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SUM-100

FIRST AMENDED SUMMONS
(CITACION JUDICIAL)

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OF ORIGINAL FILED
Los Angeles Superior Court

JUL 15 2013

John A. Clarke, Executive Officer/Clerk
M. Vandeman

By _____

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

MARKETING ADVANTAGES INTERNATIONAL, INC., a California corporation; AU-CO MAI, an individual; SEARS HOLDINGS MANAGEMENT CORPORATION, a Delaware corporation; SEARS BRANDS, L.L.C., an Illinois limited liability company; LNT ACQUISITION, LLC, a Delaware limited liability company; REBECCA BLADEN, an individual; GEMVARA, INC., a Delaware corporation; LAUTREC CORPORATION, a Wyoming corporation; OVERSTOCK SILVER LLP, a Maryland limited liability partnership; MICHAEL ROBERT COOKE, an individual; SKYE ASSOCIATES, LLC, a Maryland limited liability company; CENTERBROOK SALES, LLC, a Connecticut limited liability company; RAYMOND GALEOTTI, an individual; MOTIF ENTERPRISE LLC, a Florida limited liability company; POLYVORE, INC., a Delaware corporation with its principal place of business located in Mountain View, California; FRAGRANCE HUT, a/k/a "FragranceHut.com," an entity of unknown form and origin; GEORGE LAFFLIN, an individual; THE BEST LIFESTYLES, a/k/a "TheBestLifestyles.com", an entity of unknown form and origin; WAMBUI GITHIRE-MBURU, an individual; and DOES 1-100, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

REESE WITHERSPOON, an individual

NÓTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desahogar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):
LOS ANGELES SUPERIOR COURT, WEST DISTRICT
Santa Monica Courthouse
1725 Main Street
Santa Monica, CA 90401

CASE NUMBER:
(Número del Caso):
SC120883

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Charles J. Harder (State Bar Number 184593) Telephone: (424) 203-1600 Facsimile: (424) 203-1601
HARDER MIRELL & ABRAMS LLP
1801 Avenue of the Stars, Suite 1120 Los Angeles, CA 90067 JOHN A. CLARKE, CLERK

DATE:
(Fecha)

JUL 15 2013

Clerk, by
(Secretario) M. Vandeman

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): **MARKETING ADVANTAGES INTERNATIONAL, INC a California corporation**
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):

4. By personal delivery on (date): 7/16/13

COPY

1 CHARLES J. HARDER (State Bar No. 184593)
JEFFREY I. ABRAMS (State Bar No. 162735)
2 HARDER MIRELL & ABRAMS LLP
3 1801 Avenue of the Stars, Suite 1120
Los Angeles, California 90067
4 Telephone: (424) 203-1600
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CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JUL 15 2013

John A. Clarke, Executive Officer/Clerk
M. Vandeman

By _____

5 Attorneys for Plaintiff
6 REESE WITHERSPOON

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES - WEST DISTRICT**

10
11 REESE WITHERSPOON, an individual,
12 Plaintiff,

Case No.: SC120883

13 v.

FIRST AMENDED COMPLAINT FOR:

14 **MARKETING ADVANTAGES**
INTERNATIONAL, INC., a California
15 corporation; AU-CO MAL, an individual;
16 **SEARS HOLDINGS MANAGEMENT**
CORPORATION, a Delaware corporation;
17 **SEARS BRANDS, L.L.C.**, an Illinois limited
liability company; **LNT ACQUISITION, LLC**,
18 a Delaware limited liability company;
19 **REBECCA BLADEN**, an individual;
20 **GEMVARA INC.**, a Delaware corporation;
LAUTREC CORPORATION, a Wyoming
21 corporation; **OVERSTOCK SILVER LLP**, a
Maryland limited liability partnership;
22 **MICHAEL ROBERT COOKE**, an individual;
SKYE ASSOCIATES, LLC, a Maryland
23 limited liability company; **CENTERBROOK**
SALES, LLC, a Connecticut limited liability
24 company; **RAYMOND GALEOTTI**, an
individual; **MOTIF ENTERPRISE LLC**, a
25 Florida limited liability company;
POLYVORE, INC., a Delaware corporation
26 with its principle place of business located in
Mountain View, California; **FRAGRANCE**
27 **HUT**, a/k/a "FragranceHut.com," an entity of
28 unknown form and origin;

