

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 17-24561-CIV-SCOLA

TAPESTRY, INC., COACH IP HOLDINGS
LLC, STUART WEITZMAN IP, LLC, and
KATE SPADE LLC

Plaintiffs,

v.

THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE "A,"

Defendants.

**DECLARATION OF KARLA ASPIRAS IN SUPPORT OF
PLAINTIFFS' EX PARTE APPLICATION FOR ENTRY OF
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

1. My name is Karla Aspiras. I am licensed to practice law in the State of New York, I am over the age of 21 years, and I am fully competent to make this Declaration. The facts stated in this Declaration are within my personal knowledge.

2. Since 2017, I have been employed by Tapestry, Inc. (formerly known as Coach, Inc.) as Senior Manager, Intellectual Property Counsel. Plaintiff Tapestry is the ultimate parent corporation of Co-Plaintiffs Coach IP Holdings LLC, Stuart Weitzman IP, LLC and Kate Spade LLC. Plaintiffs Tapestry, Inc., Coach IP Holdings LLC, Stuart Weitzman IP, LLC and Kate Spade LLC are hereinafter collectively referred to as "Tapestry".

3. As part of my duties, I am responsible, in part, for Tapestry's trademark and anti-counterfeiting efforts in connection with the Internet throughout the world. As a result, I am familiar with Tapestry's practices regarding possible third-party infringements of Tapestry's

intellectual property, including trademarks. I am also familiar with Tapestry's methods for detecting counterfeits in the marketplace, and the materials in Tapestry's possession reflecting those methods.

The Tapestry Brands and Trademarks

4. Tapestry, Inc. is a New York-based house of modern luxury lifestyle brands. Tapestry designs, manufactures, markets, distributes, and sells throughout the world, including within this district, a variety of high quality luxury goods such as handbags, wallets, jewelry, watches, shoes, eyewear, fragrances, ready to wear ("RTW"), footwear and fashion accessories under its Coach, Kate Spade, and Stuart Weitzman brands using the associated federally registered trademarks identified on Schedule B to the Complaint [D.E. 1].

5. Tapestry offers for sale and sells its Coach, Kate Spade and Stuart Weitzman trademarked goods through its own specialty retail and outlet stores, authorized distributors such as Nordstrom and Bloomingdales, and online via its own Internet websites.

6. Coach IP Holdings LLC is the owner of all rights in and to the trademarks identified on Schedule "B" hereto (the "Coach Marks") which are valid and registered on the Principal Register of the United States Patent and Trademark Office. The Coach Marks are used in connection with the manufacture and distribution of high-quality goods in the categories identified on Schedule "B." True and correct copies of the Federal Registrations for the Coach Marks at issue in this case are attached as **Composite Exhibit 1**. Tapestry is Coach IP Holdings' exclusive licensee for the Coach Marks and is authorized to enforce all rights in those trademarks on behalf of Coach IP Holdings.

7. Stuart Weitzman IP, LLC is the owner of all rights in and to the trademarks identified on Schedule “B” hereto (the “Stuart Weitzman Marks”) which are valid and registered on the Principal Register of the United States Patent and Trademark Office. The Stuart Weitzman Marks are used in connection with the manufacture and distribution of high-quality goods in the categories identified on Schedule “B.” True and correct copies of the Federal Registrations for the Stuart Weitzman Marks at issue in this case are attached as **Composite Exhibit 1**. Tapestry is Stuart Weitzman IP, LLC’s exclusive licensee for the Stuart Weitzman Marks and is authorized to enforce all rights in those trademarks on behalf of Stuart Weitzman IP, LLC.

8. Kate Spade LLC is the owner of all rights in and to the trademarks identified on Schedule “B” hereto (the “Kate Spade Marks”) which are valid and registered on the Principal Register of the United States Patent and Trademark Office. The Kate Spade Marks are used in connection with the manufacture and distribution of high-quality goods in the categories identified on Schedule “B.” True and correct copies of the Federal Registrations for the Kate Spade Marks at issue in this case are attached as **Composite Exhibit 1**. Tapestry is Kate Spade LLC’s exclusive licensee for the Kate Spade Marks and is authorized to enforce all rights in those trademarks on behalf of Kate Spade LLC. The Kate Spade Marks, Coach Marks and Stuart Weitzman Marks are hereinafter collectively referred to as the “Tapestry Marks”.

9. The Tapestry Marks have been continuously used in interstate commerce to identify and distinguish Tapestry’s Coach, Stuart Weitzman and Kate Spade brands and their high-quality goods.

10. The Tapestry Marks are symbols of the Tapestry brands’ quality, reputation and goodwill and have never been abandoned.

11. The Tapestry Marks have never been assigned or licensed to any of the Defendants in this matter.

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

13. Tapestry has extensively used, advertised and promoted the Tapestry Marks in the United States and elsewhere in the world in association with the sale of its high-quality goods and has gone to great lengths to protect and police the Tapestry Marks.

14. As a result, Tapestry's Coach, Stuart Weitzman and Kate Spade names and logos have become famous trademarks, each identifying the products on which they have been used as emanating from a single source. Authentic Coach, Stuart Weitzman and Kate Spade products, so marked, have been, and continue to be, recognized and exclusively associated by the fashion industry and the public with Tapestry, and the goodwill associated with the Tapestry Marks is of incalculable and inestimable value to Tapestry.

