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 GURU DENIM, INC.

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

GURU DENIM, INC., A California
 Corporation,

Plaintiff,

vs.

SIMON HALWANI, an Individual;
 THEDENIMBUTT.COM, a New York
 Business of Unknown Status; JEANS &
 COMPANY, a New York Business of
 Unknown Status; JOYMIC CORP., a New
 York Corporation; DIGITALLY
 DISCOVERED, a New York Business of
 Unknown Status; JOSEPH BARSANO, an
 Individual; THEDENIMSPA.COM, a New
 York Business of Unknown Status;
 DENIMLIQUIDATORS.COM, a New York
 Business of Unknown Status;
 DENIMBUYS.COM, a New York Business
 of Unknown Status; DENIM BUY
 LIQUIDATORS, a New York Business of
 Unknown Status; JIZZLE TECH, a New
 York Business of Unknown Status;
 LOVEBUBBLECLOTHING.COM, a New
 York Business of Unknown Status; Does 1-
 20, Inclusive,

Defendants.

2008 APR 29 PM 3:03
 U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIF.
 LOS ANGELES

FILED

Case No. **CV08-02803 FMC (SSx)**

**COMPLAINT FOR DAMAGES AND
 DECLARATORY RELIEF :**

- (1) FEDERAL TRADEMARK
 INFRINGEMENT [15 U.S.C. §
 1114/Lanham Act § 43(a)]**
- (2) FEDERAL COPYRIGHT
 INFRINGEMENT [17 U.S.C.
 §501(a)];**
- (3) FALSE DESIGNATION OF
 ORIGIN [15 U.S.C. §1125(a)];**
- (4) TRADEMARK DILUTION [15
 U.S.C. §1125(c); CALIFORNIA
 BUSINESS & PROFESSIONS
 CODE §14330];**
- (5) COMMON LAW COPYRIGHT
 INFRINGEMENT [CALIFORNIA
 CIVIL CODE §980];**
- (6) UNFAIR BUSINESS
 PRACTICES [CALIFORNIA
 BUSINESS & PROFESSIONS
 CODE §17200]; and**
- (7) UNJUST ENRICHMENT**

1 COMES NOW, Plaintiff GURU DENIM, INC. to hereby file its Complaint
2 against Defendants SIMON HALWANI, THEDENIMBUTT.COM, JEANS &
3 COMPANY, JOYMIC CORP., DIGITALLY DISCOVERED, JOSEPH
4 BARSANO, THEDENIMSPA.COM, DENIMLIQUIDATORS.COM,
5 DENIMBUYS.COM, DENIM BUY LIQUIDATORS, JIZZLE TECH,
6 LOVEBUBBLECLOTHING.COM, and Does 1-20, inclusive (collectively
7 "Defendants").

8 JURISDICTIONAL ALLEGATIONS

9 1. This Court has Federal subject matter jurisdiction over this matter
10 pursuant to 28 U.S.C. §§ 1331 and 1338(a) and (b), by virtue of 15 U.S.C. §1051 *et*
11 *seq.*, in that the case arises out of §43(a) of the *Lanham Act* for trademark
12 infringement, and supplemental jurisdiction under 28 U.S.C. §§ 1367(a) and 1338
13 (a)(b).

14 2. Venue is proper, *inter alia*, under 28 U.S.C. § 1391(b) because on
15 information and belief, a substantial part of the events or omissions giving rise to
16 the claim occurred in this judicial district.

17 3. Personal jurisdiction exists over Defendants because on information
18 and belief, Defendants conduct business in California and in this judicial district,
19 or otherwise avail themselves of the privileges and protections of the laws of the
20 State of California, such that this Court's assertion of jurisdiction over Defendants
21 does not offend traditional notions of fair play and due process.

22 THE PARTIES

23 4. Plaintiff GURU DENIM, INC. (hereinafter "Plaintiff") is now, and
24 was at the time of the filing of this Complaint and at all intervening times, a
25 California corporation, duly authorized and licensed to conduct business in
26 California, with its principal place of business in California.

27 ///

28 ///

1 5. Plaintiff GURU DENIM, INC. is a wholly owned subsidiary of TRUE
2 RELIGION APPAREL, INC., and manufactures and distributes denim and non-
3 denim men's and women's apparel under the True Religion line of apparel.

4 6. Plaintiff is informed and believes that Defendant SIMON HALWANI
5 is now, and was at the time of the filing of this Complaint and at all intervening
6 times, an Individual residing at 2076 East Eighth Street, Brooklyn, New York
7 11223-4129.

8 7. Plaintiff is informed and believes that Defendant
9 THEDENIMBUTT.COM is now, and was at the time of the filing of this
10 Complaint and at all intervening times, a New York Business Entity of Unknown
11 Status operating a website at <http://www.thedenimbutt.com>, with its principal place
12 of business located at 1569 East 22nd Street, Brooklyn, New York 11210-5109.

13 8. Plaintiff is informed and believes that Defendant JEANS &
14 COMPANY is now, and was at the time of the filing of this Complaint and at all
15 intervening times, a New York Business Entity of Unknown Status with its
16 principal place of business located at 1569 East 22nd Street, Brooklyn, New York
17 11210-5109.

18 9. Plaintiff is informed and believes that Defendant JOYMIC CORP. is
19 now, and was at the time of the filing of this Complaint and at all intervening
20 times, a New York Corporation with its principal place of business located at 2123
21 Utica Avenue, Brooklyn, New York 11234.