- 1. **VIOLATION OF COMMON LAW RIGHT OF PUBLICITY**
- 2. **VIOLATION OF COMMON LAW RIGHT OF PRIVACY**
- 3. **COMMON LAW TRADEMARK / TRADE NAME INFRINGEMENT**
- 4. **COMMON LAW TRADE DRESS INFRINGEMENT**
- 5. **COMMON LAW SLOGAN INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 GEORGE LAFFLIN, an individual;)
 2 THE BEST LIFESTYLES, a/k/a)
 3 "TheBestLifestyles.com", an entity of)
 4 unknown form and origin; WAMBUI)
 5 GITHIRE-MBURU, an individual; and)
 6 DOES 1-100, inclusive,)
 7 Defendants.)

8 Plaintiff Reese Witherspoon alleges as follows:

9 **INTRODUCTION**

10 1. Reese Witherspoon is a worldwide motion picture star and celebrity, and her name,
 11 image, identity and persona have tremendous commercial value. Defendants used Ms.
 12 Witherspoon's name and image, without her permission, in advertising and marketing jewelry
 13 products, including, among others, a so-called "Reese Witherspoon" branded engagement ring.
 14 Defendants did not seek or obtain Ms. Witherspoon's approval before using her name and image
 15 in connection with the advertising, marketing and sales at issue, nor did Defendants pay Ms.
 16 Witherspoon any compensation for such unauthorized use, let alone compensation commensurate
 17 with the substantial commercial value of the use of her name and image for such commercial
 18 purposes. Defendants' actions constitute a violation of Ms. Witherspoon's common law right of
 19 publicity, as well as a violation of her right of privacy, and infringement of her common law
 20 trademark, trade dress and slogan, thereby entitling her to an award of substantial monetary
 21 damages and a permanent injunction prohibiting Defendants from any further use of her name or
 22 image for commercial purposes.

23 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

24 **THE PARTIES**

25 2. Plaintiff REESE WITHERSPOON is an individual and domiciliary of the State of
 26 California, County of Los Angeles.

27 3. Plaintiff is informed and believes and based thereon alleges that defendant
 28 MARKETING ADVANTAGES INTERNATIONAL, INC. is, and at all times relevant hereto
 was, a corporation organized and existing under the laws of the State of California, with its

1 principal place of business located in the State of California, County of San Diego, and doing
2 business in the County of Los Angeles, among other counties in the State of California.

3 4. Plaintiff is informed and believes and based thereon alleges that defendant
4 AU-CO MAI is an individual, and a domiciliary of the State of California.

5 5. Plaintiff is informed and believes and based thereon alleges that defendant
6 SEARS HOLDINGS MANAGEMENT CORPORATION is, and at all times relevant hereto was,
7 a corporation organized and existing under the laws of the State of Delaware, with its principal
8 place of business located in Hoffman Estates, Illinois, and doing business in the County of Los
9 Angeles, State of California.

10 6. Plaintiff is informed and believes and based thereon alleges that defendant
11 SEARS BRANDS, L.L.C. is, and at all times relevant hereto was, a limited liability company
12 organized and existing under the laws of the State of Illinois, with its principal place of business
13 located in Hoffman Estates, Illinois, and doing business in the County of Los Angeles, State of
14 California.

15 7. Plaintiff is informed and believes and based thereon alleges that defendant
16 LNT ACQUISITION, LLC is, and at all times relevant hereto was, a limited liability company
17 organized and existing under the laws of the State of Delaware, with its principal place of business
18 located in Northbrook, Illinois, and doing business in the County of Los Angeles, State of
19 California.

