

1 Bryan King Sheldon (Bar No. 116219)
 2 Philip G. Grant (Bar No. 110608)
 3 George Busu (Bar No. 235993)
 4 **LIM RUGER & KIM, LLP**
 5 1055 West Seventh Street, Suite 2800
 6 Los Angeles, California 90017
 7 Telephone: (213) 955-9500
 8 FAX: (213) 955-9511
 9 email: bryan.sheldon@lrklawyers.com
 10 philip.grant@lrklawyers.com
 11 george.busu@lrklawyers.com

12 Attorneys for Plaintiff, Crew Knitwear, Inc.

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 CENTRAL DISTRICT OF CALIF.
 BY *[Signature]*

13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**
 15 **WESTERN DIVISION**

16 CREW KNITWEAR, INC.)
 17)
 18 Plaintiffs,)
 19)

20 v.)

21 US TEXTILE PRINTING, INC., a)
 22 California Corporation; YOUNG)
 23 JIN TEXTILE PRINTING, a)
 24 business entity of unknown form;)
 25 GLOBE APPAREL, INC., a)
 26 California Corporation; UNO)
 27 CLOTHING, INC., a California)
 28 Corporation; JULIE'S CLOSET, a)
 business entity of unknown form;)
 and DOES 1 to 10,)
 Defendants.)

Case No. **CV07-07658 ODW (SSx)**
 COMPLAINT FOR:

1. Antitrust Offenses (Sherman Act, § 1)
2. Antitrust Offenses (Cartwright Act, Cal. B&P § 16720)
3. Declaratory Relief (Copyright Invalidation)
4. Interference with Contract
5. Interference with Prospective Business Advantage
6. Fraud
7. Breach of Contract
8. Unfair Competition (Cal. B&P § 17200)

(JURY TRIAL DEMANDED)

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1 For claims for relief, Plaintiff CREW KNITWEAR, INC. alleges as follows:
2

3 **JURISDICTION AND VENUE**

4 1. In addition to certain state law claims, this is an action for antitrust
5 violations under the section 1 of the Sherman Antitrust Act (15 U.S.C. §1) and the
6 section 3 of the Clayton Antitrust Act (15 U.S.C. §14), and for a declaration that
7 certain copyrights are invalid and unenforceable against Plaintiff under 17 U.S.C.
8 §§ 102(a), et seq. Federal question jurisdiction therefore exists under 28 U.S.C.
9 §1338.

10 2. Venue is proper in this Court because all defendants reside within this
11 district and the claims arose within this district. (28 U.S.C. §1391(b))
12

13 **PARTIES**

14 3. Plaintiff CREW KNITWEAR, INC. ("CREW") is a corporation in
15 good standing, organized and duly existing under the laws of the State of
16 California. CREW maintains its principal place of business in the City of Los
17 Angeles, within the Central District of California.

18 4. Defendant US TEXTILE PRINTING, INC. ("USTP") is a California
19 Corporation with a principal place of business in Los Angeles, California, within
20 the Central District of California.

21 5. Defendant YOUNG JIN TEXTILE PRINTING ("YOUNG JIN") is a
22 business entity of unknown form with its principal place of business in Los
23 Angeles, California, within the Central District of California. YOUNG JIN is in
24 the business of printing and screening designs on fabric for garment manufactures.

25 6. Defendant GLOBE APPAREL, INC. ("GLOBE") is a California
26 Corporation with a principal place of business in Los Angeles, California, within
27 the Central District of California.
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1 7. Defendant UNO FASHION, INC. (“UNO”) is a California
2 Corporation with a principal place of business in Los Angeles, California, within
3 the Central District of California.

4 8. Defendant JULIE’S CLOSET, INC. is a business entity of unknown
5 form, with a principal place of business in Los Angeles, California, within the
6 Central District of California. On information and belief, Defendant JULIE’S
7 CLOSET, INC. is owned and controlled by UNO.

8 9. CREW is not currently aware of the true names and capacities of the
9 defendants sued fictitiously herein as DOES 1 to 10, and therefore sue those
10 defendants by such fictitious names. CREW will amend this complaint to state
11 their true names and capacities when ascertained. On information and belief, each
12 of the DOE defendants is in some way responsible to CREW for the damages
13 alleged herein or is subject to the equitable relief being sought.

