

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

_____	:	
SALVATORE FERRAGAMO S.P.A.,	:	
	:	
Plaintiff,	:	
	:	
v.	:	_____ CIV _____
	:	
FERRAGAMO WINERY D/B/A	:	
FERRAGAMOWINERY.COM, and	:	
VINCENT ANTHONY FERRAGAMO,	:	JURY TRIAL DEMANDED
	:	
Defendants.	:	
_____	:	

COMPLAINT

PLAINTIFF SALVATORE FERRAGAMO S.P.A. (hereinafter, “Salvatore Ferragamo,” or the “Plaintiff”) by its attorneys, **THE GIOCONDA LAW GROUP PLLC**, for its causes of action against **DEFENDANTS FERRAGAMO WINERY D/B/A FERRAGAMOWINERY.COM** and **VINCENT ANTHONY FERRAGAMO**, (hereinafter, the “Defendants”), alleges upon information and belief as follows, except as to allegations concerning the Plaintiff or its counsel, which are made upon personal knowledge:

NATURE OF THE ACTION

1. The Plaintiff Salvatore Ferragamo S.p.A. is an Italian luxury goods company with its headquarters in Florence, Italy. “Salvatore Ferragamo” is the name of the deceased founder of the Plaintiff.

2. Through its chain of retail stores and on its website *http://www.Ferragamo.com*, the Plaintiff sells high-quality luxury products, including footwear, leather goods such as handbags and wallets, eyewear, jewelry, watches, perfumes and colognes, and ready-to-wear clothing.

3. Salvatore Ferragamo S.p.A., founded in 1927, is the parent company of the Ferragamo Group, one of the major players in the luxury goods industry, which focuses on the creation, manufacture and sale of luxury products for men and women, all Made in Italy.

4. The unique, exclusive design which has always distinguished the Plaintiff's products is obtained by combining style, creativity and innovation with the quality and craftsmanship typical of Italian-made goods.

5. Salvatore Ferragamo's products have been made since the 1960's in a select network of workshops.

6. Consequently, the name SALVATORE FERRAGAMO[®] has become synonymous with high fashion and luxury goods in New York and this Judicial District, and throughout the United States since at least 1948, when the first directly operated store owned by the Plaintiff opened in New York City.

7. The Defendants are operating a winery that advertises and actively sells wine products on the Internet, using the name "FERRAGAMO" prominently on their website FERRAGAMOWINERY.COM, and emblazoned on every bottle of wine that they sell.

8. By doing so, the Defendants are likely to cause consumer confusion with the Plaintiff, as well as to dilute the Plaintiff's trademarks, which include two federally registered trademarks for wine.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338(a) for the claims arising out of the violations of Sections 32 and Section 43 of the Lanham Act, has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 for the claims arising out of the violation of Sections 349, 350, and 360-1 of the New York Business Law, and all other claims arising under the common law of the State of New York; and has jurisdiction pursuant to 28 U.S.C. §§ 1338(b) and 1367 for the claims under the common law of unfair competition.

10. This Court has personal jurisdiction over the Defendants because the products that are the subject of this action were, and continue to be, sold and/or offered for sale to consumers in New York State, including in this Judicial District.

11. Venue is proper in this judicial district under 28 U.S.C. § 1391, as a substantial part of the events giving rise to the claims occurred in this district.

PARTIES

Plaintiff Salvatore Ferragamo

12. The Plaintiff has sold and/or offered its goods for sale in inter- and intrastate commerce, including commerce in the State of New York, and in this Judicial District.

13. The Plaintiff's Ferragamo-branded wine products were first introduced in the 1980's, but were later discontinued. See Exhibit 1.

14. The Plaintiff's Ferragamo-branded wine products were later reintroduced in the United States.

15. The Plaintiff Salvatore Ferragamo filed a trademark application with the United States Patent and Trademark Office (the "USPTO") on June 26, 2006, in International Class 33

(“wines, sparkling wines, distilled liquors, distilled spirits”) based on its *bona fide* intent to use the word “FERRAGAMO” in commerce under Section 1(b) of the Trademark Act.