20 8. Plaintiff is informed and believes and based thereon alleges that defendant
21 REBECCA BLADEN is an individual, a domiciliary of the State of Illinois, and doing business in
22 the County of Los Angeles, State of California.

23 9. Plaintiff is informed and believes and based thereon alleges that defendant
24 GEMVARA, INC. is, and at all times relevant hereto was, a corporation organized and existing
25 under the laws of the State of Delaware, with its principal place of business located in Lexington,
26 Massachusetts, and doing business in the County of Los Angeles, State of California.

27 10. Plaintiff is informed and believes and based thereon alleges that defendant
28 LAUTREC CORPORATION, doing business as "DiamondNexus.com" is, and at all times

1 relevant hereto was, a corporation organized and existing under the laws of the State of Wyoming,
2 with its principal place of business located in Franklin, Wisconsin, and doing business in the
3 County of Los Angeles, State of California.

4 11. Plaintiff is informed and believes and based thereon alleges that defendant
5 OVERSTOCK SILVER LLP, doing business as "OverstockSilver.com" is, and at all times
6 relevant hereto was, a limited liability partnership organized and existing under the laws of the
7 State of Maryland, with its principal place of business located in Cockeysville, Maryland, and
8 doing business in the County of Los Angeles, State of California.

9 12. Plaintiff is informed and believes and based thereon alleges that defendant
10 MICHAEL ROBERT COOKE is an individual, a domiciliary of the State of Maryland, and doing
11 business in the County of Los Angeles, State of California.

12 13. Plaintiff is informed and believes and based thereon alleges that defendant
13 SKYE ASSOCIATES, LLC, doing business as "FantasyJewelryBox.com" is, and at all times
14 relevant hereto was, a Maryland limited liability company with its principal place of business
15 located in Bethesda, Maryland, and doing business in the County of Los Angeles, State of
16 California.

17 14. Plaintiff is informed and believes and based thereon alleges that defendant
18 CENTERBROOK SALES, LLC, doing business as "EvesAddiction.com" is, and at all times
19 relevant hereto was, a limited liability company organized and existing under the laws of the State
20 of Connecticut, with its principal place of business located in Deep River, Connecticut, and doing
21 business in the County of Los Angeles, State of California.

22 15. Plaintiff is informed and believes and based thereon alleges that defendant
23 RAYMOND GALEOTTI is an individual, a domiciliary of the State of Connecticut, and doing
24 business in the County of Los Angeles, State of California.

25 16. Plaintiff is informed and believes and based thereon alleges that defendant MOTIF
26 ENTERPRISE LLC, doing business as "AmberDesire.com" is, and at all times relevant hereto
27 was, a limited liability company organized and existing under the laws of the State of Florida, with
28 its principal place of business located in Cooper City, Florida, and doing business in the County of

1 Los Angeles, State of California.

2 17. Plaintiff is informed and believes and based thereon alleges that defendant
3 POLYVORE, INC., doing business as "Polyvore.com" is, and at all times relevant hereto was, a
4 corporation organized and existing under the laws of the State of Delaware, with its principal place
5 of business located in the State of California, County of Santa Clara, and doing business in the
6 County of Los Angeles, State of California.

7 18. Plaintiff is informed and believes and based thereon alleges that defendant
8 FRAGRANCE HUT a/k/a "FragranceHut.com" is, and at all times relevant hereto was, an entity
9 of unknown form and origin with its principal place of business located in Vineland, New Jersey,
10 and doing business in the County of Los Angeles, State of California.

11 19. Plaintiff is informed and believes and based thereon alleges that defendant
12 GEORGE LAFFLIN is an individual, a domiciliary of the State of New Jersey, and doing business
13 in the County of Los Angeles, State of California.