15. Authentic goods bearing the Tapestry Marks are widely advertised and promoted by Tapestry and its authorized distributors via the Internet. Tapestry's Coach website (www.coach.com), Stuart Weitzman website (www.stuartweitzman.com), and Kate Spade website (www.katespade.com) each feature proprietary content, images and designs exclusive to their respective brands. Tapestry expends significant monetary resources on Internet marketing and consumer education to educate its consumers about the value associated with Tapestry's brands and products.

Investigation of Defendants' Counterfeiting Activities

16. Tapestry learned that Defendants are offering for sale and selling numerous products bearing counterfeit and infringing trademarks which are exact copies of the Tapestry Marks, without authorization, via the Internet websites operating under their individual, partnership, or business association names identified on **Schedules "A"** (the "Subject Domain Names") including the URLs identified on **Schedule "B"** attached hereto.

17. Prior to filing this action, Tapestry reviewed the numerous Coach, Stuart Weitzman and Kate Spade branded products offered for sale by the Defendants via the Internet websites and supporting domains operating under each of the Subject Domain Names, and websites to which several of those domain names redirect, and determined the products, which were being offered for sale to residents of the United States, including Florida residents, were not authentic, unauthorized Tapestry trademarked products. Tapestry based its conclusion through the visual inspection of the product images, the pricing of the Tapestry trademarked products listed which are far below the prices of authentic Tapestry products, and the observation of certain product and marking characteristics which are inconsistent with those found on authentic Tapestry products.

18. As part of my analysis of the Internet websites operating under the Subject Domain Names, I compiled specific examples of Defendants' infringement of the Tapestry Marks. A true and correct copy of the summary comparison table, together with the web page captures that I downloaded, illustrating a few examples of Defendants' infringement of the Tapestry Marks is attached as **Composite Exhibit 2**.

19. Based on the foregoing, I can confirm that the products Defendants are promoting and offering for sale under the Tapestry Marks via the Internet websites operating under and through the Subject Domain Names are not authentic, unauthorized Tapestry trademarked products. Additionally, I can confirm that Defendants do not have authorization to use the Tapestry Marks or name in any domain.

20. Tapestry also obtained the publicly available domain name registration data (“WHOIS” records) for the Internet websites and supporting domains operating under Defendants’ Subject Domain Name. A true and correct chart outlining the Registrant Contact information identified on the WHOIS records for the Subject Domain Names is attached as **Exhibit 3**.

Defendants’ Illegal Activities Harm Tapestry

21. As a result of the growth of online retail shopping and ecommerce trends, visibility on the Internet via search engines such as Google, Yahoo!, and Bing has become increasingly important to Tapestry’s overall marketing and consumer education efforts. Tapestry expends significant monetary resources on Internet marketing and consumer education regarding its brands and products, including search engine optimization (“SEO”) strategies, that allow Tapestry and its authorized retailers to educate consumers about the value associated with the Tapestry brands and the goods sold thereunder, as well as the problems associated with counterfeiting of Tapestry’s trademarks.

22. Monetary damages cannot adequately compensate Tapestry for ongoing infringement because monetary damages fail to address the loss of control of and damage to the Tapestry brands’ reputations and goodwill. Furthermore, monetary damages are difficult, if not impossible, to ascertain due to the inability to calculate measurable damages in dollars caused to the Tapestry brands’ reputations and the goodwill associated therewith by the acts of infringement.

23. The goodwill associated with the Tapestry brands and their respective trademarks is irreparably damaged when the Tapestry Marks are used on goods not authorized, produced or manufactured by Tapestry. Moreover, brand confidence is damaged, which can result in a loss of future sales and market share. The extent of harm to Tapestry's reputation and goodwill and the possible diversion of customers due to loss in brand confidence is largely unquantifiable.

24. Tapestry is further irreparably harmed by the unauthorized use of the Tapestry Marks because counterfeiters take away Tapestry's ability to control the nature and quality of the counterfeit products. Loss of quality control over goods bearing the Tapestry Marks and, in turn, loss of control over Tapestry's reputation, is neither calculable nor precisely compensable.

25. The sale of counterfeit products is causing and will continue to cause consumer confusion, which weakens Tapestry's brand recognition and reputation. Consumers who mistakenly believe that the counterfeit products he or she has purchased originated from Tapestry will come to believe that Tapestry offers low-quality products. In fact, Tapestry receives e-mails almost daily at its counterfeit tip line from customers who have been confused by these websites and have been tricked into purchasing counterfeit goods. A number of the websites included in this litigation have been brought to Tapestry's attention as a result of consumer confusion.

26. Inferior quality products will result in increased skepticism and hesitance in consumers to purchase authentic Tapestry products, resulting in a loss of sales, as well as undermining of Tapestry's reputation and goodwill. Tapestry's reputation is damaged even if the consumer knows that the goods he or she is purchasing are counterfeit because prospective customers who see inferior counterfeit products mistakenly believe such goods are authentic and may consequently develop a poor impression of Tapestry and its products.

27. Defendants' unlawful use of the Tapestry Marks online, including within the content, anchor text, and meta tags of their websites results in unfair competition and increased overall marketing costs for Tapestry when competing for the limited available search engine results space. In addition, Defendants' sale of products bearing counterfeits of Tapestry's Marks degrades the value of the goodwill associated with the Tapestry Marks.

I declare pursuant 28 U.S.C. § 1746 and under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on January 9, 2018.



Karla Aspiras