16. On August 14, 2007, the Plaintiff Salvatore Ferragamo’s trademark application was published in the Official Gazette.

17. No one chose to oppose the Plaintiff Salvatore Ferragamo’s trademark application.

18. Consequently, on May 20, 2008, the USPTO issued a Notice of Allowance and that trademark was registered on the Principal Register as U.S. Trademark Registration No. 3,431,280 (the “’280 Trademark Registration”).

19. The ‘280 Trademark Registration is entitled to a priority date of June 26, 2006.

20. Attached as Exhibit 2 hereto is a true and accurate copy of the ‘280 Trademark Registration.

21. On June 25, 2012, the Plaintiff Salvatore Ferragamo S.p.A. filed an intent-to-use application under the Trademark Act, Section 1(b) in the USPTO for “FERRAGAMO” in International Class 33 in connection with wines and sparkling wines.

22. No one objected or opposed said application when it was published in the Official Gazette, and that application was allowed on or about December 4, 2012 as U.S. Trademark Reg. No. 4,556,507 for “FERRAGAMO” in International Class 33 for wine (the “’507 Trademark Registration”).

23. The ‘507 Trademark Registration has a priority date of July 11, 2012.

24. Attached as Exhibit 3 hereto is a true and accurate copy of the ‘507 Trademark Registration.

25. Together, the Plaintiff Salvatore Ferragamo’s ‘280 Trademark Registration and

the ‘507 Trademark Registration shall be referred to herein as the “Ferragamo Wine Trademarks.”

26. The Plaintiff is also the registrant and/or owner of many other federally registered trademarks (the “Ferragamo Luxury Trademarks”), for a wide variety of luxury goods.

27. Attached hereto as Exhibit 4 is a non-exhaustive list of the Ferragamo Luxury Trademarks; attached as Exhibit 5 are copies of the Ferragamo Luxury Trademarks’ registrations.

28. The federal registrations for the Ferragamo Luxury Trademarks are in full force and effect, and many are incontestable.

29. The Plaintiff has used the Ferragamo Luxury Trademarks on and in connection with the sale and advertising of a wide variety of luxury goods.

30. As a result of their widespread use, the Ferragamo Luxury Trademarks have become a symbol of style and a symbol of the Plaintiff Salvatore Ferragamo.

31. The Ferragamo Luxury Trademarks have come to be known as source identifiers for high quality, authentic SALVATORE FERRAGAMO[®] products.

THE DEFENDANTS

Ferragamo Winery d/b/a FerragamoWinery.com

32. The Defendant Ferragamo Winery is the name of an unincorporated association currently doing business as *FerragamoWinery.com*.

33. Upon information and belief, the Defendant Ferragamo Winery is doing business through a website located at <http://www.FerragamoWinery.com>.

34. The Defendant Ferragamo Winery advertises through its website to New York consumers.

35. The Defendant Ferragamo Winery displays a fully interactive “CONTACT US”

page that allows consumers, including those located in New York, to contact the Defendants through electronic mail, telephone and postal mail. See excerpts from Infringing Website, attached as Exhibit 6.

36. The Defendant Ferragamo Winery ships products to New York consumers from “Orange Hill Mailbox, 3024 Chapman Avenue, Orange CA 92869-3706, (714) 538-5390.” See Id.

37. The Defendant Ferragamo Winery displays an address of P.O. Box 2877 Orange, CA 92859, and telephone number: (657) 221-0786 on its website, encouraging consumers, including those located in New York, to contact the Defendants directly. Id.

38. The domain name *http://www.FerragamoWinery.com* was registered by Defendant Vincent Anthony Ferragamo (through Touchdown Real Estate) on or about April 26, 2013 (hereinafter the “Infringing Domain Name”).

39. Defendant Ferragamo Winery’s website associated with the Infringing Domain Name currently accepts commercial orders through its “Wine Club,” and ships wine to consumers located in New York.