22 10. Plaintiff is informed and believes that Defendant DIGITALLY
23 DISCOVERED is now, and was at the time of the filing of this Complaint and at
24 all intervening times, a New York Business Entity of Unknown Status with its
25 principal place of business located at 4809 Avenue N, Suite 285, Brooklyn, New
26 York 11234.

27 11. Plaintiff is informed and believes that Defendant JOSEPH
28 BARSANO is now, and was at the time of the filing of this Complaint and at all

1 intervening times, an Individual residing at 1569 East 22nd Street, Brooklyn, New
2 York 11210.

3 12. Plaintiff is informed and believes that Defendant
4 THEDENIMSPA.COM is now, and was at the time of the filing of this Complaint,
5 a New York Business of Unknown Status, operating a website with the address
6 www.thedenimspa.com, with its principal place of business located at 1002
7 Quinten Road, Brooklyn, New York 11223.

8 13. Plaintiff is informed and believes that Defendant
9 DENIMLIQUIDATORS.COM is now, and was at the time of the filing of this
10 Complaint, a New York Business of Unknown Status, operating a website with the
11 address www.denimliquidators.com, with its principal place of business located at
12 1080 McDonald Avenue, Brooklyn, New York 11230.

13 14. Plaintiff is informed and believes that Defendant DENIMBUYS.COM
14 is now, and was at the time of the filing of this Complaint, a New York Business of
15 Unknown Status, operating a website with the address www.denimbuys.com, with
16 its principal place of business located at 2167 East 21st Street, Brooklyn, New
17 York 11229.

18 15. Plaintiff is informed and believes that Defendant DENIM BUY
19 LIQUIDATORS is now, and was at the time of the filing of this Complaint, a New
20 York Business of Unknown Status, with its principal place of business located at
21 2167 East 21st Street, Brooklyn, New York 11229.

22 16. Plaintiff is informed and believes that Defendant JIZZLE TECH is
23 now, and was at the time of the filing of this Complaint, a New York Business of
24 Unknown Status, with its principal place of business located at 1080 McDonald
25 Avenue, PMB 235, Brooklyn, New York 11230 and at 1482 Ocean Parkway,
26 Brooklyn, New York 11230.

27 17. Plaintiff is informed and believes that Defendant
28 LOVEBUBBLECLOTHING.COM is now, and was at the time of the filing of this

1 Complaint, a New York Business of Unknown Status, operating a website with the
2 address www.lovebubbleclothing.com, with its principal place of business located
3 at 2167 East 21st Street, Brooklyn, New York 11229.

4 18. The true names and capacities, whether individual, corporate,
5 associate or otherwise, of Defendants herein designated by fictitious names Does
6 1-20, inclusive, are unknown to Plaintiff. Plaintiff therefore sues said Defendants
7 by such fictitious names. When the true names and capacities of said Defendants
8 have been ascertained, Plaintiff will amend this pleading accordingly.

9 19. Plaintiff further alleges that Does 1-20, inclusive, sued herein by
10 fictitious names are jointly, severally and concurrently liable and responsible with
11 the named Defendants upon the causes of action hereinafter set forth.

12 20. Plaintiff is informed and believes that since its creation until now and
13 at all times relevant to this Complaint, Defendants JOYMIC CORP,
14 THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY DISCOVERED,
15 THEDENIMSPA.COM, DENIMLIQUIDATORS.COM, DENIMBUYS.COM,
16 DENIM BUY LIQUIDATORS, JIZZLE TECH, and
17 LOVEBUBBLECLOTHING.COM were under the de facto and sole control and
18 served as the alter ego of Defendants SIMON HALWANI and JOSEPH
19 BARSANO, who were the sole shareholders, officers and directors of JOYMIC
20 CORP, THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY
21 DISCOVERED, THEDENIMSPA.COM, DENIMLIQUIDATORS.COM,
22 DENIMBUYS.COM, DENIM BUY LIQUIDATORS, JIZZLE TECH, and
23 LOVEBUBBLECLOTHING.COM.

24 21. Plaintiff is informed and believes that, at the time of its creation, now,
25 and at all times relevant to this Complaint, Defendants JOYMIC CORP,
26 THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY DISCOVERED,
27 THEDENIMSPA.COM, DENIMLIQUIDATORS.COM, DENIMBUYS.COM,
28 DENIM BUY LIQUIDATORS, JIZZLE TECH, and

1 LOVEBUBBLECLOTHING.COM do not and did not have sufficient funding to
2 assume responsibility for their foreseeable and actual liabilities;

3 22. Plaintiff is informed and believes that since the time of its creation,
4 now, and all times relevant to this Complaint, there was such a unity of interest and
5 ownership between Defendants JOYMIC CORP, THEDENIMBUTT.COM,
6 JEANS & COMPANY, DIGITALLY DISCOVERED, THEDENIMSPA.COM,
7 DENIMLIQUIDATORS.COM, DENIMBUYS.COM, DENIM BUY
8 LIQUIDATORS, JIZZLE TECH, and LOVEBUBBLECLOTHING.COM and
9 their equitable owners that separate personalities of the corporations and the
10 shareholders, including DEFENDANT SIMON HALWANI and JOSEPH
11 BORSANO, did not and do not in reality exist.