14
15 **DEALINGS BETWEEN CREW, YOUNG JIN AND USTP**

16 10. CREW is a garment manufacturer which sells its products in large
17 quantities to wholesale customers in interstate commerce throughout the United
18 States. CREW’S customers are primarily national retail chains with stores in all 50
19 states. CREW typically manufactures and ships about 375,000 units per month,
20 the majority of which are shipped and sold outside the state of California. CREW
21 manufactures ladies garments. CREW is one of the major competitors in the
22 United States in the market for mid-priced “missy” tops and has achieved
23 substantial sales success in that market. “Missy” is a ladies garment industry term
24 which refers to a narrow, well-defined market segment identified by consumer size
25 and age demographic. CREW’s products are marketed under its famous labels
26 “Judy Knapp,” “JKLA,” “Hiatus,” “CREW,” and others.

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1 11. As do most garment manufacturers, CREW designs and creates a new
2 “line” of products several times each year. As part of that design process, CREW
3 devotes significant resources to researching and predicting the colors and types of
4 graphics and patterns its customers will desire for upcoming seasons and has had
5 great success in predicting the desires of consumers and providing its customers
6 with garments which meet those desires. To prevent its competitors from
7 benefiting from CREW’s investments in its research of designs and color
8 combinations (“color-ways”) for a particular season, CREW keeps these details
9 confidential until its line is made public, at which time it is typically too late for
10 competitors to successfully mimic or copy CREW’s efforts for that season.

11 12. For many years CREW used the services of YOUNG JIN to screen
12 print fabric with graphics and designs to CREW’s specifications. Typically,
13 YOUNG JIN would provide CREW with swatches or samples of fabric with
14 designs printed on them for CREW to review for possible use in its line for the
15 upcoming garment season. Implicit in the presentation of swatches was a
16 representation from YOUNG JIN that YOUNG JIN had the legal right to utilize
17 the print or graphic it contained. CREW was rarely satisfied with any swatch or
18 sample as provided by YOUNG JIN. CREW’s staff of designers would usually
19 modify the graphics to suit their tastes and the anticipated desires of consumers.
20 Typically, CREW’s designers would change one or more of the colors in the
21 graphic, and frequently they would change the entire graphic by adding or deleting
22 elements, rearranging elements, and/or changing the size and shape of the
23 elements. After CREW’s designers had modified the graphic, YOUNG JIN would
24 provide CREW with a small quantity of fabric printed with the revised graphic,
25 called a “strike off.” If CREW’s designers approved the strike off, they would use
26 it to create sample garments of the upcoming line for display to customers in
27 CREW’s showrooms.
28

1 13. As is common in the garment industry, when CREW improved and
2 modified a graphic as described above and committed to using the printer for a
3 large quantity of print work as CREW did, YOUNG JIN agreed that it would
4 “confine” sales of that graphic or print design to CREW only, meaning that
5 YOUNG JIN would not print this design for other customers. Moreover, YOUNG
6 JIN agreed that it would not use the CREW-modified color-ways and color themes
7 in its print work for other customers and would keep confidential the details of the
8 print work and color-ways ordered by CREW. At no time did YOUNG JIN ever
9 advise CREW that YOUNG JIN intended to claim authorship of any print or
10 design which was revised and customized by CREW’s designers, and CREW
11 never authorized YOUNG JIN make any such claim to authorship or to register
12 any claim to copyright in the designs.

13 14. When providing CREW with strike offs, YOUNG JIN was aware that
14 CREW intended to offer to sell its customers garments manufactured from fabric
15 printed with the subject print design, and YOUNG JIN impliedly agreed, subject
16 only to its capacity limitations, to print for CREW sufficient quantity of fabric
17 bearing the subject print design to meet CREW’s orders for such garments.

18 15. Utilizing the procedure described above, CREW has employed
19 YOUNG JIN to print about one million yards of fabric per year, which, on
20 information and belief, makes CREW one of YOUNG JIN’s largest customers.

21 16. In about mid-2006, YOUNG JIN advised CREW that it was changing
22 its name to US Textile Printing, but that its operation and course of dealings with
23 CREW would not change. CREW is now aware that USTP is a corporation
24 separate and distinct from YOUNG JIN. Nonetheless, CREW continued to deal
25 with USTP on the same terms and in the same manner as it had dealt with YOUNG
26 JIN and, at least initially, USTP continued to deal with CREW in the same manner
27 YOUNG JIN had.

28

1 17. CREW noted that a former CREW employee, David Um, was
2 somehow affiliated with USTP. CREW expressed concern to USTP that Um was
3 also associated with UNO, a competitor of CREW in the ladies garment market.
4 USTP assured CREW that there would be no conflicts because CREW used higher
5 quality material and was significantly involved in the Missy market segment, while
6 UNO was not. USTP assured CREW that it would maintain the traditional
7 confidence regarding the print-designs, graphics, color-ways and color themes
8 modified and ordered by CREW. Until approximately July, 2007, the dealings
9 between USTP and CREW were unchanged from the manner in which CREW and
10 YOUNG JIN had always dealt as described herein.