40. The Defendant Ferragamo Winery’s Infringing Website associated with the Infringing Domain Name openly states that consumers located in New York are eligible to join its “20% off” membership club.” See Id.

41. The Defendants offer to sell, and sell, infringing wine products directly to consumers through their website. Id.

42. The Defendants’ Infringing Website is festooned with images of Tuscany, Italy, the Italian countryside, and other images, suggesting a connection to Italy and Italian culture. Id.

43. The Defendants offer to ship, and indeed do ship, infringing products to

consumers located in New York and this Judicial District. See Id.

44. User searches for “FERRAGAMO WINE” in search engines such as Google bring users to stories and information about both the Plaintiff and the Defendants.

45. For example, a user search in the Google search engine for “FERRAGAMO WINE” brings users to links to *http://www.FerragamoWinery.com* as well as to links and stories about the Plaintiff’s products. See attached Exhibit 7.

46. A user search in Google for “FERRAGAMO WINERY” also brings users to links to *http://www.FerragamoWinery.com* as well as to links and stories about the Plaintiff’s products. See Id.

Mr. Vincent Anthony Ferragamo

47. Defendant Vincent Anthony Ferragamo owns the following domain names, which do not contain any information about the Defendants’ wine products:

- a. VinceFerragamo.com;
- b. VFFoundation.com;
- c. TouchDownRealEstate.com; and
- d. EndZoneMortgage.com.

48. Upon information and belief, Defendant Vincent Anthony Ferragamo owns Touchdown Real Estate in Orange County, located at 5200 East Canyon Rim Road #204, Anaheim, California 92807 and Ferragamo-Migneco Vineyards located at S 2115 BLOSSER 122 & 123, Santa Maria, CA 93458.

49. Upon information and belief, Defendant Vincent Anthony Ferragamo does not use any of his other websites or domain names to market or sell wine or wine products.

50. However, the Defendants have intentionally used brand names, trademarks and

domain names that are confusingly similar to the Ferragamo Trademarks:

<u>Plaintiff's Uses</u>	<u>Defendants' Uses</u>
FERRAGAMO	FERRAGAMO WINERY
FERRAGAMO.COM	FERRAGAMOWINERY.COM
	
	

51. On or about July 2, 2015, the Plaintiff Salvatore Ferragamo first contacted the Defendants by letter, demanding that the Defendants cease and desist their infringing conduct.

52. The Defendants have refused to respect the Plaintiff's rights, despite repeated demands from the Plaintiff since that time.

53. Therefore, this is an action for trademark infringement, trademark dilution, and cybersquatting brought pursuant to Sections 32, 43(a), 43(c), and 43(d) of the Lanham Act, 15 U.S.C. §§ 1114, 1125(a), (c), and (d); and causes of action under Sections 349, 350, and 360-1 of the New York General Business Law, and for violations of the New York State common law.

54. The Defendants' misuse of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, in connection with unauthorized wine products, including those sold through the Infringing Website, has injured the Plaintiff's reputation and goodwill.

55. The Defendants' misuse of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, in connection with unauthorized products, including wine products sold through the Infringing Website, has diluted the distinctiveness of the famous Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

56. Unless enjoined, the Defendants' conduct will continue to injure both Plaintiff and the public.

FIRST CLAIM FOR RELIEF

Federal Trademark Infringement in Violation of Section 32 of the Lanham Act

(15 U.S.C. § 1114)

57. The Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 56 above as if fully set forth herein.

58. Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1)(a), prohibits any person from using in commerce, without the consent of the registrant:

any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive . . .

59. The Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, are federally registered.

60. These trademarks are distinctive and are associated in the mind of the public with the Plaintiff Salvatore Ferragamo.

61. Additionally, based on the Plaintiff Salvatore Ferragamo's extensive advertising, sales, and the popularity of its own products, the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, have acquired secondary meaning so that the public associates these trademarks exclusively with the Plaintiff.

62. The Defendants have used counterfeit reproductions of one or more of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, in connection with the advertising, sale, offering for sale and/or distribution of goods for their own financial gain.