12 23. Plaintiff is informed and believes that since the time of their creation,
13 now, and at all times relevant to this Complaint, Defendants SIMON HALWANI
14 and JOSEPH BARSANO (i) commingled the funds of JOYMIC CORP,
15 THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY DISCOVERED,
16 THEDENIMSPA.COM, DENIMLIQUIDATORS.COM, DENIMBUYS.COM,
17 DENIM BUY LIQUIDATORS, JIZZLE TECH, and
18 LOVEBUBBLECLOTHING.COM; (ii) failed to segregate the funds of JOYMIC
19 CORP, THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY
20 DISCOVERED, THEDENIMSPA.COM, DENIMLIQUIDATORS.COM,
21 DENIMBUYS.COM, DENIM BUY LIQUIDATORS, JIZZLE TECH, and
22 LOVEBUBBLECLOTHING.COM; (iii) treated the assets of JOYMIC CORP,
23 THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY DISCOVERED,
24 THEDENIMSPA.COM, DENIMLIQUIDATORS.COM, DENIMBUYS.COM,
25 DENIM BUY LIQUIDATORS, JIZZLE TECH, and
26 LOVEBUBBLECLOTHING.COM as their own individual assets; (iv) failed to
27 obtain authority to issue stock; (v) held themselves out as if they each individually
28

1 were personally liable for the debts of the corporations; and (vi) failed to maintain
2 minutes or adequate corporate records.

3 24. Plaintiff is informed and believes that since the time of its creation,
4 now, and at all times relevant to this Complaint, Defendants JOYMIC CORP,
5 THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY DISCOVERED,
6 THEDENIMSPA.COM, DENIMLIQUIDATORS.COM, DENIMBUYS.COM,
7 DENIM BUY LIQUIDATORS, JIZZLE TECH, and
8 LOVEBUBBLECLOTHING.COM were undercapitalized.

9 25. Plaintiff is informed and believes that since the time of its creation,
10 now, and at all times relevant to this Complaint, Defendants JOYMIC CORP,
11 THEDENIMBUTT.COM, JEANS & COMPANY, DIGITALLY DISCOVERED,
12 THEDENIMSPA.COM, DENIMLIQUIDATORS.COM, DENIMBUYS.COM,
13 DENIM BUY LIQUIDATORS, JIZZLE TECH, and
14 LOVEBUBBLECLOTHING.COM have failed and do fail to observe corporate
15 formalities required by law.

16 26. Plaintiff is informed and believes that the assets and properties of
17 Defendants JOYMIC CORP, THEDENIMBUTT.COM, JEANS & COMPANY,
18 DIGITALLY DISCOVERED, THEDENIMSPA.COM,
19 DENIMLIQUIDATORS.COM, DENIMBUYS.COM, DENIM BUY
20 LIQUIDATORS, JIZZLE TECH, and LOVEBUBBLECLOTHING.COM are
21 commingled with the separate assets of Defendants SIMON HALWANI and
22 JOSEPH BARSANO and all of them, such that there is no distinction between
23 individual and corporate assets.

24 27. Plaintiff is informed and believes that adherence to the fiction of the
25 separate existence of Defendants JOYMIC CORP, THEDENIMBUTT.COM,
26 JEANS & COMPANY, DIGITALLY DISCOVERED, THEDENIMSPA.COM,
27 DENIMLIQUIDATORS.COM, DENIMBUYS.COM, DENIM BUY
28 LIQUIDATORS, JIZZLE TECH, and LOVEBUBBLECLOTHING.COM as

1 entities distinct from Defendants SIMON HALWANI and JOSEPH BARSANO
2 and all of them, would permit an abuse of corporate privilege and would permit an
3 injustice in that they would succeed in avoiding legally incurred liabilities while
4 maintaining the benefits of the corporations.

5 28. Plaintiff is informed and believes that the failure to disregard the
6 corporate entities of Defendants JOYMIC CORP, THEDENIMBUTT.COM,
7 JEANS & COMPANY, DIGITALLY DISCOVERED, THEDENIMSPA.COM,
8 DENIMLIQUIDATORS.COM, DENIMBUYS.COM, DENIM BUY
9 LIQUIDATORS, JIZZLE TECH, and LOVEBUBBLECLOTHING.COM will
10 sanction fraud or promote injustice, because Defendants SIMON HALWANI and
11 JOSEPH BARSANO enriched themselves by their fraudulent and/or illegal
12 conduct, while Plaintiff suffered enormous financial injury.

13 29. Plaintiff is informed and believes and thereon alleges that at all times
14 mentioned herein Defendants SIMON HALWANI, THEDENIMBUTT.COM,
15 JEANS & COMPANY, JOYMIC CORP., DIGITALLY DISCOVERED, JOSEPH
16 BARSANO, THEDENIMSPA.COM, DENIMLIQUIDATORS.COM,
17 DENIMBUYS.COM, DENIM BUY LIQUIDATORS, JIZZLE TECH,
18 LOVEBUBBLECLOTHING.COM, and Does 1-20, inclusive, and each of them
19 (collectively, "Defendants"), were the agents, servants and employees of every
20 other Defendant and the acts of each Defendant, as alleged herein, were performed
21 within the course and scope of that agency, service or employment.

22 **INJURY TO PLAINTIFFS**

23 30. Plaintiff owns nine (9) registered United States trademarks associated
24 with the True Religion line of apparel.

25 31. Plaintiff owns a registered United States trademark for the "True
26 Religion Brand Jeans World Tour Fashion for the Senses Section Row Seat" label
27 and corresponding artwork under U.S. Reg. No. 2,917,187, registered January 11,
28 2005, attached herewith as Exhibit "A."