11 18. It was well known by CREW and throughout the garment industry
12 that neither YOUNG JIN nor USTP had a staff of artists or designers to create the
13 print designs they offered for sale and that they did not purchase designs or
14 artwork for incorporation into fabric prints. YOUNG JIN and USTP are referred
15 to as “production houses”, which merely print “open” or unprotected designs,
16 rather than “design houses” which employ a staff of designers to create patterns or
17 which purchase protected designs from art studios. CREW justifiably relied upon
18 the implied representations that YOUNGIN and USTP had legally obtained the
19 print designs they offered. Until August, 2007, neither YOUNG JIN nor USTP
20 ever advised CREW that they claimed any proprietary rights in any of the graphics
21 or print designs exhibited to CREW. To the contrary, in 2006, when USTP was
22 unable to meet all of CREW’s demand for printed fabric from designs used in the
23 strike-offs due to capacity limitations, USTP consented to CREW’s use of other
24 printers to produce sufficient quantity of certain fabric print designs to fill
25 CREW’s orders based on the strike-offs .

26 19. In August, 2007, YOUNG JIN and USTP asserted for the first time
27 that certain of the fabric designs they had printed for CREW were proprietary
28

1 designs of theirs, covered by U.S. copyrights. In response to this assertion, CREW
2 investigated and discovered that certain graphic designs printed in substantial
3 quantity for CREW by YOUNG JIN and USTP, and in which they claimed
4 copyright protection, were actually stolen or copied by YOUNG JIN and USTP
5 from other fabric printers who had, in fact, authored the print designs years earlier.
6 Some and possibly all of these designs were even covered by registered U.S.
7 copyrights. Upon investigation in September, 2007, CREW discovered for the
8 first time that YOUNG JIN and USTP would routinely take prints already widely
9 in use (some of which were protected by valid U.S. copyrights), scan or copy them
10 into their computer system, and then use a computer program to shrink or enlarge
11 the graphic, so that it would appear on first glance to be different from the original,
12 especially if printed in different colors. However, on even reasonably close
13 comparison it can be seen that the graphic design is an exact or nearly exact copy
14 of the pre-existing original. The modification of an existing design in this simple
15 fashion does not come close to the originality necessary to claim authorship of a
16 new work that might be protected by copyright, or even to immunize the user of
17 the slightly modified print from a claim of infringement by the owner of the
18 copyright in the work which was copied. On information and belief, all of the print
19 designs ever offered to CREW by YOUNG JIN and USTP were copied in the
20 manner described herein.

21 20. David Um was CREW'S production manager for about two years,
22 until he quit around 2002. In that capacity Um learned nearly every aspect of
23 CREW's business and operations, including its business methods, its vendors, its
24 major customers and their buyers. CREW is informed and believes that when
25 David Um quit working for CREW he stole copies of many of CREW'S
26 proprietary and confidential internal documents, including customer and vendor
27 information, business process information and accounting information.
28

1 Immediately upon leaving his employ with CREW, David Um went to work with
2 defendant JULIE'S CLOSET, where he used information he had improperly
3 obtained from CREW to directly compete with CREW in the market for ladies'
4 garments, including efforts to woo CREW's major customers. On information and
5 belief, one of the other principals of JULIE'S CLOSET was sued by her former
6 employer for stealing proprietary information from her employer and using it to
7 facilitate JULIE'S CLOSET's unfair competition against the former employer.
8 David Um has repeatedly stated to people in the garment industry that it is his
9 intention to destroy CREW and put it out of business.

11 THE CONSPIRACY AMONG THE DEFENDANTS

12 21. Defendants GLOBE, UNO and JULIE'S CLOSET are direct
13 competitors of CREW in that they all manufacture ladies' garments and they all
14 target CREW's largest customer. On information and belief, UNO has recently
15 embarked on a major effort to enter and compete against CREW in the market for
16 mid-priced Missy tops.