63. The Plaintiff Salvatore Ferragamo has not authorized the Defendants' use of any of its trademarks.

64. The Defendants' unauthorized use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, on or in connection with the advertising and sale of goods constitutes the use of Plaintiff's registered marks in commerce.

65. The Defendants' unauthorized use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, is likely to cause confusion, mistake, or deception; cause the public to believe that the Defendants' products emanate or originate from Plaintiff Salvatore Ferragamo when they do not, or that the Plaintiff has authorized, sponsored, approved or otherwise associated itself with the Defendants or their counterfeit products bearing the Plaintiff's trademarks.

66. The Defendants' unauthorized use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, has resulted in the Defendants unfairly and illegally benefitting from the Plaintiff's goodwill.

67. This conduct has caused substantial and irreparable injury to the public, to Salvatore Ferragamo, to Salvatore Ferragamo's trademarks, and the substantial goodwill represented thereby.

68. Accordingly, the Defendants have engaged in trademark infringement in violation of 15 U.S.C. § 1114.

69. The Defendants' acts have caused, and will continue to cause, irreparable injury to the Plaintiff.

70. The Plaintiff has no adequate remedy at law and is thus entitled to damages in an amount yet to be determined.

71. The Defendants' egregious conduct in repeatedly selling infringing merchandise bearing the unauthorized Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, is willful and intentional, and thus this constitutes an exceptional case.

SECOND CLAIM FOR RELIEF

Cybersquatting in Violation of the Anticybersquatting Consumer Protection Act

(15 U.S.C. § 1125(d)(1))

72. Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 71 above as if fully set forth herein.

73. 15 U.S.C. § 1125(d)(1)(A) provides that:

A person shall be liable in a civil action by the owner of a mark, including a personal name which is protected as a mark under this section, if, without regard to the goods or services of the parties, that person—

- (i) has a bad faith intent to profit from that mark, including a personal name which is protected as a mark under this section; and
- (ii) registers, traffics in, or uses a domain name that—
 - (I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark;
 - (II) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of that mark...

74. The Infringing Domain Name that the Defendants has registered are identical to, and/or confusingly similar to one or more of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, which were distinctive and/or famous at the time that the Defendants registered the Infringing Domain Name.

75. The Defendants have registered and used the Infringing Domain Name with bad-faith intent to profit from the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

76. The Defendants' activities as alleged herein violate the federal Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(1).

77. The Defendants had no *bona fide* noncommercial or fair use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

78. The Defendants intended to divert consumers away from the Plaintiff Salvatore Ferragamo to a website accessible under Infringing Domain Name that could harm the goodwill represented by the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, for commercial gain, and with the intent to tarnish and disparage the Ferragamo Luxury Trademarks by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Infringing Domain Name and the Infringing Website.

79. The Defendants' acts have caused and will continue to cause irreparable injury to Salvatore Ferragamo. The Plaintiff has no adequate remedy at law and is thus damaged in an amount yet to be determined.

THIRD CLAIM FOR RELIEF

**Trade Dress Infringement and False Designation of Origin
in Violation of Section 43(a) of the Lanham Act**

(15 U.S.C. § 1125(a))

80. The Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 79 above as if fully set forth herein.

81. Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) provides, in relevant part, that:

Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which—(1)(a) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person . . . shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

82. By making unauthorized use, in interstate commerce, of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, the Defendants have used a “false designation of origin” that is likely to cause confusion, mistake or deception as to the affiliation or connection of the Defendants with Salvatore Ferragamo and as to the origin, sponsorship, association or approval of the Defendants’ services and goods by Salvatore Ferragamo, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

83. The Defendants’ acts constitute the use in commerce of false designations of origin and false and/or misleading descriptions or representations, tending to falsely or misleadingly describe and/or represent the Defendants’ products as those of Salvatore Ferragamo, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

84. The Defendants’ wrongful acts will continue unless and until enjoined by this Court.

85. The Defendants’ acts have caused and will continue to cause irreparable injury to the Plaintiff. The Plaintiff has no adequate remedy at law and is thus damaged in an amount yet to be determined.