1 32. Plaintiff owns registered United States trademarks in the pocket
2 stitching pattern that appears on True Religion Brand Jeans pants and the overall
3 stitching pattern on the front of True Religion Brand Jeans pants under U.S. Reg.
4 No. 3,147,244, registered September 16, 2006, and under U.S. Reg. No. 3,219,110,
5 registered March 13, 2007, attached herewith as Exhibits "B" and "C,"
6 respectively.

7 33. Plaintiff owns 4 registered United States trademarks in the word mark
8 "True Religion Brand Jeans," (hereinafter, "the Mark") with assorted designs,
9 characters and artwork (hereinafter, "the Designs") under the following registration
10 numbers: U.S. Reg. No. 2,761,793, registered September 9, 2003; U.S. Reg. No.
11 3,120,797, registered July 25, 2006; U.S. Reg. No. 3,120,798, registered July 25,
12 2006; U.S. Reg. No. 3,282,490, registered August 21, 2007; attached herewith as
13 Exhibits "D," "E," "F," and "G," respectively.

14 34. Plaintiff owns registered United States trademarks in the word mark
15 "True Religion," under U.S. Reg. No. 3,162,615, registered October 24, 2006; and
16 under U.S. Reg. No. 3,162,614, registered October 24, 2006; collectively attached
17 herewith as Exhibit "H."

18 35. Plaintiff owns two United States Copyrights for the True Religion
19 Brand Jeans Designs under Certificate of Registration number VA 1-192-834,
20 effective date of February 6, 2003, and Certificate of Registration number VA 1-
21 301-845, effective date of April 13, 2005, attached herewith as Exhibits "I" and
22 "J," respectively.

23 36. Plaintiff owns an additional United States Copyright in the
24 "truereigionbrandjeans.com" website under Certificate of Registration number TX
25 6-236-806, effective date of June 1, 2005, attached herewith as Exhibit "K."

26 37. Plaintiff owns a United States Design Patent for the stitch pattern
27 applied to True Religion Brand Jeans pants under United States Patent No.
28 D547530, issued July 31, 2007, attached herewith as Exhibit "L."

1 38. Plaintiff also owns registered trademarks in the True Religion Brand
2 Jeans Mark and Designs in the following foreign countries or territories: Canada,
3 United Kingdom, European Union, Germany, Australia, Japan, Korea, Mexico,
4 Colombia, Hong Kong, Korea, Norway, Russia, South Africa and Paraguay. The
5 relevant trademark registration documents are attached herewith as Exhibit "M."

6 39. Plaintiff designs, develops, manufactures, markets, distributes and
7 sells denim jeans and other apparel, including corduroy jeans and jackets, velvet
8 jeans and jackets, skirts, shorts for both men and women, t-shirts, sweaters and
9 sportswear under the Mark in the United States, Canada, the United Kingdom,
10 Europe, Mexico, Japan, Korea, Australia and the Middle East. Plaintiff has been
11 designing, manufacturing, distributing and selling its apparel under the Mark since
12 August of 2003. True Religion Brand Jeans products and their packaging
13 prominently bear the Mark. Plaintiff's Mark has been continually used in
14 commerce since its date of first issue.

15 40. Plaintiff has distinguished itself as a leader in the high-end denim
16 market, contributing significantly to the wide interest in designer denim.
17 Plaintiff's line of "super-premium" denim wear, which ranges in retail price fro
18 \$170.00 to in excess of \$300.00, is acclaimed in the fashion industry due to its
19 famous name recognition which represents quality and distinguished
20 craftsmanship. Each piece of clothing or pair of denim distributed under the Mark
21 bears an emblem of a smiling Buddha strumming a guitar and, in some occasions,
22 is elaborately embroidered. Upscale retailers, such as *Barneys New York*,
23 *Bergdorf Goodman*, *Neiman Marcus*, *Nordstrom*, *Saks Fifth Avenue*, and about
24 650 high-end boutiques nationwide sell True Religion Brand Jeans apparel.
25 Plaintiff also operates a 900 square foot flagship boutique store in trendy
26 Manhattan Beach, California, which distributes men's and women's denim and
27 non-denim apparel under the Mark.
28

1 41. Due to Plaintiff's extensive use of the Mark, Plaintiff has built up
2 significant goodwill therein and its line has been praised and recognized in
3 numerous articles appearing in both trade publications and those directed to the
4 general public, including *Elle*, *Vogue*, and *Harper's Bazaar*. An increasingly large
5 list of top celebrities purchase, wear and have been photographed wearing True
6 Religion Brand Jeans apparel, including Madonna, Gwyneth Paltrow, Bruce Willis,
7 and the entire cast of the television program *Desperate Housewives*. Plaintiff's
8 apparel bearing the Mark has also been featured in films such as *Cake*, *The Fog*,
9 *Domino*, and *Dukes of Hazzard*.

10 42. Defendants operate an online storefront which markets and retails,
11 counterfeit True Religion Brand Jeans apparel utilizing the web address of
12 <http://www.thedenimbutt.com>.

13 43. On August 9, 2007, in its ongoing investigation of counterfeit sales of
14 True Religion Brand Jeans apparel, Plaintiff purchased counterfeit True Religion
15 Brand Jeans denim pants from Defendants for a cost of \$129.00 plus a shipping
16 cost of \$1.95 charged to the American Express Account of Plaintiff's investigator.
17 A true and correct copy of the website purchase receipt is attached hereto as
18 Exhibit "N." A true and correct copy of the American Express transaction detail is
19 attached hereto as Exhibit "O."