14 20. Plaintiff is informed and believes and based thereon alleges that defendant THE
15 BEST LIFESTYLES a/k/a "TheBestLifestyles.com" is, and at all times relevant hereto was, an
16 entity of unknown form and origin with its principal place of business located in the State of New
17 York, and doing business in the County of Los Angeles, State of California.

18 21. Plaintiff is informed and believes and based thereon alleges that defendant
19 WAMBUI GITHIRE-MBURU is an individual, a domiciliary of the State of New York, and doing
20 business in the County of Los Angeles, State of California.

21 22. Plaintiff is informed and believes and based thereon alleges that the fictitiously-
22 named Defendants sued herein as Does 1 through 100, and each of them, are in some manner
23 responsible or legally liable for the actions, events, transactions and circumstances alleged herein.
24 The true names and capacities of such fictitiously-named Defendants, whether individual,
25 corporate, associate or otherwise, are presently unknown to Plaintiff, and Plaintiff will seek leave
26 of Court to amend this Complaint to assert the true names and capacities of such fictitiously-
27 named Defendants when the same have been ascertained. For convenience, each reference to a
28 named Defendant herein shall also refer to Does 1 through 100. All defendants, including both the

1 named defendants and those referred to herein as Does 1 through 100, are sometimes collectively
2 referred to herein as "Defendants."

3 23. Plaintiff is informed and believes and based thereon alleges that Defendants, and
4 each of them, were and are the agents, employees, partners, joint-venturers, co-conspirators,
5 owners, principals, and employers of the remaining Defendants, and each of them are, and at all
6 times herein mentioned were, acting within the course and scope of that agency, partnership,
7 employment, conspiracy, ownership or joint venture. Plaintiff is further informed and believes
8 and based thereon alleges that the acts and conduct herein alleged of each such Defendant were
9 known to, authorized by and/or ratified by the other Defendants, and each of them.

10 **REESE WITHERSPOON**

11 24. Plaintiff Reese Witherspoon is a worldwide motion picture star and celebrity who
12 has starred in and received critical acclaim for her performances in motion pictures that have been
13 viewed by millions of people throughout the United States and the world. Ms. Witherspoon has
14 starred in more than twenty-five (25) motion pictures including, among others: *Mud* (2012), *This*
15 *Means War* (2012), *Water for Elephants* (2011), *How Do You Know* (2010), *Monsters vs. Aliens*
16 (2009), *Four Christmases* (2008), *Rendition* (2006), *Just Like Heaven* (2005), *Walk the Line*
17 (2005), *Vanity Fair* (2004), *Legally Blonde 2: Red, White & Blonde* (2003), *Sweet Home*
18 *Alabama* (2002), *The Importance of Being Earnest* (2002), *Legally Blonde* (2001), *The Trumpet*
19 *of the Swan* (2001), *Little Nicky* (2000), *American Psycho* (2000), *Best Laid Plans* (1999),
20 *Election* (1999), *Cruel Intentions* (1999), *Pleasantville* (1998), *Overnight Delivery* (1998),
21 *Twilight* (1998), *Fear* (1996), *Freeway* (1996), *S.F.W.* (1994), *Jack the Bear* (1993), *A Far Off*
22 *Place* (1993), and *The Man in the Moon* (1991).

23 25. Ms. Witherspoon has received numerous honors, awards and recognitions for her
24 work. Among many others, she received the 2006 Academy Award Oscar for Best Actress, the
25 2006 Golden Globe Award for Best Actress in a Motion Picture, and the Screen Actors Guild
26 Award for Best Actress, for her performance as June Carter in *Walk the Line* (2005).