86. The Defendants’ egregious conduct in selling infringing products is willful and intentional.

FOURTH CLAIM FOR RELIEF

Federal Trademark Dilution in Violation of Section 43(c) of the Lanham Act

(15 U.S.C. § 1125(c))

87. The Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 86 above as if fully set forth herein.

88. Section 43(c)(1) of the Lanham Act, 15 U.S.C. § 1125(c)(1), provides, in relevant part, that:

Subject to the principles of equity, the owner of a famous mark that is distinctive, inherently or through acquired distinctiveness, shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is likely to cause dilution by blurring or dilution by tarnishment of the famous mark, regardless of the presence or absence of actual or likely confusion, of competition, or of actual economic injury.

89. Salvatore Ferragamo is the exclusive owner of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

90. The Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, are famous and distinctive within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

91. The Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, are all distinctive marks that have been in use for many years and play a prominent role in Salvatore Ferragamo's marketing, advertising and the popularity of its products across many different media.

92. The Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, were famous long before the Defendants began using unauthorized reproductions, counterfeits, copies and colorable imitations on their unauthorized merchandise.

93. The Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, have gained widespread publicity and public recognition in New York and elsewhere.

94. To enhance its rights further, the Plaintiff Salvatore Ferragamo obtained federal registrations for the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks,

95. The Defendants' sale of goods that use the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, constitutes use in commerce of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

96. Plaintiff Salvatore Ferragamo has not licensed or otherwise authorized the Defendants' use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

97. Consumers are likely to locate and purchase the Defendants' products in the erroneous belief that the Defendants are associated with, sponsored by or affiliated with Salvatore Ferragamo, and/or that Salvatore Ferragamo is the source of those products.

98. The Defendants' use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, dilutes and/or is likely to dilute the distinctive quality of those marks and to lessen the capacity of such marks to identify and distinguish Salvatore Ferragamo's goods.

99. The Defendants' unlawful use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, in connection with inferior goods is also likely to tarnish those trademarks and cause blurring in the minds of consumers between Salvatore Ferragamo and the Defendants, thereby lessening the value of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, as unique identifiers of Salvatore Ferragamo's products.

100. The Defendants' acts have caused and will continue to cause irreparable injury to Salvatore Ferragamo. The Plaintiff has no adequate remedy at law and is thus damaged in an amount yet to be determined.

FIFTH CLAIM FOR RELIEF

Trademark Dilution in Violation of the New York General Business Law

(N.Y. Gen. Bus. Law § 360-1)

101. The Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 100 above as if fully set forth herein.

102. New York General Business Law, Section 360-1 provides that:

Likelihood of injury to business reputation or of dilution of the distinctive quality of a mark or trade name shall be a ground for injunctive relief in cases of infringement of a mark registered or not registered or in cases of unfair competition, notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.

103. The Plaintiff Salvatore Ferragamo is the exclusive owner of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

104. Through prominent, long and continuous use in commerce, including commerce within New York, the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, have become, and continue to become, famous and distinctive.

105. Long after the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, became famous, the Defendants, without authorization from Ferragamo, used unauthorized reproductions, counterfeits, copies and colorable imitations of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

106. The Defendants' unauthorized use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, dilutes and/or is likely to dilute the distinctive

quality of those marks and to lessen the capacity of such marks to identify and distinguish the Plaintiff's goods.

107. The Defendants' unlawful use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, in connection with inferior goods is also likely to tarnish those trademarks and cause blurring in the minds of consumers between Salvatore Ferragamo and the Defendants, thereby lessening the value of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, as unique identifiers of Salvatore Ferragamo's products.

108. By the acts described above, the Defendants have diluted, and are likely to dilute the distinctiveness of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, and caused a likelihood of harm to Salvatore Ferragamo's business reputation in violation of Section 360-1 of the New York General Business Law.

109. The Defendants' acts have caused, and will continue to cause, irreparable injury to Salvatore Ferragamo. The Plaintiff has no adequate remedy at law and is thus damaged in an amount not yet determined.

