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9 FOREVER 21, INC.

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 FOREVER 21, INC., a Delaware
14 Corporation,

15 Plaintiff,

16 v.

17 C LUCE, INC., a California Corporation
doing business as TCEC;
18 CORNERSTONE APPAREL, INC., a
California Corporation doing business as
19 PAPAYA; and DOES 1 through 10,
inclusive.

20 Defendants.
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Case No.: 2:17-cv-0553

COMPLAINT FOR DAMAGES:

**(1) FEDERAL COPYRIGHT
INFRINGEMENT**

**(2) CONTRIBUTORY
COPYRIGHT
INFRINGEMENT**

[DEMAND FOR JURY TRIAL]

1 COMES NOW, Plaintiff Forever 21, Inc. (“Forever 21” or “Plaintiff”), to
2 hereby file its Complaint for Damages against Defendants C Luce, Inc., a
3 California corporation doing business as TCEC; Cornerstone Apparel, Inc., a
4 California corporation doing business as Papaya; and Does 1 through 10, Inclusive
5 (collectively “Defendants”).

6 **PARTIES**

7 1. Forever 21 is now, and was at the time of the filing of this Complaint
8 and at all intervening times, a Delaware corporation duly authorized and licensed
9 to conduct business in California with its principal place of business located at
10 3880 North Mission Road, Los Angeles, California 90031.

11 2. Forever 21 is informed and believes that Defendant C Luce, Inc.,
12 doing business as TCEC, is now, and was at the time of the filing of this
13 Complaint and at all intervening times, a California corporation, with its principal
14 place of business located in Los Angeles, California.

15 3. Forever 21 is informed and believes that Defendant Cornerstone
16 Apparel, Inc., doing business as TCEC, is now, and was at the time of the filing of
17 this Complaint and at all intervening times, a California corporation, with its
18 principal place of business located in Commerce, California.

19 4. Forever 21 is informed and believes that the named Defendants, and
20 Does 1-10, inclusive, sued herein by fictitious names are jointly, severally and
21 concurrently liable and responsible with the named Defendants upon the causes of
22 action hereinafter set forth.

23 5. Forever 21 is informed and believes and thereon alleges that at all
24 times mentioned herein that the named Defendants and Does 1-10, inclusive, and
25 each of them, were the agents, servants and employees of every other Defendant
26 and the acts of each Defendant, as alleged herein, were performed within the
27 course and scope of that agency, service or employment.

28 6. The true names and capacities, whether individual, corporate,

1 associate or otherwise, of Defendants herein named as Does 1-10, inclusive, are
2 unknown to Plaintiff. Plaintiff therefore sues said Defendants by such fictitious
3 names. When the true names and capacities of said Defendants have been
4 ascertained, Forever 21 will amend this pleading accordingly.

5 **JURISDICTIONAL ALLEGATIONS**

6 7. This Court has Federal subject matter jurisdiction over this matter
7 pursuant to 28 U.S.C. §§1331 and 1338(a) and (b), in that the case arises out of
8 claims for copyright infringement under the *1976 Copyright Act* (17 U.S.C.
9 §501(a)); and this Court has supplemental jurisdiction pursuant to 28 U.S.C.
10 §§1367(a) and 1338 (a)(b).

11 8. Venue is proper, *inter alia*, pursuant to 28 U.S.C. §1391(b) because
12 on information and belief, a substantial part of the events or omissions giving rise
13 to the claims occurred in this judicial district, and has caused damages to Plaintiff
14 in this district.

15 9. Personal jurisdiction exists over Defendants because on information
16 and belief, Defendants conduct business in California and in this judicial district,
17 are aware of Plaintiff's domicile in this judicial district, have competed with
18 Plaintiff in this judicial district, have purposefully directed action to California and
19 this district, or have otherwise availed themselves of the privileges and protections
20 of the laws of the State of California, such that this Court's assertion of jurisdiction
21 over Defendants does not offend traditional notions of fair play and due process.
22 Among other things, Defendants have willfully advertised, offered to sell, sold, and
23 distributed products embodying designs that infringe the copyrights of Plaintiff to
24 and within this judicial district. Defendants also reside within this judicial district.