27 ///

28 ///

1 26. As a testament to her substantial and enduring popularity and commercial value
2 over the course of the past 16 years, Ms. Witherspoon has received the following People's Choice
3 Awards and nominations:

- 4 2005 People's Choice Award nominee for "Favorite Female Movie Star"
5 2006 People's Choice Award **winner** for "Favorite Leading Lady"
6 2008 People's Choice Award **winner** for "Favorite Female Movie Star"
7 2009 People's Choice Award **winner** for "Favorite Female Movie Star"
8 2012 People's Choice Award nominee for "Favorite Movie Actress"
9 2013 People's Choice Award nominee for "Favorite Comedic Movie Actress"

10 27. Ms. Witherspoon has received the following additional awards, among many
11 others:

- 12 a. Broadcast Film Critics Association Award
13 b. Blockbuster Entertainment Award
14 c. British Academy of Film and Television Arts Award
15 d. Two (2) National Society of Film Critics Awards
16 e. Three (3) Teen Choice Awards including the Extraordinary Achievement
17 Award; and
18 f. Four (4) MTV Movie Awards from 2001 through 2011 including the
19 MTV Generation Award.

20 28. Ms. Witherspoon also was honored with a Star on the "Hollywood Walk of Fame"
21 in December 2010, located at 6262 Hollywood Boulevard in Hollywood, California.

22 29. Plaintiff's name, image, identity, and persona are recognized instantly by the public
23 and have substantial commercial value. She exercises careful consideration prior to permitting the
24 commercial use of her name, image, identity or persona to ensure that they are associated with
25 products, entertainment, services and/or companies in which she believes and to ensure that the
26 value of her name, image, identity and persona is not diminished, either by association with
27 products, entertainment, services and/or companies which she does not personally desire to
28 support and/or by over-saturation of her name and image. Ms. Witherspoon will not voluntarily

1 appear in print or other media for a company or product unless she carefully selects and believes
2 in the company and product, and unless the compensation she receives is both commensurate with
3 the value of the exploitation of her name, image, identity and persona, and sufficient to
4 compensate her for any potential diminution in value resulting from the commercial use of her
5 publicity rights, intellectual property rights and privacy rights.

6 DEFENDANTS' WRONGFUL CONDUCT

7 30. Plaintiff is informed and believes and on that basis alleges that Defendants are, and
8 at all times relevant hereto were, primarily engaged in the business of manufacturing, distributing,
9 marketing and/or selling jewelry and other products, and advertising, marketing and selling their
10 products in the State of California, and throughout the United States and the world.

11 31. Defendants intentionally and prominently used Ms. Witherspoon's name,
12 photograph, likeness, identity and state common law trademark, trade name, trade dress and
13 slogan (collectively herein "Plaintiff's Rights") in advertising, marketing and/or promotion
14 (collectively, the "Advertisements") to sell jewelry and other products (collectively, the
15 "Advertised Products").

16 32. Within certain of the Advertisements, Plaintiff's Rights were used immediately
17 adjacent or in close proximity to the Advertised Products, other products for sale, and particular
18 Defendants' company names, logos, trademarks, trade names, trade dress and slogans, so as to
19 create an unauthorized and false association with Plaintiff, and infringement of Plaintiff's Rights.

20 33. At no time did Plaintiff ever give her permission to Defendants, or any of them, to
21 use Plaintiff's Rights in the Advertisements, or to advertise, market, promote or sell the
22 Advertised Products, or in any other manner, nor has any Plaintiff been compensated for such
23 unauthorized commercial use of her publicity rights or privacy rights.

24 34. Plaintiff is informed and believes and based thereon alleges that Defendants
25 intentionally, negligently and/or knowingly caused Plaintiff's Rights to appear in the
26 Advertisements for the purpose of advertising and promoting Defendants and their products,
27 including the Advertised Products.

28 ///

1 determined at the time of trial.

2 **SECOND CAUSE OF ACTION**

3 **(For Violation of Common Law Right of Privacy Against All Defendants)**

4 41. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
5 contained in Paragraphs 1 through 40 inclusive, as though fully set forth herein.

