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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

CAbi, LLC., a California Limited Liability Company,

Plaintiff,

v.

BERTHA MARTINE, AKA BERTHA M. MARTINE, AKA BERTHA MARINE, AKA BERTHA GOMEZ, AKA BERTHA MARIA GOMEZ, an individual; SILAS MARTINE, AKA SILAS MARINE, an individual; eBAY, INC., a Delaware corporation; THE CABI CLOSET, entity unknown; SMMBMM, entity unknown; SJB FASHIONS, entity unknown; and DOES 1-10,

Defendants.

Case No. CV11-8529 CBM (SSx)


PERMANENT INJUNCTION AND FINAL JUDGMENT ON CONSENT AS TO DEFENDANTS BERTHA MARTINE AND SILAS MARTINE

Judge: Hon. Consuelo B. Marshall

Plaintiff CAbi, LLC (“Plaintiff” or “CAbi”) commenced this action for an injunction and other relief against, *inter alia*, Defendants BERTHA MARTINE, AKA BERTHA M. MARTINE, AKA BERTHA MARINE, AKA BERTHA GOMEZ, AKA BERTHA MARIA GOMEZ, an individual; SILAS MARTINE, AKA SILAS MARINE, an individual; THE CABI CLOSET, entity unknown and believed to be an alias of Defendant Bertha Martine; SMMBMM, entity unknown and believed to be an

1 alias of Defendant Bertha Martine; and SJB FASHIONS, also believed to be an alias
 2 of Defendant Bertha Martine (collectively, the “Martines” or “Settling Defendants”)
 3 pursuant to the Lanham Act, 15 U.S.C. §1051, *et seq.*, as amended by the Trademark
 4 Counterfeiting Act of 1984, the Copyright Act, 17 U.S.C. §101, *et seq.* and under the
 5 laws of the State of California. In its Complaint, Plaintiff alleges that the Settling
 6 Defendants, without Cabi’s authorization or permission, have knowingly and
 7 willfully used, reproduced and/or copied, and infringed the Cabi Marks and Cabi
 8 Designs (as those terms are defined below) by distributing, offering to sell and re-
 9 selling in interstate commerce clothing, accessories and related products bearing the
 10 Cabi Marks and counterfeit Cabi Marks (“Unauthorized Products”).

11 The term “Cabi Marks” as used herein means all of the following:

TRADEMARK	REG./SER. NO.	REG./FILING DATE	CLASS
CABI and Design 	3226900	Apr. 10, 2007	25
Cabi	3192305	Jan. 2, 2007	25
CABI	3192304	Jan. 2, 2007	25, 35
CAROL ANDERSON BY INVITATION	3133821	Aug. 22, 2006	25
CAROL ANDERSON BY INVITATION	3495335	Sept. 2, 2008	35
CABI CANARY	3705314	Nov. 3, 2009	25
HEART OF CABI FOUNDATION	3527127	Nov. 4, 2008	36, 45
SCOOP	2965045	July 5, 2005	41
FASHION FRIENDS & FUN	85352589	June 22, 2011	25
FASHION FRIENDS AND FUN	3872658	Nov. 9, 2010	35
FRIENDS FASHION FUN	2942112	April 19, 2005	35
FRIENDS FASHION FUN	2957307	May 31, 2005	25
DO THE SHOWS WEAR THE CLOTHES AND PROPOSE	2959769	June 7, 2005	25

1 The term “CABi Designs” as used herein refers to all of the following copyright
2 registrations owned by CABi:

TITLE	REGISTRATION NO.
Spring 2010 Collection	PA0001690552
Fall 2008 Collection	VAu000993217
Spring 2006 Collection	VA0001351204
Fall 2006 Collection	VAu000738418
Spring 2008 Collection	VAu000968101
CABiOnline.com Spring 2011	VAu001065197
Fall 2007 Collection	VAu000749898
Spring 2007 Collection	VAu000738409
CabiOnline.com Spring 2010	VAu001020374
Fall 2009 Collection	VA0001697927

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16 Plaintiff and Settling Defendants have entered into a Settlement Agreement and
17 stipulated to entry of a Permanent Injunction and Final Judgment against the Settling
18 Defendants, and having indicated below their consent to the form and entry of this
19 Permanent Injunction and Final Judgment on Consent.

20 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

- 21 1. Settling Defendants, their agents, servants, employees, representatives,
22 confederates, affiliates and any other persons or entities acting in concert or
23 participation with them, are permanently enjoined and restrained from:
- 24 a. selling any CABi products, in any manner;
 - 25 b. using in any manner the CABi Marks, alone or in combination with
26 any word or words which so resemble each said trademark as to be likely to cause
27 confusion, or to cause mistake or to deceive on or in connection with the advertising,
28 offering for sale or re-sale, sale or re-sale of any product;

1 c. offering for sale any product which is substantially similar to any
2 of the CAbi Designs;

3 d. passing off, inducing, or enabling others to sell or pass off any
4 product for sale or re-sale under the CAbi Marks or which is substantially similar to
5 the CAbi Designs;

6 e. committing any acts calculated to cause purchasers to believe that
7 Settling Defendants are authorized, approved or connected with CAbi;

8 f. further diluting and infringing any of the CAbi Marks and
9 damaging CAbi's goodwill;

10 g. except as provided in paragraph 2 below, receiving, shipping,
11 delivering distributing, returning or otherwise disposing of, in any manner, products
12 or inventory which bear the CAbi Marks;

13 h. selling, re-selling, consigning or accepting for consignment,
14 donating or otherwise engaging in any form of business using, incorporating or
15 relating to the CAbi Marks, CAbi Designs, CAbi trade name or business; and

16 i. otherwise competing unfairly with CAbi.

17 2. That Settling Defendants be required within five days of service of this
18 Injunction to immediately deliver up to CAbi any and all remaining inventory in their
19 possession, custody or control bearing the CAbi Marks or which incorporate any of
20 the CAbi designs, along with a statement to CAbi confirming that they have complied
21 accordingly.

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1 IT IS FURTHER ORDERED, that this Court has jurisdiction over the parties,
2 and the subject matter of the action. This Court shall retain jurisdiction to the extent
3 necessary to enforce this Injunction and the Settlement Agreement between the
4 parties, and to determine any issues that may arise under either.

5 SO ORDERED.

6
7 Dated: May 10, 2012

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9 By: 

10
11 Hon. Consuelo B. Marshall
12 U.S. District Court, Central District of California

13 Respectfully submitted and approved as to form by:

14 Dated: May 3, 2012

15 EZRA BRUTZKUS GUBNER LLP

16
17 By: /s/ Jeffrey A. Kobulnick

18 Mark D. Brutzkus
19 J. Alison Grabell
20 Jeffrey A. Kobulnick
21 Attorneys for Plaintiff, CAbi, LLC

22 Dated: May 3, 2012

23 STETINA BRUNDA GARRED &
24 BRUCKER

25 By: /s/ Mark B. Garred

26 Mark B. Garred
27 Michael J. Zingale
28 Attorneys for Defendants Bertha
Martine, dba The CAbi Closet,
SMMBMM, SJB Fashions and Silas
Martine

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