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FIRST CAUSE OF ACTION

**(Infringement of Copyright against all Defendants, and DOES 1-10,
Inclusive)**

[17 U.S.C. § 501(a)]

10. Plaintiff repeats and re-alleges every allegation set forth in Paragraphs 1-9.

11. Forever 21 is a widely recognized retailer of apparel, clothing and accessories and fashion accessories. Forever 21 designs and sells innovative, fashionable clothing, clothing and accessories and accessories exclusively through its online website www.Forever21.com and its own Forever 21 retail outlets throughout the United States and multiple international locations. Forever 21 sells clothing and accessories bearing one or more of its family of registered and common law Forever 21 trademarks and which embody designs protected by Plaintiff's copyrights.

12. Since at least as early as 1989, Forever 21 has been engaged in the development and retail sales of a wide variety of clothing and accessories identified by its registered and common law trademarks and which embody designs protected by Plaintiff's copyrights.

13. Forever 21's merchandise is made solely for Forever 21 and is sold by Forever 21 exclusively through its own website as well as through mall-based and stand-alone retail outlets throughout the United States, Austria, Bahrain, Belgium, Canada, China, Colombia, France, India, Indonesia, Ireland, Israel, Japan, Jordan, South Korea, Kuwait, Malaysia, Mexico, Oman, Philippines, Puerto Rico, Saudi Arabia, Singapore, the United Arab Emirates, the United Kingdom, and Thailand.

14. Forever 21 has become well-known to consumers through its hard work, innovation and substantial investment in branding. As a result of its endeavors, Forever 21 has created and owns valuable intellectual properties in the

1 form of trademarks and copyrights.

2 15. Forever 21 owns numerous copyrighted designs which it features on
3 its clothing and accessories. Amongst these copyrighted designs is the design
4 designated FPD12829 (the “Design”), for which Forever 21 has sought United
5 States Copyright Registration and has obtained registration therefore under the
6 United States Copyright registration number VAu 1-143-889 (the “Copyright”).
7 Attached hereto as **Exhibit A** is a true and correct copy of the Design. Attached
8 hereto as **Exhibit B** is a true and correct copy of the United States Copyright
9 certificate for VAu 1-143-889. Attached hereto as **Exhibit C** is an example of
10 Forever 21’s Design featured on pants sold by Forever 21.

11 16. Particularly in light of the success of Forever 21 and Forever 21’s
12 clothing, as well as the reputation Forever 21 has gained, Forever 21 and its
13 products have become targets for unscrupulous individuals and entities who wish
14 to unlawfully imitate Forever 21’s copyrighted styles and designs.

15 17. Forever 21 has become aware that Defendants were manufacturing,
16 offering for sale, selling and/or sold clothing items which embodied designs that
17 wholly and completely copied Forever 21’s Design and which is protected by
18 Forever 21’s Copyright therein.

19 18. Plaintiff is the exclusive owner of the Copyright inured in the Design,
20 and which protects the Design, which is original.

21 19. Defendants have and had actual notice of Forever 21’s exclusive
22 rights in Forever 21’s copyrights in Forever 21’s Design.

23 20. Defendants did not seek and failed to obtain consent or authorization
24 from Plaintiff to utilize, manufacture, reproduce, copy, display, derive,
25 commercially distribute or market in commerce or otherwise use Forever 21’s
26 Design which is protected by Forever 21’s Copyright.

27 21. Without permission, Defendants intentionally and knowingly
28 reproduced, copied, displayed, manufactured, derived, and distributed products

1 embodying colorable imitations of Forever 21's Design which is protected by
2 Forever 21's Copyright in the Design. Indeed, Defendants' unlawful products
3 embody designs which copy every element of Forever 21's Design which is
4 protected by Forever 21's Copyright in the Design.

5 22. Defendants intentionally and willfully applied their infringing
6 designs to clothing items and other products, as well as in advertising materials, in
7 connection with its fraudulent sales, offerings for sale, distribution, and display of
8 their unlawful goods.

9 23. Plaintiff is informed and believes and thereon alleges that
10 Defendants, and each of them, if not directly liable for infringement of Plaintiff's
11 Copyright in the Design, are vicariously liable for said infringements because they
12 had the right and ability to supervise the infringing conduct and because they had
13 a direct financial interest in the infringing conduct.