SIXTH CLAIM FOR RELIEF

Deceptive Acts and Practices Unlawful in Violation of the New York General Business Law

(N.Y. Gen. Bus. Law §§ 349 and 350)

110. The Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 109 above as if fully set forth herein.

111. New York General Business Law, Section 349 states, in relevant part, that: "Deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful."

112. New York General Business Law, Section 350 states, in relevant part, that: “False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.”

113. Through their importation, advertisement, distribution, offer to sell and sale of unauthorized products bearing the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, the Defendants have engaged in consumer-oriented conduct that has affected the public interest of New York and has resulted in injury to consumers in New York.

114. The Defendants’ deceptive acts or practices, as described herein, are materially misleading. Such acts or practices have deceived or have a tendency to deceive a material segment of the public to whom the Defendants have directed their marketing activities, and Salvatore Ferragamo has been injured thereby.

115. By the acts described above, the Defendants have willfully engaged in deceptive acts or practices in the conduct of business and furnishing of services in violation of Section 349 and 350 of the New York General Business Law.

116. The Defendants’ acts have caused, and will continue to cause, irreparable injury to Salvatore Ferragamo. The Plaintiff has no adequate remedy at law and is thus damaged in an amount not yet determined.

SEVENTH CLAIM FOR RELIEF

Trademark Infringement in Violation of New York State Common Law

117. The Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 116 above as if fully set forth herein.

118. The Plaintiff owns all right, title and interest in and to the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, as described above, including all

common law rights in the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

119. The products sold by the Defendants incorporate imitations of Salvatore Ferragamo's common law trademarks.

120. The Defendants' use of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, is unauthorized, and is likely to cause consumer confusion.

121. By the acts described above, the Defendants have engaged in trademark infringement in violation of the common law of the State of New York.

122. The Defendants' acts have caused, and will continue to cause, irreparable injury to Salvatore Ferragamo. The Plaintiff has no adequate remedy at law and is thus damaged in an amount not yet determined.

EIGHTH CLAIM FOR RELIEF

Unfair Competition in Violation of the New York Common Law

123. The Plaintiff Salvatore Ferragamo hereby repeats each and every allegation set forth in paragraphs 1 to 122 above as if fully set forth herein.

124. The Defendants have palmed off their goods as Salvatore Ferragamo's, improperly trading upon the Plaintiff's goodwill and valuable rights in and to the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks.

125. The Defendants have committed the above alleged acts willfully, and in conscious disregard of Salvatore Ferragamo's rights, and Salvatore Ferragamo is therefore entitled to exemplary and punitive damages pursuant to the common law of the State of New York in an amount sufficient to punish, deter and make an example of the Defendants.

126. By the acts described above, the Defendants have engaged in unfair competition in violation of the common law of the State of New York.

127. The Defendants' acts have caused and will continue to cause irreparable injury to Salvatore Ferragamo. The Plaintiff has no adequate remedy at law and is thus damaged in an amount yet to be determined.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays:

1. For a **FINAL JUDGMENT** that:
 - a. The Defendants have engaged in trademark infringement in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114;
 - b. The Defendants have violated Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);
 - c. The Defendants have violated Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c);
 - d. The Defendants have violated Section 43(d) of the Lanham Act, 15 U.S.C. § 1125(d);
 - e. The Defendants have engaged in Cybersquatting in violation of the Anti-Cybersquatting Consumer Protection Act;
 - f. The Defendants have diluted the distinctiveness of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, and caused injury to Ferragamo's business reputation in violation of Section 360-1 of the New York General Business Law;
 - g. The Defendants have engaged in deceptive acts and practices unlawful in violation of Sections 349 and 350 of the New York General Business Law;
 - h. The Defendants have engaged in trademark infringement in violation of the common law of the State of New York;
 - i. The Defendants have engaged in unfair competition in violation of the common law of the State of New York; and

j. That the above acts were done willfully, and/or intentionally.