6 42. Defendants' wrongful acts, as alleged hereinabove, constitute a violation of
7 Plaintiff's common law right of privacy because Defendants, without Plaintiff's permission, used
8 Plaintiff's name and photograph to advertise and promote Defendants' companies and products.

9 43. Defendants have infringed Plaintiff's right to be left alone and her right to control
10 the use of her image, identity and persona, in direct violation of applicable privacy laws.

11 44. As a direct and proximate result of the aforesaid wrongful acts of Defendants,
12 Plaintiff has been damaged in an amount that exceeds the jurisdictional minimum of this Court, to
13 be determined at the time of trial,

14 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants, in
15 doing the things herein alleged, acted willfully, maliciously and oppressively, and with full
16 knowledge of the adverse effect of its actions on Plaintiff and with willful and deliberate disregard
17 for the consequences to Plaintiff. By reason thereof, Plaintiff is entitled to recover punitive and
18 exemplary damages from Defendants in an amount to be determined at the time of trial.

19 **THIRD CAUSE OF ACTION**

20 **(For Common Law Trademark / Trade Name Infringement Against All Defendants)**

21 46. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
22 contained in Paragraphs 1 through 45, inclusive, as though fully set forth herein.

23 47. Plaintiff's name and image constitute common law trademarks, and her name
24 constitutes a common law trade name, all of which are owned by Plaintiff, and have been
25 extensively advertised and promoted throughout the world for more than twenty (20) years. As a
26 result of this advertising and promotion, Plaintiff's common law trademarks and trade name are
27 recognized throughout worldwide trading areas and channels of trade as famous and distinctive,
28 and are identified by the purchasing public with Plaintiff. Plaintiff's common law trademarks and

1 trade name are famous and distinctive within the meaning of applicable common law.

2 48. Notwithstanding Plaintiff's rights, Defendants, without Plaintiff's authorization,
3 advertised, distributed, offered to sell and sold products and services that unlawfully utilize
4 Plaintiff's common law trademarks and trade name.

5 49. Defendants' use, and continuing use, of Plaintiff's common law trademarks and
6 trade name in connection with Defendants' companies, products and services constitutes a
7 violation of applicable common law in that it creates a false association between Plaintiff and her
8 common law trademarks and trade name, on the one hand, and Defendants' companies, products
9 and services, on the other hand, and a false designation of origin as to the goods and services
10 advertised, marketed, promoted, distributed, offered for sale and sold by Defendants. Defendants'
11 use of Plaintiff's common law trademarks and trade name is likely to confuse, mislead and/or
12 deceive the consuming public and trade by creating the false impression that Defendants'
13 companies, products and services are or were approved, authorized, sponsored, endorsed,
14 guaranteed by and/or are in some way affiliated or associated with Plaintiff.

15 50. Defendants' use, and continuing use, of the Plaintiff's common law trademarks and
16 trade name in connection with Defendants' companies, products, and services also constitutes a
17 false or misleading description or representation in violation of applicable common law.

18 51. As a direct and proximate result of Defendants' wrongful conduct described herein,
19 Plaintiff is entitled to the recovery of: (1) any and all damages sustained by Plaintiff as a result of
20 Defendants' conduct; (2) Defendants' profits associated with the use of Plaintiff's common law
21 trademarks and trade name; and (3) Plaintiff's costs of suit.

22 52. Plaintiff is informed and believes, and based thereon alleges, that Defendants, in
23 doing the things herein alleged, acted willfully, maliciously and oppressively, and with full
24 knowledge of the adverse effect of their actions on Plaintiff and with willful and deliberate
25 disregard for the consequences to Plaintiff. By reason thereof, Plaintiff is entitled to recover
26 punitive and exemplary damages from Defendants in an amount to be determined at the time of
27 trial.

28 ///

1 knowledge of the adverse effect of its actions on Plaintiff and with willful and deliberate disregard
2 for the consequences to Plaintiff. By reason thereof, Plaintiff is entitled to recover punitive and
3 exemplary damages from Defendants in an amount to be determined at the time of trial.