20 44. Defendants have intentionally and knowingly confused consumers by
21 advertising the denim jeans bearing Plaintiff's Mark as "*TRUE RELIGION SNAKE*
22 *SKIN BOBBY JEANS*." A true and correct copy of the advertisement on
23 <http://www.thedenimbutt.com> is attached hereto as Exhibit "P."

24 45. Defendants have further intentionally and knowingly confused
25 consumers by advertising on <http://www.thedenimbutt.com> that "[a]t
26 [thedenimbutt.com](http://www.thedenimbutt.com) we are committed to selling only first-quality, genuine designer
27 fashions items, clothes and accessories." A true and correct copy of said
28 advertisement is attached hereto as Exhibit "Q."

1 46. The denim goods purchased from Defendants were inspected by
2 Plaintiff to determine authenticity. Plaintiff's inspection of the purchased item
3 using security measures confirmed that the item Defendants sold to the investigator
4 was in fact a counterfeit pair of True Religion Brand Jeans denim pants.

5 47. Defendants also operate an online storefront which markets and
6 retails, counterfeit True Religion Brand Jeans apparel utilizing the web address of
7 <http://www.denimbuys.com>.

8 48. On February 10, 2008, in its ongoing investigation of counterfeit sales
9 of True Religion Brand Jeans apparel, Plaintiff purchased counterfeit True
10 Religion Brand Jeans denim pants from Defendants at <http://www.denimbuys.com>
11 for a cost of \$89.74 charged to the credit card account of Plaintiff's investigator. A
12 true and correct copy of the website purchase receipt is attached hereto as Exhibit
13 "R." A true and correct copy of the credit card transaction detail is attached hereto
14 as Exhibit "S."

15 49. Defendants have intentionally and knowingly confused consumers by
16 advertising the denim jeans bearing Plaintiff's Mark as "*TRUE RELIGION EASY*
17 *RIDER BOBBY JEANS*." A true and correct copy of the advertisement on
18 <http://www.denimbuys.com> is attached hereto as Exhibit "T."

19 50. Defendants have further intentionally and knowingly confused
20 consumers by advertising on <http://www.denimbuys.com> that the company is
21 "[g]iving you a quality product at the best possible price." A true and correct copy
22 of said advertisement is attached hereto as Exhibit "U."

23 51. On information and belief, Defendant
24 LOVEBUBBLECLOTHING.COM has intentionally and knowingly confused
25 consumers by advertising denim jeans bearing Plaintiff's Mark as "*True Religion*
26 *Straight Leg Neon in Light Denim*." Plaintiff is informed and believes that the
27 denim jeans being advertised as such by Defendants on
28 www.lovebubbleclothing.com are in fact counterfeit denim jeans bearing

1 Plaintiff's Mark. A true and correct copy of said advertisement is attached hereto
2 as Exhibit "V."

3 52. On information and belief, Defendant THEDENIMSPA.COM has
4 intentionally and knowingly confused consumers by advertising denim jeans
5 bearing Plaintiff's Mark as "*True Religion Straight Leg Neon in Light Denim.*"
6 Plaintiff is informed and believes that the denim jeans being advertised as such by
7 Defendants on www.thedenimspa.com are in fact counterfeit denim jeans bearing
8 Plaintiff's Mark. A true and correct copy of said advertisement is attached hereto
9 as Exhibit "X."

10 53. On information and belief, Defendant DENIMLIQUIDATORS.COM
11 has intentionally and knowingly confused consumers by advertising denim jeans
12 bearing Plaintiff's Mark as "*True Religion Bobby Super T Bleached White Denim*
13 *Gold Stitching.*" Plaintiff is informed and believes that the denim jeans being
14 advertised as such by Defendants on www.denimliquidators.com are in fact
15 counterfeit denim jeans bearing Plaintiff's Mark. A true and correct copy of said
16 advertisement is attached hereto as Exhibit "Y."

17 54. Upon information and belief, Defendants' use of Plaintiff's Mark
18 through the creation and/or sale of inferior quality clothing bearing the True
19 Religion Brand Jeans Mark was willful, having been adopted with knowledge of
20 Plaintiff's prior rights in and to the Mark, with the intent to trade on and benefit
21 from the goodwill established by Plaintiff in its Mark.

22 FIRST CAUSE OF ACTION

23 (Federal Trademark Infringement Against Defendants Simon Halwani,
24 TheDenimButt.com, Jeans & Company, Joymic Corp., Digitally Discovered,
25 Joseph Barsano, TheDenimSpa.com, DenimLiquidators.com,
26 DenimBuys.Com, Denim Buy Liquidators, Jizzle Tech,
27 LoveBubbleClothing.com, and Does 1-20, Inclusive)

28 [15 U.S.C. § 1114/Lanham Act §43(a)]

1 55. Plaintiffs repeat and re-allege every allegation set forth in Paragraphs
2 1-54.

3 56. Defendant(s) are actually aware that Plaintiff is the registered
4 trademark holder of the True Religion Brand Jeans Mark and Designs. (See
5 Exhibits A-H). Further, Plaintiff's registrations on the Principal Register give
6 constructive notice of Plaintiff's ownership rights.

7 57. Defendant(s) did not and failed to obtain the consent or authorization
8 of Plaintiff as the registered owner of the subject name and Mark to commercially
9 distribute and market apparel bearing the Plaintiff's Mark into the stream of
10 commerce.

