

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1. This is an action pursuant to (i) 15 U.S.C. §§ 1114, 1116, 1121 and 1125(a). Accordingly, this Court has jurisdiction under 28 U.S.C. §§ 1331 and 1338. Personal jurisdiction and venue are proper in this Court pursuant 28 U.S.C. § 1391 since the named Defendants conduct business with consumers within this Judicial District through at least the fully interactive Internet websites “Boutiquelebon.com” and “Boutique-Marcella.com.”

THE PARTIES

2. Chanel is a corporation duly organized under the laws of the State of New York with its principal place of business in the United States located at Nine West 57th Street, New York, New York 10019. Chanel is, in part, engaged in the business of manufacturing and distributing throughout the world, including within this Judicial District, high quality handbags and wallets, under Federally registered trademarks, including but not limited to  ,  , and CHANEL (collectively the “Chanel Marks”).

3. Giovanni is an individual who, upon information and belief resides at 530/350 Lalin Village, M-1 Prakasa, Muang Samutprakarn, TH 10280. Top Modea Purses is a corporation organized under the laws of the State of Nevada, with a principal place of business located at 3225 Mcleod Drive, Las Vegas, Nevada 89121. Each named Defendant conducts business within this jurisdiction through the operation of the fully interactive websites “Boutiquelebon.com” and “Boutique-Marcella.com.” Giovanni and Top Modea Purses are the moving and conscious forces behind the operation of the fully interactive websites “Boutiquelebon.com” and “Boutique-Marcella.com.”

4. Upon information and belief, Giovanni and Top Modea Purses are directly engaging in the sale of counterfeit and infringing products within this District as alleged herein.




5. Defendant Does 1-5 are, upon information and belief, individuals who reside and/or conduct substantial business within this Judicial District. Further, Does 1-5 are directly and personally contributing, inducing and engaging in the sale of counterfeit products as alleged herein

1 as partners or suppliers to the named Defendants. Chanel is presently unaware of the true names of
 2 Does 1-5. Chanel will amend this Complaint upon discovery of the identities of such fictitious
 3 Defendants.

4 6. Defendants Does 6-10 are business entities which, upon information and belief, reside
 5 and/or conduct business within this Judicial District. Moreover, Does 6-10 are, upon information
 6 and belief, directly engaging in the sale of counterfeit products as alleged herein as partners or
 7 suppliers to the named Defendants. Chanel is presently unaware of the true names of Does 6-10.
 8 Chanel will amend this Complaint upon discovery of the identities of such fictitious Defendants.
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10 **COMMON FACTUAL ALLEGATIONS**

11 7. Chanel is the owner of the following United States Federal Trademark
 12 Registrations:

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
	3,025,934	December 13, 2005
	1,734,822	November 24, 1992
CHANEL	1,733,051	November 17, 1992
CHANEL	1,347,677	July 9, 1985
	1,314,511	January 15, 1985
CHANEL	0,626,035	May 1, 1956

23 which are registered in International Class 18 and are used in connection with the manufacture and
 24 distribution of, among other things, high quality handbags and wallets.

25 8. The Chanel Marks have been used in interstate commerce to identify and distinguish
 26 Chanel's high quality handbags, wallets, and other goods for an extended period of time.
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1 9. The Chanel Marks have never been assigned or licensed to any of the Defendants in
2 this matter.

3 10. The Chanel Marks are symbols of Chanel's quality, reputation and goodwill and have
4 never been abandoned.

5 11. Further, Chanel has expended substantial time, money and other resources
6 developing, advertising and otherwise promoting the Chanel Marks. The Chanel Marks qualify as
7 famous marks as that term is used in 15 U.S.C. §1125(c)(1).
8

9 12. Chanel has extensively used, advertised and promoted the Chanel Marks in the
10 United States in association with the sale of high quality handbags, wallets, and other goods and has
11 carefully monitored and policed the use of the Chanel Marks.

12 13. As a result of Chanel's efforts, members of the consuming public readily identify
13 merchandise bearing the Chanel Marks, as being high quality merchandise sponsored and approved
14 by Chanel.
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16 14. Accordingly, the Chanel Marks have achieved secondary meaning as identifiers of
17 high quality handbags, wallets, and other goods.