17 22. Although they are separate and distinct legal entities, CREW is
18 informed and believes that David Um is an owner of some significant interest in,
19 and/or an officer and/or manager of each of the defendants USTP, GLOBE, UNO
20 and JULIE'S CLOSET. Through manipulation by David Um, these defendants
21 have conspired together in their stated effort to "destroy" CREW and to drive
22 CREW out of business by illegal means, including the fraudulent assertion of
23 copyright ownership, perjured copyright registrations, unfair business practices and
24 dirty tricks. The goal of the defendants' conspiracy is to stifle competition in the
25 missy tops business by driving a major competitor in this market out of business,
26 and to interfere with and disrupt CREW's longstanding and ongoing relationships
27 with its major customers.

1 23. At the behest of the other defendants, and in furtherance of its
2 conspiracy with them, USTP has falsely and fraudulently asserted that it is the
3 owner of valid copyrights in fabric prints and graphic designs that USTP did not
4 author or obtain rights to by legal means. On information and belief, USTP has
5 submitted perjured and false copyright registrations to the United States Copyright
6 Office. Thereafter, based upon false assertion of non-existent legal rights, USTP
7 has demanded that CREW cease and desist from legal business activities and has
8 threatened to interfere with CREW's relationships with its customers by asserting
9 false and unfounded copyright claims against CREW's customers. CREW has
10 therefore been forced to initiate this action to confirm its legal rights.

11 24. At the behest of the other defendants and in furtherance of the
12 conspiracy with them, USTP has induced CREW to make sample garments and to
13 seek and accept orders for sale of such garments based on strike-offs provided to
14 CREW by USTP, only to later refuse to print the fabric needed by CREW to
15 manufacture the garments after large orders were received. As a result, CREW has
16 been unable to fill some orders, has had to employ extreme effort to obtain
17 alternative fabrics for others, and has suffered severe injury to its previously
18 sterling reputation as a reliable, punctual source of high quality merchandise.

19
20 **FIRST CLAIM FOR RELIEF**

21 **VIOLATION OF THE SHERMAN ANTI-TRUST ACT, SECTION 1**

22 **(Against Defendants USTP, GLOBE, UNO and**
23 **JULIE'S CLOSET and DOES 1-10)**

24 25. CREW incorporates paragraphs 1 through 24 of this complaint as
25 though fully set forth.

26 26. Commencing in or about June, 2007, purportedly in accord with the
27 standard and practice in the industry and the longstanding practice and custom
28

1 which was observed between CREW and USTP, and without advising CREW of
2 any change of practices, USTP modified a number of graphic designs pursuant to
3 the instruction of CREW's design staff and provided strike-offs of the revised
4 fabric prints, which USTP knew CREW would use to make samples and to seek
5 orders from its customers. Again following the standard practice between the
6 parties, CREW did create sample garments and did solicit orders for its products
7 utilizing the strike-off material printed by USTP. However, when CREW accepted
8 orders for its products based upon both implicit and explicit representations of
9 USTP that it would print the needed fabric, USTP refused to print the subject
10 fabric which CREW needed to manufacture the garments to fill the orders.
11 Moreover, USTP claimed that it had proprietary rights in the print designs which it
12 would seek to enforce if CREW had the fabric printed by another printer.

13 27. In concert with GLOBE, UNO and JULIE'S CLOSET, USTP
14 intentionally and willfully engaged in the acts alleged above in order to restrain
15 trade. Defendants intended to cause CREW to take orders that it would be unable
16 to fill, so that CREW'S customers, left in the lurch with no goods to stock their
17 shelves as Christmas approaches and for the important spring 2008 season, would
18 be forced to purchase missy tops from CREW's competitors, defendants GLOBE,
19 UNO and JULIE'S CLOSET, which competitors would have access to the very
20 fabric prints CREW had sold to its customers but was unable to deliver. The
21 concerted conduct of USTP, GLOBE, UNO and JULIE'S CLOSET was also
22 intended to and did damage CREW's reputation as a reliable, punctual supplier of
23 missy tops. Defendants' conduct was carefully and intentionally designed to
24 unreasonably restrain trade and injure competition by forcing one of the major
25 competitors in the relevant market out of business.

26 28. Even though CREW is informed and believes that the defendants'
27 assertion of ownership of proprietary rights in the fabric print designs described
28

1 herein is false, the mere false assertion of copyright ownership unreasonably
2 restrains trade in that USTP has threatened to sue CREW and its customers over
3 use of the fabric prints in question. It is well understood in the garment industry
4 that threats of litigation over designs, even if unfounded, will cause customers to
5 refuse to place orders which might result in their being named a defendant in a
6 lawsuit. The Defendants intended that their threats of litigation would have this
7 result.