4 60. Plaintiff also seeks a preliminary and permanent injunction to prohibit Defendants
5 from any further commercial use of Plaintiff's common law trade dress.

6 **FIFTH CAUSE OF ACTION**

7 **(For Common Law Slogan Infringement Against All Defendants)**

8 61. Plaintiff repeats, re-alleges, adopts and incorporates each and every allegation
9 contained in Paragraphs 1 through 60, inclusive, as though fully set forth herein.

10 62. Defendants, without Plaintiff's authorization, advertised, distributed, offered to sell,
11 and sold products that unlawfully utilize Plaintiff's common law slogan, namely, her name "Reese
12 Witherspoon," which Plaintiff has used in commerce for more than twenty (20) years.

13 63. Defendants' use, and continuing use, of Plaintiff's common law slogan, in
14 connection with Defendants' companies, products and services constitutes a violation of
15 applicable common law in that it creates a false association between Plaintiff, on the one hand, and
16 Defendants' companies, products and services, on the other hand, and a false designation of origin
17 as to the goods and services advertised, marketed, promoted, distributed, offered for sale, and sold
18 by Defendants. Defendants' use of Plaintiff's common law slogan is likely to confuse, mislead
19 and/or deceive the consuming public and trade by creating the false impression that Defendants'
20 companies, products and services are or were approved, authorized, sponsored, endorsed,
21 guaranteed by and/or are in some way affiliated or associated with Plaintiff.

22 64. Defendants' use, and continuing use, of Plaintiff's common law slogan in
23 connection with Defendants' companies, products and services also constitutes a false or
24 misleading description or representation in violation of applicable common law.

25 65. As a direct and proximate result of Defendants' wrongful conduct described herein,
26 Plaintiff is entitled to the recovery of: (1) any and all damages sustained by Plaintiff as a result of
27 Defendants' conduct; (2) Defendants' profits associated with the use of Plaintiff's common law
28 slogan; and (3) Plaintiff's costs of suit.

1 66. Plaintiff is informed and believes, and based thereon alleges, that Defendants, in
2 doing the things herein alleged, acted willfully, maliciously and oppressively, and with full
3 knowledge of the adverse effect of its actions on Plaintiff and with willful and deliberate disregard
4 for the consequences to Plaintiff. By reason thereof, Plaintiff is entitled to recover punitive and
5 exemplary damages from Defendants in an amount to be determined at the time of trial.

6 67. Plaintiff also seeks a preliminary and permanent injunction to prohibit Defendants
7 from any further commercial use of Plaintiff's common law slogan, namely, her name "Reese
8 Witherspoon," or any iteration thereof.

9 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as
10 follows:

11 1. General and special damages in an amount not less than Fifteen Million Dollars
12 (\$15,000,000) in accordance with proof at trial, together with interest thereon at the legal rate;

13 2. Exemplary and punitive damages in an amount according to proof at the time of
14 trial;

15 3. Preliminary and permanent injunction prohibiting Defendants and their affiliated
16 companies from any further use of Plaintiff's Rights, including without limitation her name,
17 photograph, likeness, image, identity, persona, voice, sound-alike voice or signature in a manner
18 that violates her common law publicity rights, trademarks, trade name, trade dress and/or slogan
19 rights, and also prohibiting Defendants and their affiliated companies from any further violations
20 of Plaintiff's privacy rights;

21 4. For all costs of suit incurred herein; and

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5. For such other and further relief as the Court may deem proper.

Dated: July 15, 2013

HARDER MIRELL & ABRAMS LLP


By: 
CHARLES J. HARDER
Attorneys for Plaintiff REESE WITHERSPOON

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

Dated: July 15, 2013

HARDER MIRELL & ABRAMS LLP

By: 
CHARLES J. HARDER
Attorneys for Plaintiff REESE WITHERSPOON