11 58. Defendant(s) intentionally and knowingly used in commerce the
12 reproduction, counterfeit, copy, and/ or colorable imitation of Plaintiff's registered
13 mark in connection with the sale, offering for sale, distribution, or advertising of
14 Plaintiffs' goods by offering, advertising, promoting, retailing, selling, and
15 distributing counterfeit denim jeans bearing the trade name and Mark "True
16 Religion Brand Jeans."

17 59. Defendant(s)' reproduced, counterfeited, copied, and colorably
18 imitated Plaintiff's registered Mark and applied such reproduction, counterfeit,
19 copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles
20 and/or advertisements intended to be used in commerce upon or in connection with
21 the sale, offering for sale, distribution, and/or advertising of goods. Defendant(s)
22 thereupon offered, advertised, promoted, retailed, sold, and distributed through an
23 online auction known as Ebay, counterfeit denim jeans bearing the trade name and
24 Mark "True Religion Brand Jeans."

25 60. Defendant(s)' egregious and intentional use and sale of fake, pirated
26 and counterfeit items bearing Plaintiff's trademark is likely to cause confusion, or
27 to cause mistake, or to deceive, mislead, betray, and defraud the consumer who
28 believes that the items are authentic garments manufactured by Plaintiff.

61. Defendant(s)' continued and knowing use of Plaintiff's trade name and Mark without Plaintiffs' consent or authorization constitutes intentional infringement of Plaintiffs' federally registered trademarks in violation of Section 32 of the *Lanham Act*, 15 U.S.C. §1114.

SECOND CAUSE OF ACTION

(Federal Copyright Infringement Against Defendants Simon Halwani, TheDenimButt.com, Jeans & Company, Joymic Corp., Digitally Discovered, Joseph Barsano, TheDenimSpa.com, DenimLiquidators.com, DenimBuys.Com, Denim Buy Liquidators, Jizzle Tech, LoveBubbleClothing.com, and Does 1-20, Inclusive)

[17 U.S.C. §501(a)]

62. Plaintiffs repeat and re-allege each allegation in Paragraphs 1-61.

63. Plaintiff is the exclusive owner of the copyright in its garment Designs and its logo Designs and possesses three copyright registrations with the United States Copyright Office in True Religion Brand Jeans Designs (registration numbers VA 1-301-845, VA 1-192-834, TX 6-236-806).

64. Defendants have actual notice of Plaintiff's exclusive copyright rights in the Designs.

65. Plaintiff's trademark registrations on the Principal Register of the United States Patent and Trademark Office further provide constructive notice of Plaintiff's ownership rights in the Designs.

66. Defendants did not seek and failed to obtain Plaintiff's consent or authorization to utilize, manufacture, reproduce, copy, display, commercially distribute and market in commerce or otherwise the Designs.

67. Without permission, Defendants intentionally and knowingly reproduced, counterfeited, copied, displayed, and manufactured colorable imitations of the Designs by offering, advertising, promoting, retailing, selling, distributing counterfeit denim jeans containing the copyrighted Designs.

68. Defendants intentionally and willfully applied their infringing uses of the Designs to labels, signs, printed notices, packaging, wrappers, receptacles and advertisements in connection with the fraudulent sale, offering for sale, distribution, or advertising of Defendants' goods and represented that the goods were authentic products of Plaintiff's. Defendants thereupon widely, publicly, and continuously offered, advertised, promoted, retailed, sold, and distributed counterfeit denim jeans containing the Designs through the internationally and prominently recognized online auction known as Ebay.

69. Defendants continue its infringement of the Designs in blatant disregard of Plaintiff's protected rights.

THIRD CAUSE OF ACTION

(False Designation of Origin & Unfair Competition Against Defendants Simon Halwani, TheDenimButt.com, Jeans & Company, Joymic Corp., Digitally Discovered, Joseph Barsano, TheDenimSpa.com, DenimLiquidators.com, DenimBuys.Com, Denim Buy Liquidators, Jizzle Tech, LoveBubbleClothing.com, and Does 1-20, Inclusive)

[15 U.S.C. § 1125(a)]

70. Plaintiffs repeat and re-allege the allegations in Paragraphs 1-69.

71. Defendants' conduct described above violate the Lanham Act, have unfairly competed with and injured and, unless immediately restrained, will continue to injure Plaintiff, causing damage to Plaintiff in an amount to be determined at trial, and will cause irreparable injury to Plaintiff's goodwill and reputation associated with the value of Plaintiff's Mark.

72. Defendants have the legal obligation and responsibility to conduct a search before utilizing a trademark so as not to confuse or deceive consumers as to the origin of its name and Mark. Had Defendants conducted a search they would have discovered Plaintiff's long-time use of its Mark in commerce as well as its state trademark registrations:

- (a) California, registration number 111148, issued August 23, 2005;
- (b) Texas, registration number 800534335, issued November 7, 2005;
- (c) New York, registration number R-30664, issued August 22, 2005;
- (d) New Jersey, registration number 22299, issued October 4, 2005; and
- (e) Florida, registration number T05000001315, issued October 10, 2005.

73. Plaintiff's Mark is distinctive in the states in which trademark registration was obtained by virtue of its substantial inherent and acquired distinctiveness, extensive use in each state in which registration was obtained, and the extensive advertising and publicity of the Mark.

74. Defendants' egregious and intentional use and sale of fake, pirated and counterfeit items bearing Plaintiff's trademark unfairly competes with Plaintiff and is likely to cause confusion, mistake, or to deceive, mislead, betray, and defraud consumers to believe that the substandard imitations are genuine True Religion Brand Jeans garments.