8 29. As a direct and proximate result of the defendants' conduct, CREW is
9 unable to fill valid orders from its customers and will lose the profit thereon, faces
10 substantial costs and expenses to modify its spring 2008 after it is already on
11 display in its showrooms, and faces serious production delays which will cause loss
12 of additional orders. As a further direct and proximate result of the defendants'
13 conduct, CREW has suffered severe damage to its reputation due to its inability to
14 deliver goods exactly as displayed in its showrooms, due to its inability to meet its
15 customers' delivery schedules, and general loss of customers' confidence, all to its
16 great harm and irreparable harm.

17 30. The conduct of defendants USTP, GLOBE, UNO and JULIE'S
18 CLOSET as alleged above constitutes a contract, combination or conspiracy
19 between two or more persons that unreasonably restrains trade having a substantial
20 effect on interstate commerce, all in violation of Section 1 of the Sherman Act, 15
21 U.S.C §1. The conduct of the defendants is injurious to competition in the market
22 for missy tops in that CREW is one of the major manufacturers participating in the
23 market, and its elimination as a competitor-- the stated goal of the defendants--
24 would substantially benefit the remaining market participants, including GLOBE,
25 UNO and JULIE'S CLOSET. CREW has suffered injury as a result of said illegal
26 conduct and is entitled to relief under the Clayton act, 15 U.S.C §15. Under the
27
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1 Clayton Act, CREW's damages must be trebled, and CREW is entitled to its costs
2 and attorney fees.

3
4 **SECOND CLAIM FOR RELIEF**

5 **VIOLATION OF CARTWRIGHT ACT, CAL. B&P § 16720**

6 **(Against Defendants USTP, GLOBE, UNO and**
7 **JULIE'S CLOSET and DOES 1-10)**

8 31. CREW incorporates paragraphs 1 through 30 of this complaint as
9 though fully set forth.

10 32. The conduct of defendants USTP, GLOBE, UNO and JULIE'S
11 CLOSET as alleged above constitutes a contract, combination or conspiracy
12 between two or more persons that is forbidden by the Cartwright Act, California
13 B&P Code sections 16700, et seq. The conduct of the defendants is injurious to
14 competition in the market for missy tops in that CREW is one of the major
15 manufacturers participating in the market, and its elimination as a competitor – the
16 stated goal of the defendants-- would substantially benefit the remaining market
17 participants, including GLOBE, UNO and JULIE'S CLOSET. CREW has
18 suffered injury as a result of said illegal conduct and is entitled to relief under the
19 Cartwright Act, including treble damages, costs and attorneys fees.

20
21 **THIRD CLAIM FOR RELIEF**

22 **DECLARATORY RELIEF: COPYRIGHT INVALIDITY**

23 **(Against Defendants USTP, YOUNG JIN, and DOES 1 to 10)**

24 33. CREW incorporates paragraphs 1 through 32 of this complaint as
25 though fully set forth.

26 34. On information and belief, within three years prior to the initiation of
27 this action, Defendants filed false and improper copyright registration certificates
28

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1 with the United States Copyright Office and obtained certificates of registration of
2 a number of United States Copyrights (hereinafter the "Bogus Copyrights"),
3 including but not limited to the following:

4	VAu726-861	effective November 11, 2006
5	VAu688-155	effective June 7, 2005
6	VAu727-132	effective December 11, 2006
7	VAu713-378	effective June 21, 2006
8	VAu735-454	effective February 22, 2007

9 35. Registration of the Bogus Copyrights was improper because the
10 applications submitted by Defendants were, on information and belief, improper,
11 and false. Plaintiff is informed and believes that Defendants are not the authors of
12 the works identified in the Bogus Copyrights, but rather intentionally copied the
13 works from pre-existing published works. Similarly, Defendants have no right to
14 claim ownership of the works identified in the Bogus Copyrights, which were
15 copied from the works of others. Submission of a false copyright application is
16 illegal and subject to penalty under 17 U.S.C. §506(e).

17 36. Even if they had been validly registered, the Bogus Copyrights have
18 become invalid and unenforceable as against CREW due to the Defendants' use of
19 them in connection with a conspiracy in violation of the anti-trust laws as alleged
20 herein.

21 37. Even if they had been validly registered, the Bogus Copyrights are
22 not enforceable against CREW or CREW'S customers because of the implied
23 and/or explicit agreements between CREW and YOUNG JIN and USTP.