14 24. Plaintiff is informed and believes and thereon alleged that by reason
15 of Defendants' acts of copyright infringement as alleged above, Plaintiff has
16 suffered and will continue to suffer substantial damages to its business in the form
17 of diversion of trade, loss of income and profits, and dilution and destruction of
18 the value of its rights, all in amounts which are not yet fully ascertainable but
19 which will be proven at trial.

20 25. Due to Defendants' acts of infringement, Plaintiff has also suffered
21 general and special damages including, without limitation, damages resulting from
22 Plaintiff having to investigate and analyze Defendants' infringing conduct, and
23 hiring counsel, all in an amount to be established at trial.

24 26. Moreover, as a direct result of the acts of infringement alleged above
25 by the Defendants, and each of them, Defendants have obtained direct or indirect
26 profits they would not otherwise have realized but for their infringements.
27 Plaintiff is entitled to a disgorgement of each Defendants' profits directly and
28 indirectly attributable to said Defendants' infringement of Plaintiff's Design and

1 Copyright.

2 27. Plaintiff is informed and believes and thereon alleges that Defendants
3 and each of them knowingly and intentionally copied Plaintiff's Design, making
4 their conduct willful and intentional, subjecting Defendants and each of them, to
5 liability thereof, including for statutory damages under Section 504(a) of the 1976
6 *Copyright Act* at Plaintiff's election within the time permitted by law.

7 28. Plaintiff is informed and believes and thereon alleged that Defendants
8 continue to infringe Plaintiff's copyrights and that Defendants' infringing conduct
9 has and will cause Plaintiff irreparable harm unless Defendants are enjoined from
10 continuing and engaging in future acts of infringement against Plaintiff.

11 **SECOND CAUSE OF ACTION**

12 **(Contributory Infringement of Copyright against all Defendants, and DOES**
13 **1-10, Inclusive)**

14 29. Plaintiff repeats and re-alleges every allegation set forth in
15 Paragraphs 1-28.

16 30. Plaintiff is informed and believes and thereon alleges that Defendants
17 knowingly induced, participated, and aided and abetted in, and profited from, the
18 copying and/or subsequent selling of garments and/or fabrics featuring Forever
19 21's Design, as alleged herein above.

20 31. By reason of Defendants' acts of contributory copyright
21 infringement, Plaintiff has suffered and will continue to suffer substantial damage
22 to its business in the form of diversion of trade, loss of income and profits, and
23 dilution and destruction of the value of its rights, all in amounts to be established
24 at trial.

25 32. Due to Defendants' acts of contributory infringement, Plaintiff has
26 also suffered general and special damages including, without limitation, damages
27 resulting from Plaintiff having has to investigate and analyze Defendants'
28 infringing conduct, and hiring attorneys, all in an amount to be established at trial.

33. Moreover, as a direct result of the acts of contributory copyright infringement by Defendants, Defendants, and each of them, have obtained direct and indirect profits directly and indirectly attributable to Defendants' infringement of Forever 21's Design. Because of the wide scope and extent of the infringement of Forever 21's Design by Defendants, the amount of Defendants' profits cannot be presently ascertained or estimated.

34. Plaintiff is informed and believes and thereon alleges that Defendant and each of them knowingly and intentionally copies Forever 21's Design, making their conduct willful and intentional, subjecting Defendants and each of them to liability therefor, including, but not limited to, statutory damages under Section 504(c)(2) of the Copyright Act. Within the time permitted by law, Forever 21 will make its election between actual damages and statutory damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Forever 21, Inc., prays for judgment against Defendant C Luce, Inc., a California corporation doing business as TCEC, Defendant Cornerstone Apparel, Inc., a California corporation doing business as Papaya, and Does 1 through 10, inclusive, and each of them, as follows:

- A. For an award of Defendants' profits and Plaintiff's damages in an amount to be proven at trial for copyright infringement under 17 U.S.C. §501(a);
- B. In the alternative to actual damages and Defendants' profits pursuant to 17 U.S.C. §504(b), for statutory damages pursuant to 17 U.S.C. §504(c), which election Plaintiff will make prior to the rendering of final judgment;
- C. For an injunction by this Court prohibiting Defendants from engaging or continuing to engage in the unlawful, unfair, or fraudulent business acts or practices described herein, including the advertising, selling, offering for sale using and/or dealing in Plaintiff's copyrighted works or other intellectual property right of Plaintiff; acts of copyright infringement; and