18 15. Upon information and belief, at all times relevant hereto, the Defendants in this action
19 had full knowledge of Chanel's ownership of the Chanel Marks, including its exclusive right to use
20 and license such intellectual property and the goodwill associated therewith.
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22 16. Chanel has discovered the Defendants are promoting and otherwise advertising,
23 distributing, selling and/or offering for sale counterfeit products, including at least handbags and
24 wallets bearing trademarks which are exact copies of the Chanel Marks (the "Counterfeit Goods").
25 Specifically, upon information and belief, the Defendants are using the Chanel Marks in the same
26 stylized fashion, for different quality goods.
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1 17. Upon information and belief, the Defendants' Counterfeit Goods are of a quality
2 substantially different than that of Chanel's genuine goods. Despite the nature of their Counterfeit
3 Goods and the knowledge they are without authority to do so, the Defendants, upon information and
4 belief, are actively using, promoting and otherwise advertising, distributing, selling and/or offering
5 for sale substantial quantities of their Counterfeit Goods with the knowledge that such goods will be
6 mistaken for the genuine high quality products offered for sale by Chanel. The net effect of the
7 Defendants' actions will be to result in the confusion of consumers who will believe the Defendants'
8 Counterfeit Goods are genuine goods originating from and approved by Chanel.
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10 18. The Defendants advertise their Counterfeit Goods for sale to the consuming public.
11 In so advertising these products, the Defendants use the Chanel Marks. Indeed, the Defendants
12 herein misappropriated Chanel's advertising ideas and entire style of doing business with regard to
13 the advertisement and sale of Chanel's genuine products. Upon information and belief, the
14 misappropriation of Chanel's advertising ideas in the form of the Chanel Marks has occurred, in
15 part, in the course of Defendants' advertising activities and has been the proximate cause of damage
16 to Chanel.
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18 19. Upon information and belief, the Defendants are conducting their counterfeiting and
19 infringing activities at least within this Judicial District and elsewhere throughout the United States.
20 As a result, the Defendants are defrauding Chanel and the consuming public for the Defendants' own
21 benefit. Defendants' infringement and disparagement of Chanel does not simply amount to the
22 wrong description of their goods or the failure of the goods to conform to the advertised quality or
23 performance.
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25 20. The Defendants' use of the Chanel Marks, including the promotion and advertising,
26 reproduction, distribution, sale and offering for sale of their Counterfeit Goods, is without Chanel's
27 consent or authorization.
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1 21. Further, the Defendants are engaging in the above-described illegal counterfeiting and
2 infringing activities knowing and intentionally or with reckless disregard or willful blindness to
3 Chanel's rights for the purpose of trading on the goodwill and reputation of Chanel. If the
4 Defendants' intentional counterfeiting and infringing activities are not preliminarily and permanently
5 enjoined by this Court, Chanel and the consuming public will continue to be damaged.
6

7 22. The Defendants' above identified infringing activities are likely to cause confusion,
8 deception and mistake in the minds of consumers, the public and the trade. Moreover, the
9 Defendants' wrongful conduct is likely to create a false impression and deceive customers, the
10 public and the trade into believing there is a connection or association between Chanel's genuine
11 goods and the Defendants' Counterfeit Goods.
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13 23. Chanel has no adequate remedy at law.

14 24. Chanel is suffering irreparable injury and has suffered substantial damages as a result
15 of the Defendants' counterfeiting and infringing activities.

16 25. The injuries and damages sustained by Chanel have been directly and proximately
17 caused by the Defendants' wrongful reproduction, use, advertisement, promotion, offering to sell,
18 and sale of their Counterfeit Goods.

19 26. Chanel has retained the undersigned counsel to represent them in this matter and is
20 obligated to pay said counsel a reasonable fee for such representation.
21

22 **COUNT I - TRADEMARK COUNTERFEITING AND INFRINGEMENT**

23 27. Chanel hereby readopts and re-alleges the allegations set forth in Paragraphs 1
24 through 26 above.

25 28. This is an action for trademark counterfeiting and infringement against the
26 Defendants based on their promotion, advertisement, distribution, sale and/or offering for sale of the
27 Counterfeit Goods bearing the Chanel Marks.
28

1 29. Specifically, are promoting and otherwise advertising, selling, offering for sale and
2 distributing counterfeit and infringing handbags and wallets bearing the Chanel Marks. The
3 Defendants are continuously infringing and inducing others to infringe the Chanel Marks by using
4 them to advertise, promote and sell counterfeit handbags and wallets.
5

6 30. Defendants' counterfeiting and infringing activities are likely to cause and actually
7 are causing confusion, mistake and deception among members of the trade and the general
8 consuming public as to the origin and quality of Defendants' Counterfeit Goods bearing the Chanel
9 Marks.

10 31. The Defendants' unlawful actions have caused and are continuing to cause
11 unquantifiable damages to Chanel.

12 32. Defendants' above-described illegal actions constitute counterfeiting and
13 infringement of the Chanel Marks in violation of Chanel's rights under § 32 of the Lanham Act, 15
14 U.S.C. § 1114.
15

16 33. Chanel has suffered and will continue to suffer irreparable injury due to the above
17 described activities of the Defendants if the Defendants are not preliminarily and permanently
18 enjoined.
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20 **COUNT II - FALSE DESIGNATION OF ORIGIN**
21 **PURSUANT TO § 43(a) OF THE LANHAM ACT**

22 34. Chanel hereby readopts and re-alleges the allegations set forth in Paragraphs 1
23 through 26 above.