24 38. An actual controversy exists because Defendants assert that the Bogus
25 Copyrights are valid and enforceable against CREW, having filed registration
26 certificates, having sent CREW a cease and desist letter and threatened to sue, and
27 having impliedly threatened to send similar cease and desist letters to CREW'S
28

1 customers. CREW contends that the Bogus Copyrights are not valid and are
2 unenforceable against CREW. A judicial declaration is necessary to resolve the
3 dispute so that the parties may have certainty in their business dealings concerning
4 whether the designs in question are owned by the defendants or are available for
5 free use by CREW.

6 39. CREW will suffer severe and irreparable harm to its business and
7 reputation if Defendants assert to CREW's customers that the Bogus Copyrights
8 are valid and demand that CREW's customers cease and desist sales of garments
9 bearing fabric prints alleged to be protected by the Bogus Copyrights. CREW is
10 therefore entitled to a temporary restraining order, a preliminary and a permanent
11 injunction against Defendants to prevent Defendants from asserting that the Bogus
12 Copyrights are valid or enforceable against CREW or its customers.

13
14 **FOURTH CLAIM FOR RELIEF**
15 **INTERFERENCE WITH CONTRACT**

16 **(Against all Defendants)**

17 40. CREW incorporates paragraphs 1 through 39 of this complaint as
18 though fully set forth.

19 41. In September, 2007, based upon the custom and practice and implied
20 contract between CREW and USTP and the expressed assurance that USTP would
21 print for CREW the fabric necessary to fill certain orders for CREW's fall line,
22 CREW entered into purchase order contracts with its customers for goods
23 manufactured by CREW with fabric from the strike-off material. USTP was aware
24 that CREW was about to enter into such contracts because of the long course of
25 similar dealing between the parties and because, in respect to certain such orders,
26 CREW specifically asked USTP if it would print the fabric necessary to fill the
27 orders before it accepted the orders. Only after USTP promised to print the
28

1 necessary fabric did CREW accept the orders. After CREW accepted orders from
2 its customers and issued an order to USTP for the print job, USTP announced that
3 it would not print the goods. As a result, CREW was unable to manufacture the
4 goods to fulfill all of its obligations under its contracts with its customers.

5 42. Defendants acted as alleged above with the intent to harm CREW and
6 to interfere with its contracts with its customers. Defendants' actions were
7 independently wrongful in that they constitute violation of the anti-trust laws of the
8 United States and of the State of California, constitute a breach of the implied
9 contract between CREW and USTP, and constitute fraud.

10 43. As a direct and proximate result of the intentional misconduct of
11 defendants as alleged herein, CREW lost sales, and has been damaged in the
12 amount of profit it would have generated on the sales in an amount to be proven at
13 trial. In addition, CREW has suffered damage to its reputation, and its
14 relationships with its major customers have been strained, causing damage in an
15 amount to be proved at trial.

16 44. Because defendants acted with the malicious intent to harm and
17 disrupt CREW's contracts with its customers, CREW is entitled to an award of
18 punitive damages in an amount sufficient to punish defendants and to make
19 examples of them.

20
21 **FIFTH CLAIM FOR RELIEF**

22 **INTERFERENCE WITH BUSINESS RELATIONS**

23 **(Against all Defendants)**

24 45. CREW incorporates paragraphs 1 through 44 of this complaint as
25 though fully set forth.

26 46. CREW enjoys an existing and longstanding advantageous business
27 relationship with its major customers.

1 47. Based on the longstanding practice and custom and implied contract
 2 between CREW and USTP, CREW used strike-off material from USTP for the
 3 samples for its spring 2008 line and offered to sell its line, which would
 4 incorporate the printed fabric, to its customers. Defendants knew that CREW
 5 would do so, and encouraged CREW to do so, event though Defendants knew that
 6 they would not print fabric for CREW when it received orders based on the
 7 samples made from their strike-offs.

8 48. CREW been aware that USTP would not print fabric for CREW based
 9 on the strike offs, it would have obtained strike-offs from a different fabric printer
 10 and would not have solicited orders for goods that it could not deliver.

11 49. The misconduct of Defendants has left CREW unable to fill all orders
 12 for its spring 2008 line and with insufficient time to efficiently and effectively
 13 replace the samples in its line with fabric from another printer. As a result, CREW
 14 will lose the profits on the sales of its spring 2008 line and will suffer severe
 15 damage to its reputation, both in amounts to be proven at trial.

16 50. The conduct of the defendants as alleged herein constitutes intentional
 17 interference with CREW’s existing business relationships. Because the conduct
 18 was maliciously intended by the defendants to harm CREW and to interfere with
 19 its advantageous business relationships with its customers, CREW is entitled to an
 20 award of punitive damages in an amount sufficient to punish defendants and to
 21 make examples of them.