1 any other act in derogation of Plaintiff's rights;

2 D. For an order from the Court requiring that Defendants provide complete
3 accountings and for equitable relief, including that Defendants disgorge
4 and return or pay their ill-gotten gains obtained from the illegal
5 transactions entered into and or pay restitution, including the amount of
6 monies that should have been paid if Defendants complied with their
7 legal obligations, or as equity requires;

8 E. For an order from the Court that an asset freeze or constructive trust be
9 imposed over all monies and profits in Defendants' possession which
10 rightfully belong to Plaintiff;

11 F. For destruction of the infringing articles in Defendants' possession under
12 17 U.S.C. §503;

13 G. For damages in an amount to be proven at trial for unjust enrichment;

14 H. For an award of exemplary or punitive damages in an amount to be
15 determined by the Court;

16 I. For Plaintiff's reasonable attorney's fees;

17 J. For all costs of suit; and

18 K. For such other and further relief as the Court may deem just and
19 equitable.

20
21 DATED: January 23, 2017

JOHNSON & PHAM, LLP

22
23 By: /s/Christopher Q. Pham
24 Christopher D. Johnson, Esq.
25 Christopher Q. Pham, Esq.
26 Marcus F. Chaney, Esq.
Jason R. Vener, Esq.
Attorneys for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff Forever 21, Inc. respectfully demands a trial by jury in this action pursuant to Local Rule 38-1.

DATED: January 23, 2017

JOHNSON & PHAM, LLP

By: /s/Christopher Q. Pham
Christopher D. Johnson, Esq.
Christopher Q. Pham, Esq.
Marcus F. Chaney, Esq.
Jason R. Vener, Esq.
Attorneys for Plaintiff

EXHIBIT A



EXHIBIT B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
VAn 1-143-889

Effective date of
registration:
September 16, 2013

Title

Title of Work: FPD12829

Completion/Publication

Year of Completion: 2013

Author

Author: Forever 21, Inc.

Author Created: 2D artwork

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant

Copyright Claimant: Forever 21, Inc.

3880 North Mission Road, Los Angeles, CA 90031, United States

Rights and Permissions

Organization Name: Forever 21, Inc.

Name: Young Kwon

Email: ip.legal@forever21.com

Telephone: 213-741-8367

Address: 3880 N. Mission Road, Room 3110

Los Angeles, CA 90031

Certification

Name: Young Kwon, Esq.

Date: September 15, 2013

Registration #: VAU001143889

Service Request #: 1-994798116



Forever 21, Inc.
Young Kwon
3880 N. Mission Road, Room 3110
Los Angeles, CA 90031 United States

EXHIBIT C

SEARCH

FREE SHIPPING OVER \$50

SIGN IN / JOIN

0 ITEM(S) \$0.00

FOREVER 21

NEW ARRIVALS

WOMEN

LOVE21

MEN

GIRLS

PLUS SIZES

SALE

LOOKBOOKS

PANTIES 5 FOR \$15

SHOP NOW >



FESTIVAL SHOP

MAKE SOME NOISE >

NBA COLLECTION

SHOP YOUR TEAM >

Bottoms > Traveler Ikat Harem Pants

0 Pink 3-1 10 Tweet

Traveler Ikat Harem Pants

\$17.80

Black/cream

Size

Qty

ADD TO BAG

Add To Wish List

DESCRIPTION

View a fitting

Description

Size Chart


A pair of harem pants featuring an ikat pattern. Banded waist with elasticized hem. Pleated front. Slanted front pockets. Zippered leg openings. Unlined. Woven. Lightweight.

DETAILS:

- 23.5" approx. inseam, 25" waist, 9" leg opening, 10" rise, 20" thigh circumference
- Measured from Small
- 100% rayon
- Machine wash cold, tumble dry medium
- Imported


Model Info: Height: 5'8" | Bust: 32 | Waist: 25 | Hip: 35 | Wear Size: Small

JOHN VARVATO LIVE




John Varvato Live

\$19.00



Pleated Panty Harem Pants

\$22.00



Pleated Panty Harem Pants

\$22.00