24 35. The Defendants' Counterfeit Goods bearing and sold under the Chanel Marks have
25 been widely advertised and distributed throughout the United States.

26 36. The Defendants' Counterfeit Goods bearing and sold under the Chanel Marks are
27 virtually identical in appearance to each of Chanel's respective genuine goods. However, the
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1 Counterfeit Goods are different and likely inferior in quality. Accordingly, the Defendants'
2 activities are likely to cause confusion in the trade and among the general public as to at least the
3 origin or sponsorship of the Counterfeit Goods.

4 37. The Defendants, upon information and belief, have used in connection with their sale
5 of Counterfeit Goods, false designations of origins and false descriptions and representations,
6 including words or other symbols and trade dress which tend to falsely describe or represent such
7 goods and have caused such goods to enter into commerce with full knowledge of the falsity of such
8 designations of origin and such descriptions and representations, all to the detriment of Chanel.

9 38. Specifically, the Defendants have authorized an infringing use of the Chanel Marks,
10 in the Defendants' advertisement and promotion of their counterfeit and infringing handbags and
11 wallets. The Defendants, have misrepresented to members of the consuming public that the
12 Counterfeit Goods being advertised and sold by them are genuine, non-infringing products.

13 39. The Defendants' above-described actions are in violation of Section 43(a) of the
14 Lanham Act, 15 U.S.C. §1125(a).

15 40. Chanel has sustained injury and damage caused by Defendants' conduct, and absent
16 an entry of an injunction by this Court, Chanel will continue to suffer irreparable injury to their
17 goodwill and business reputation as well as monetary damages.

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21 **PRAYER FOR RELIEF**

22 41. WHEREFORE, Chanel demands judgment jointly and severally against the
23 Defendants as follows:

24 a. The Court enter a preliminary and permanent injunction enjoining Defendants,
25 their agents, representatives, servants, employees, and all those acting in concert or participation
26 therewith, from manufacturing or causing to be manufactured, importing, advertising or promoting,
27 distributing, selling or offering to sell their Counterfeit Goods; from infringing, counterfeiting, or
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1 diluting the Chanel Marks; from using the Chanel Marks, or any mark or trade dress similar thereto,
2 in connection with the sale of any unauthorized goods; from using any logo, trade name or
3 trademark or trade dress which may be calculated to falsely advertise the services or products of the
4 Defendants as being sponsored by, authorized by, endorsed by, or in any way associated with
5 Chanel; from falsely representing themselves as being connected with Chanel, through sponsorship
6 or association, or engaging in any act which is likely to falsely cause members of the trade and/or of
7 the purchasing public to believe any goods or services of the Defendants, or in any way endorsed by,
8 approved by, and/or associated with Chanel; from using any reproduction, counterfeit, copy, or
9 colorable imitation of the Chanel Marks in connection with the publicity, promotion, sale, or
10 advertising of any goods sold by the Defendants, including, without limitation, handbags, wallets,
11 and other goods; from affixing, applying, annexing or using in connection with the sale of any
12 goods, a false description or representation, including words or other symbols tending to falsely
13 describe or represent Defendants' goods as being those of Chanel, or in any way endorsed by Chanel
14 and from offering such goods in commerce; and from otherwise unfairly competing with Chanel.
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17 b. The Defendants be required to account to and pay Chanel for all profits and
18 damages resulting from Defendants' trademark infringing and counterfeiting activities and that the
19 award to Chanel be trebled, as provided for under 15 U.S.C. §1117, or, at Chanel's election with
20 respect to Count I, that Chanel be awarded statutory damages from each Defendants in the amount of
21 two million dollars (\$2,000,000.00) per each counterfeit Chanel Mark used per product sold, as
22 provided by 15 U.S.C. §1117(c)(2) of the Lanham Act.
23

24 c. Chanel be awarded damages for corrective advertising.

25 d. Chanel be awarded pre-judgment interest on its judgment.


26 e. Chanel be awarded its costs and reasonable attorneys' fees and investigators'
27 fees associated with bringing this action.
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1 f. Chanel be awarded an order canceling or, at their election, transferring the
2 domain names Boutiquelebon.com and Boutique-Marcella.com to Chanel by the Registry and/or
3 Registrar.

4 g. Chanel be awarded such other and further relief as the Court may deem just
5 and proper.

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7 DATED this 4 day of August, 2009.

8
9 Respectfully submitted,

10 By: 

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