75. Defendants' continuing and knowing use of Plaintiff's Mark constitutes willful infringement, false designation of origin and unfair competition in violation of Section 43(a) of the *Lanham Act*, 15 U.S.C. § 1125(a).

FOURTH CAUSE OF ACTION

(Dilution by Tarnishment Against Defendants Simon Halwani, TheDenimButt.com, Jeans & Company, Joymic Corp., Digitally Discovered, Joseph Barsano, TheDenimSpa.com, DenimLiquidators.com, DenimBuys.Com, Denim Buy Liquidators, Jizzle Tech, LoveBubbleClothing.com, and Does 1-20, Inclusive)

1 [15 U.S.C. § 1125(c), *California Business and Professions Code* § 14330 *et seq.*,
2 and California Common Law]

3 76. Plaintiffs repeat and re-allege every allegation set forth in Paragraphs
4 1-75.

5 77. Plaintiff's Mark is "famous" within the meaning of the Lanham Act
6 and is distinctive in the states in which trademark registration was obtained by
7 virtue of the substantial inherent and acquired distinctiveness of the Mark, the
8 extensive use in the relevant states, and the wide advertising and publicity of
9 Plaintiff's goods bearing the Mark.

10 78. As a result of the substantial inherent and acquired distinctiveness in
11 Plaintiff's Mark, extensive use in the states in which registration was obtained, and
12 the wide advertising and publicity of the Mark, Plaintiff's Mark has become strong
13 and is widely identified and respected.

14 79. Upon information and belief, Defendants' unlawful actions began
15 long after Plaintiff's Mark became famous, and Defendants acted knowingly,
16 deliberately and willfully with the intent to trade on Plaintiff's reputation and to
17 dilute Plaintiff's Mark. Defendants' conduct is willful, wanton and egregious.

18 80. The actions of Defendants complained of herein are likely to injure
19 the business reputation of Plaintiff and its Mark.

20 81. Defendants' intentional sale of fake, pirated and counterfeit items
21 bearing Plaintiff's Mark unfairly competes with Plaintiff and is likely to cause
22 confusion, mistake, or to deceive, mislead, betray, and defraud consumers to
23 believe that the substandard imitations are genuine True Religion Brand Jeans
24 garments.

25 82. Defendants' unauthorized and counterfeit use of Plaintiff's famous
26 Mark has diluted and will continue to dilute and tarnish Plaintiff's name and Mark,
27 and is likely to detract from the distinctiveness of Plaintiff's Mark.
28

83. Defendants' conduct is intended to trade on Plaintiff's reputation and goodwill and the quality and high standards of Plaintiff's products. Defendants' failure to meet Plaintiff's strict regulations of material, design, craftsmanship and workmanship will mar the perception among consumers regarding Plaintiff's products, will tarnish and dilute the strength and value of Plaintiff's Mark, and will saturate the clothing Market with substandard and counterfeit merchandise.

84. Defendants' egregious and intentional use and sale of fake, pirated and counterfeit items bearing Plaintiff's trademark is likely to cause confusion, or to cause mistake, or to deceive, mislead, betray, and defraud the consumer who believe that the items are authentic garments manufactured by Plaintiff.

85. Defendants' continuing and knowing use of "True Religion Brand Jeans" constitutes intentional infringement of Plaintiff's common law trademarks in violation of 15 U.S.C. § 1125(c) and California common law, as well as dilution and injury to business reputation in violation of *Cal. Bus. & Prof. Code* § 14330 *et seq.*

86. Plaintiff has no adequate remedy at law to compensate it fully for the damages that have been caused and which will continue to be caused by Defendants' unlawful acts, unless they are enjoined by this Court.

FIFTH CAUSE OF ACTION

(Copyright Infringement Against Defendants Simon Halwani, TheDenimButt.com, Jeans & Company, Joymic Corp., Digitally Discovered, Joseph Barsano, TheDenimSpa.com, DenimLiquidators.com, DenimBuys.Com, Denim Buy Liquidators, Jizzle Tech, LoveBubbleClothing.com, and Does 1-20, Inclusive)
[California Civil Code § 980 *et seq.*, and California Common Law]

87. Plaintiffs repeat and re-allege every allegation set forth in Paragraphs 1-86.

88. At all times relevant herein, Plaintiff has held and still holds the

1 exclusive rights under California law and common law to reproduce, distribute, or
2 license the reproduction and distribution of the artwork, design, pictures,
3 representation, model and pattern for its Mark and Designs in any and all formats
4 and mediums, throughout the United States.

5 89. The artwork, design, pictures, representation, model and pattern of
6 Plaintiff's Mark and Designs are original works in tangible form which have been
7 widely disseminated and published since at least in or about September 2004.

8 90. The conduct herein complained of was extreme, outrageous,
9 fraudulent, and was inflicted on Plaintiff in reckless disregard of Plaintiff's rights.
10 Defendants' acts have irreparably harmed and continue to harm Plaintiff's
11 exclusive proprietary rights and constitute common law copyright infringement
12 and unfair competition. Defendants' outrageous conduct supports an award of
13 exemplary and punitive damages in an amount sufficient to punish and make an
14 example of Defendants and to deter them from similar conduct in the future.

15 91. Each infringing transfer, duplication, sale, rental, distribution, display
16 and other exploitation of the artwork, design, pictures, representation, model and
17 pattern of Plaintiff's Mark and Designs constitutes a separate claim against
18 Defendants under common law copyright and *California Civil Code* § 980.