2. For entry of an **ORDER** permanently enjoining and restraining the Defendants, and their officers, agents, servants, employees and attorneys and all those in active concert or participation with any of them, from:

- a. Using any reproduction, counterfeit, copy or colorable imitation of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, (as defined herein) for and in connection with any goods or their packaging not authorized by Salvatore Ferragamo;
- b. Engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure Plaintiff's business reputation or dilute the distinctive quality of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks,
- c. Using any false description or representation, including words or other symbols tending falsely to describe or represent Defendants' unauthorized goods or their packaging as being those of Salvatore Ferragamo, or sponsored by or associated with Salvatore Ferragamo, and from offering such goods into commerce;
- d. Further infringing the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, by manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting, displaying or otherwise disposing of any products or their packaging not authorized by Salvatore Ferragamo that bear any simulation, reproduction,

counterfeit, copy or colorable imitation of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks,;

- e. Using any simulation, reproduction, counterfeit, copy or colorable imitation of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, in connection with the promotion, advertisement, display, sale, offering for sale, manufacture, production, circulation or distribution of any unauthorized products or their packaging in such fashion as to relate or connect, or tend to relate or connect, such products in any way to Salvatore Ferragamo, or to any goods sold, manufactured, sponsored or approved by, or connected with Salvatore Ferragamo;
- f. Making any statement or representation whatsoever, or using any false designation of origin or false description, or performing any act, which may or is likely to lead the trade or public, or individual members thereof, to believe that any products manufactured, distributed, or sold by the Defendants are in any manner associated or connected with Salvatore Ferragamo, or are sold, manufactured, licensed, sponsored, approved or authorized by Salvatore Ferragamo;
- g. Infringing the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, or the Plaintiff's rights therein, or using or exploiting the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks,, or diluting The Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks;

- h. Secreting, destroying, altering, removing, or otherwise dealing with the unauthorized products or any books or records which contain any information relating to the importing, manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, renting or displaying of all unauthorized products which infringe or dilute the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks; and
- i. Effecting assignments or transfers, forming new entities or associations or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in any Final Judgment or Order in this action; and

3. For an entry of an **ORDER** directing that the Defendants deliver up for destruction to Salvatore Ferragamo all unauthorized products, advertisements and packaging in their possession or under their control bearing any of the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, or any simulation, reproduction, counterfeit, copy or colorable imitation thereof, and all plates, molds, matrices and other means of production of same pursuant to 15 U.S.C. § 1118.

4. For an entry of an **ORDER** transferring or canceling at Ferragamo's election, the Infringing Domain Name and any other domain names used by the Defendants to engage in unauthorized activities, to Salvatore Ferragamo's control so they may no longer be used for unauthorized purposes.

5. For entry of an **ORDER** that, upon Salvatore Ferragamo's request, the Internet Registries shall take all actions necessary to ensure that the Infringing Domain Name be transferred and or disabled accordingly.

6. For entry of an **ORDER** requiring the Defendants to disseminate corrective advertisements in a form approved by the Court to acknowledge their violations of the law hereunder, and to ameliorate the false and deceptive impressions produced by such violations.

7. For all such other relief as the Court may deem appropriate to prevent the trade and public from deriving any erroneous impression that any products or associated packaging manufactured, sold or otherwise circulated or promoted by the Defendants are authorized by Salvatore Ferragamo or related in any way to Salvatore Ferragamo's products.

8. For an assessment of the **ACTUAL DAMAGES** suffered by Salvatore Ferragamo, trebled, and an award of all profits that Defendants have derived from using the Ferragamo Luxury Trademarks, including the Ferragamo Wine Trademarks, trebled, as well as costs and attorneys' fees to the full extent provided for by Section 35 of the Lanham Act, 15 U.S.C. § 1117.

9. For **COSTS OF SUIT**, and for such other and further relief as the Court shall deem appropriate.

A TRIAL BY JURY IS DEMANDED

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, the Plaintiff hereby demands a jury trial on all triable issues raised by this Complaint.

May 4, 2016

Respectfully Submitted,



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