22
 23 **SIXTH CLAIM FOR RELIEF**

24 **FRAUD**

25 **(Against USTP and DOES 1 to 10)**

26 51. CREW incorporates paragraphs 1 through 50 of this complaint as
 27 though fully set forth.
 28

1 52. On or about August, 2007, Mr. Young Gil Baek, an officer of USTP
2 and CREW's contact with both USTP and its predecessor YOUNG JIN
3 unexpectedly advised CREW's fabric consultant that USTP would not provide
4 CREW with any new patterns and would not create new strike-offs of designs
5 modified by CREW but that it would continue to do production of all previous
6 patterns in CREW's line.

7 53. In about mid-September, 2007, pursuant to their longstanding custom
8 and practice, CREW telephoned USTP and advised that it wished to place some
9 production orders. USTP's production manager came to CREW's offices that day
10 and accepted several purchase orders for print production. Later that same day
11 USTP production manager telephoned CREW and advised CREW that he had been
12 instructed to refuse to perform any additional production for CREW. CREW's
13 fabric consultant relayed his recent conversation with Young Jin Baek in which
14 Mr. Baek agreed, on behalf to USTP to print fabric for CREW's then existing line.
15 The production manager stated that Mr. Baek was out of town, but that he would
16 check into the matter. The production manager then called CREW's fabric
17 consultant back, either that same day or the next, and advised that he had spoken to
18 Mr. Lee, one of the "partners" who owned USTP, and had received authorization
19 to continue to print for CREW.

20 54. In justifiable reliance on the promises made by Mr. Lee and the
21 production manager of USTP as described above, CREW accepted orders for
22 goods utilizing prints obtained from USTP. On September 21, 2007 CREW
23 attempted to place an order with USTP for the printing necessary to fill the orders
24 it had taken, but USTP refused to fill the order and the production manager of
25 USTP stated that USTP would not ever again print fabric for CREW.

26 55. The promise to continue to print fabric for CREW made by USTP in
27 mid-September 2007 was false when made. It was unknown to CREW, but known
28

1 by USTP that USTP intended the promise to induce CREW to take orders from
2 customers which would then be unable to fill. It was intended by USTP that its
3 conduct would cause CREW to lose customers, to damage CREW'S reputation,
4 and to cause CREW'S customers to seek out similar products, utilizing the same
5 fabric prints, from GLOBE, UNO, and JULIE'S CLOSET.

6 56. As a direct and proximate result of the intentional misconduct of
7 defendants as alleged herein, CREW lost sales and has been damaged in the
8 amount of profit it would have generated on the sales in an amount to be proven at
9 trial. In addition, CREW has suffered significant additional production and design
10 costs as a result of efforts to mitigate its damages and suffered damage to its
11 reputation, and its relationships with its major customers have been strained,
12 causing damage an amount to be proved at trial.

13 57. Defendants' conduct was malicious and fraudulent, entitling CREW
14 to an award of punitive damages in an amount sufficient to punish Defendants and
15 to make examples of them.

16
17 **SEVENTH CLAIM FOR RELIEF**

18 **BREACH OF CONTRACT**

19 **(Against YOUNG JIN, USTP and DOES 1 to 10)**

20 58. CREW incorporates paragraphs 1 through 57 of this complaint as
21 though fully set forth.

22 59. YOUNG JIN and its successor USTP explicitly agreed and contracted
23 with CREW that in exchange for and consideration of CREW's orders of large
24 quantities of printed fabric every year, and in recognition of the improvements and
25 authorship of the subject designs contributed by CREW's professional design staff,
26 YOUNG JIN and USTP would print certain fabric graphics exclusively for CREW
27 and not for any competitor. This contract was oral.
28

1 60. Through their long course of conduct and in accord with industry
2 custom and practice, YOUNG JIN and its successor USTP impliedly agreed and
3 contracted with CREW that in exchange for and consideration of CREW's orders
4 of large quantities of printed fabric every year, and in recognition of the
5 improvements and authorship of the subject designs contributed by CREW's
6 professional design staff, YOUNG JIN and USTP would, to the extent the capacity
7 of their facilities permitted, print for CREW the fabric needed by CREW to
8 manufacture its products and fill its orders based on the strike-off material
9 provided by Defendants to Crew.

10 61. There is implied in the contracts between YOUNG JIN and USTP on
11 the one hand and CREW on the other hand, a covenant of good faith and fair
12 dealing.

13 62. CREW has done everything required of it under its contracts with
14 YOUNG JIN and USTP and has paid said defendants over three million dollars for
15 printing services in the four years preceding the filing of this complaint.