19 **SIXTH CAUSE OF ACTION**

20 (Unlawful, Unfair, Fraudulent Business Practices Against Defendants
21 Simon Halwani, TheDenimButt.com, Jeans & Company, Joymic Corp.,
22 Digitally Discovered, Joseph Barsano, TheDenimSpa.com,
23 DenimLiquidators.com, DenimBuys.Com, Denim Buy Liquidators, Jizzle
24 Tech, LoveBubbleClothing.com, and Does 1-20, Inclusive)
25 [California Business & Professions Code § 17200 et seq.]

26 92. Plaintiffs hereby incorporate each and every allegation contained in
27 paragraphs 1-91.

28 93. Defendants have committed all of the aforesaid acts of infringement

1 deliberately, willfully, maliciously and oppressively, without regard to Plaintiff's
2 legal, contractual, and exclusive proprietary rights.

3 94. Defendants' acts and practices as detailed above constitute acts of un
4 lawful, unfair or fraudulent business acts and practices within the meaning of
5 *California Business & Professions Code* §17200.

6 95. Defendants have engaged in transactions that are in violation of
7 numerous provisions of California law. Strict liability may be applied even if
8 Defendants' acts have violated only one of the three provisions set forth above.

9 96. Pursuant to *California Business & Professions Code* §17203, Plaintiff
10 seeks an order from this Court prohibiting Defendants from engaging or continuing
11 to engage in the unlawful, unfair, or fraudulent business acts or practices set forth
12 in this Complaint and/or ordering that Defendants perform their obligations under
13 the law and cancel any illegal obligations.

14 97. Plaintiff additionally requests an order from this Court requiring that
15 Defendants disgorge profits and return or pay to Plaintiff all of Defendants' ill-
16 gotten gains obtained from the illegal transactions, and/or pay restitution, including
17 the amount of monies that should have been paid if Defendants complied with their
18 legal obligations, or, as equity requires.

19 98. Plaintiff further requests a court order that an asset freeze or
20 constructive trust be imposed over all monies in Defendants' possession which
21 rightfully belong to Plaintiff.

22 SEVENTH CAUSE OF ACTION

23 (Unjust Enrichment Against Defendants Simon Halwani, TheDenimButt.com,
24 Jeans & Company, Joymic Corp., Digitally Discovered, Joseph Barsano,
25 TheDenimSpa.com, DenimLiquidators.com, DenimBuys.Com, Denim Buy
26 Liquidators, Jizzle Tech, LoveBubbleClothing.com, Does 1-20, Inclusive)

27 99. Plaintiffs hereby incorporate each and every allegation contained in
28 paragraphs 1-98.

1 100. By virtue of the egregious and illegal acts of Defendants as described
2 above, Defendants have been unjustly enriched in an amount to proven at trial.

3 101. Defendants' retention of monies gained through its deceptive business
4 practices, infringements, acts of counterfeit and otherwise would serve to unjustly
5 enrich Defendants and would be contrary to the interests of justice.

6 **WHEREFORE**, Plaintiff GURU DENIM, INC. prays for judgment against
7 Defendants, as follows:

8 A. For damages in an amount to be proven at trial for trademark
9 infringement under 15 *U.S.C.* § 1114/Lanham Act §43(a);

10 B. For damages in an amount to be proven at trial for copyright
11 infringement under 17 *U.S.C.* §501(a);

12 C. For damages in an amount to be proven at trial for false designation of
13 origin under 15 *U.S.C.* §1125(a);

14 D. For damages in an amount to be proven at trial for trademark dilution
15 under 15 *U.S.C.* §1125(c);

16 E. For damages in an amount to be proven at trial for copyright
17 infringement and violation of common law under *California Civil Code*
18 §980;

19 F. For damages to be proven at trial for common law unfair competition.

20 G. For damages in an amount to be proven at trial for unfair, fraudulent and
21 illegal business practices under *Business and Professions Code* §17200;

22 H. For disgorgement of Defendants' profits under 15 *U.S.C.* §1117(a);

23 I. For an injunction by this Court prohibiting Defendants from engaging or
24 continuing to engage in the unlawful, unfair, or fraudulent business acts
25 or practices described herein;

26 J. For an order from the Court requiring that Defendants provide complete
27 accountings and for equitable relief, including that Defendants disgorge
28 and return or pay their ill-gotten gains obtained from the illegal

1 transactions entered into and or pay restitution, including the amount of
2 monies that should have been paid if Defendants' complied with their
3 legal obligations, or as equity requires;

4 K. For an order from the Court that an asset freeze or constructive trust be
5 imposed over all monies and profits in Defendants' possession which
6 rightfully belong to Plaintiff;

7 L. For destruction of the infringing articles in Defendants' possession under
8 15 U.S.C. §1118;

9 M. For treble damages suffered by Plaintiff as a result of the willful and
10 intentional infringements and acts of counterfeiting engaged in by
11 Defendants, under 15 U.S.C. §1117(b);

12 N. For damages in an amount to be proven at trial for unjust enrichment.

13 O. For Plaintiff's reasonable attorney's fees;

14 P. For all costs of suit; and

15 Q. For such other and further relief as the Court may deem just and
16 equitable.

17 **DEMAND FOR JURY TRIAL;**

18 Plaintiff GURU DENIM, INC. respectfully demands a trial by jury in this
19 action.

20
21 DATED: April 17, 2008

GAREEB | PHAM, LLP

22
23 By: 

24 Christopher Q. Pham, Esq.
25 Attorney for Plaintiff
26 GURU DENIM, INC.
27
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