16 63. By acting as alleged herein, USTP and YOUNG JIN have breached
17 their contracts with CREW.

18 64. As a result of the defendants' breaches of their contracts, CREW has
19 suffered damage in an amount to be proven at trial.

20

21

EIGHTH CLAIM FOR RELIEF

22

UNFAIR BUSINESS PRACTICES

23

(Against YOUNG JIN, USTP and DOES 1 to 10)

24

25

65. CREW incorporates paragraphs 1 through 64 of this complaint as
though fully set forth.

26

27

66. The conduct of YOUNG JIN and USTP as alleged herein constitutes,
unlawful, unfair and fraudulent business acts and practices within the meaning of

28

1 California's unfair business practices act, Business and Professions code sections
2 17200, et. seq.

3 67. CREW has been damaged by the defendants' unfair, unlawful and
4 fraudulent business practices.

5 68. In light of the defendants conduct, CREW is entitled to restitution of
6 all sums it has paid to the defendants during the four years preceding the filing of
7 this complaint. In addition, CREW is entitled to a temporary restraining order and
8 temporary and permanent injunctions against Defendants and anyone acting in
9 concert with them, preventing Defendants from asserting that the Bogus
10 Copyrights are valid or enforceable against CREW or its customers.

11
12 **WHEREFORE**, Plaintiff CREW KNITWEAR, INC. prays for relief against
13 the defendants as follows:

14
15 On the First Claim for Relief:

- 16 A. For damages according to proof, trebled,
- 17 B. For costs and attorney fees incurred herein, and
- 18 C. For such other relief as is just.

19
20 On the Second Claim for Relief:

- 21 A. For damages according to proof,
- 22 B. For punitive and exemplary damages,
- 23 C. For costs and attorney fees incurred herein, and
- 24 D. For such other relief as is just.

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1 On the Third Claim for Relief:

2 A. For a declaration that the Bogus Copyrights are invalid and
3 unenforceable and that Defendants committed fraud in connection with the
4 applications therefore,

5 B. For a temporary restraining order and for preliminary and permanent
6 injunctions precluding Defendants, or anyone acting in concert with them, from
7 asserting that the Bogus Copyrights are valid or enforceable as against CREW or
8 any person or entity who obtained goods which originated with CREW,

9 C. For costs and attorney fees incurred herein, and

10 D. For such other relief as is just.

11
12 On the Fourth Claim for Relief:

13 A. For damages according to proof,

14 B. For punitive and exemplary damages,

15 C. For costs incurred herein, and

16 D. For such other relief as is just.

17
18 On the Fifth Claim for Relief:

19 A. For damages according to proof,

20 B. For punitive and exemplary damages,

21 C. For costs incurred herein, and

22 D. For such other relief as is just.

23
24 On the Sixth Claim for Relief:

25 A. For damages according to proof,

26 B. For punitive and exemplary damages,

27 C. For costs incurred herein, and

28

LIM, RUGER & KIM, LLP

1 D. For such other relief as is just.

2

3 On the Seventh Claim for Relief:

4 A. For damages according to proof,

5 B. For costs incurred herein, and

6 C. For such other relief as is just.

7

8 On the Eight Claim for Relief:

9 A. For restitution of all sums paid by CREW to defendants in the four years
10 preceding the filing of this complaint,

11 B. For a temporary restraining order and for preliminary and permanent
12 injunctions precluding Defendants, or anyone acting in concert with them, from
13 asserting that the Bogus Copyrights are valid or enforceable as against CREW or
14 any person or entity who obtained goods which originated with CREW,

15 C. For costs of suit and attorney fees incurred herein, and

16 D. For such other relief as is just.

17

18 BRYAN KING SHELDON
19 PHILIP G. GRANT
20 GEORGE T. BUSU
LIM, RUGER & KIM, LLP

20 Dated: November 26, 2007

21

22

23

By: 
Bryan King Sheldon,
Attorneys for Plaintiff,
Crew Knitwear, Inc.

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1 **DEMAND FOR JURY TRIAL**

2 Plaintiff CREW KNITWEAR, INC. hereby demands a jury trial in this
3 action.

4
5 BRYAN KING SHELDON
6 PHILIP G. GRANT
7 GEORGE T. BUSU
8 LIM, RUGER & KIM, LLP

9 Dated: November 26, 2007

10 By: 

11 Bryan King Sheldon,
12 Attorneys for Plaintiff,
13 Crew Knitwear, Inc.

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LIM, RUGER & KIM, LLP