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8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

10 FOREVER 21, INC., a Delaware
 corporation,
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 12 Plaintiff,
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 14 v.
 15 ULTIMATE OFFPRICE, INC., a
 California corporation,
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 17 Defendant.
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No.: CV 10-5485 ODW (JCGx)
**PRELIMINARY INJUNCTION
 ORDER**
 Complaint filed: July 23, 2010

REED SMITH LLP
 A limited liability partnership formed in the State of Delaware

1 Having reviewed the Stipulation to Issuance of Preliminary Injunction entered
 2 into between Plaintiff Forever 21, Inc. (“Forever 21”) and Defendant Ultimate
 3 OffPrice, Inc., (“Ultimate OffPrice”), and good cause appearing, the Court hereby
 4 finds as follows.

5 1. WHEREAS Forever 21 is the owner of numerous trademarks which it
 6 uses in connection with the manufacture, distribution, sale and promotion of a wide
 7 range of products, including clothing and accessories. Forever 21 owns all rights in
 8 and to a family of Forever 21 federally registered trademarks which include the
 9 following, among others (collectively, “FOREVER 21 Registered Marks”):

<u>Trademark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
FOREVER 21	2,583,457	June 18, 2002
FOREVER 21	2,836,546	April 27, 2004
FOREVER 21	2,913,132	December 21, 2004
FOREVER 21	2,067,637	June 3, 1997
XXI	2,873,174	August 17, 2004
XXI	2,914,810	December 28, 2004
XXI	2,842,184	May 18, 2004
HERITAGE 1981	3,447,097	June 10, 2008
FORLOVE21	3,140,565	September 5, 2006
FORLOVE21	3,140,561	September 5, 2006
LOVE & BEAUTY	3,794,963	May 25, 2010
LOVE 21	3,775,903	April 13, 2010
TWELVE BY TWELVE	3,518,050	October 14, 2008
FOREVER STATIONERY	3,689,946	September 29, 2009
FOREVER XXI	2,889,536	September 28, 2004
FOREVER XXI	2,940,346	April 12, 2005
FASHION 21	2,848,238	June 1, 2004

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2. WHEREAS Forever 21 also owns all rights in and to a family of Forever 21 common law trademarks which include the following (collectively, “FOREVER 21 Common Law Marks”):¹

Trademark

- TWENTY ONE and Bird Design
- XXI and Bird Design
- 21
- I ♥ H81
- F21
- HTG81
- FAITH 21
- I LOVE H81
- 2.1 DENIM
- LIFE IN PROGRESS
- JOY21
- PEACE 21
- 21 MEN
- TWENTYONE MEN
- SOPHIE & ME
- CEREAL

3. WHEREAS on July 23, 2010, Forever 21 filed its Complaint in this Civil Action No. CV10-5485 ODW (JCGx) against Ultimate OffPrice, alleging causes of action under § 32(1) of the Lanham Act (15 U.S.C. § 1114(1)) for infringement of

¹ All of Forever 21’s trademarks including the FOREVER 21 Registered Marks and the FOREVER 21 Common Law Marks are referred to collectively herein as “the FOREVER 21 Marks.”

1 federally registered trademarks, under § 43(c) of the Lanham Act (15 U.S.C. 1125(c))
2 and California Business & Professions Code § 14247 for dilution of federally
3 registered and common law trademarks, under § 43(a) of the Lanham Act (15 U.S.C. §
4 1125(a)) for unfair competition, and under the statutory and common law of the State
5 of California to enjoin Ultimate OffPrice’s current and prospective infringement and
6 dilution of the FOREVER 21 Marks and unfair competition, and to recover monetary
7 damages resulting from those actions.

8 4. WHEREAS on July 23, 2010, Forever 21 also filed a motion for
9 preliminary injunction seeking to enjoin Ultimate OffPrice from infringing the
10 FOREVER 21 Registered Marks and FOREVER 21 Common Law Marks
11 (collectively, “FOREVER 21 Marks”).

12 5. WHEREAS Forever 21 served the Complaint and preliminary injunction
13 motion papers on Ultimate OffPrice on July 30, 2010.

14 6. WHEREAS Ultimate OffPrice, having reviewed the papers and
15 evidentiary support submitted with Forever 21’s motion for preliminary injunction,
16 Ultimate OffPrice has agreed to stipulate to the issuance of a preliminary injunction
17 with respect to the matters referenced in the parties’ stipulation and the parties have
18 filed that stipulation agreeing to the issuance of such preliminary injunction.

19 7. WHEREAS Ultimate OffPrice admits that, without Forever 21’s
20 knowledge or consent, it purchased and sold in interstate commerce counterfeit and
21 non-genuine clothing products which displayed, infringed, and diluted the FOREVER
22 21 Marks.

23 8. WHEREAS the parties expressly waive any findings of fact, conclusions
24 of law, statement of decision and any right to notice or right to be heard in any matter
25 in connection with or arising out of the filing, rendition or entry of the Preliminary
26 Injunction Order on this Stipulation for Entry of Preliminary Injunction.

27 9. WHEREAS the parties agree that the preliminary injunction shall remain
28 in full force and effect through the final disposition of this action and that any right to

1 set aside the preliminary injunction, appeal therefrom or to otherwise attack its
2 validity is hereby waived.

3 NOW THEREFORE, IT IS HEREBY ORDERED THAT Ultimate OffPrice
4 and its agents, employees, officers, directors, owners, attorneys, representatives,
5 successor companies, related companies, and all persons acting in concert or
6 participation with it, and each of them, are, through the final disposition of this action,
7 PRELIMINARILY ENJOINED from:

8 a. The import, export, making, manufacture, reproduction, assembly,
9 use, acquisition, purchase, offer, sale, transfer, brokerage, consignment, distribution,
10 storage, shipment, licensing, development, display, delivery, marketing, advertising or
11 promotion of the counterfeit Forever 21 product identified in the Complaint and any
12 other unauthorized Forever 21 product (including any non-genuine reproduction,
13 counterfeit, copy or colorable imitation thereof).

14 b. The import, export, making, manufacture, reproduction, assembly,
15 use, acquisition, purchase, offer, sale, transfer, brokerage, consignment, distribution,
16 storage, shipment, licensing, development, display, delivery, marketing, advertising or
17 promotion of the infringing and diluting product identified in the Complaint and any
18 other product which infringes or dilutes any FOREVER 21 Mark, trade name and/or
19 trade dress including, but not limited to, any FOREVER 21 Mark at issue in this
20 action.

21 c. The unauthorized use, in any manner whatsoever, of any
22 Forever 21 trademark, trade name and/or trade dress including, but not limited to, the
23 FOREVER 21 Marks at issue in this action, any variants, colorable imitations,
24 translations and/or simulations thereof and/or any items that are confusingly similar
25 thereto, including specifically:

- 26 (i) on or in conjunction with any product or service; and
27 (ii) on or in conjunction with any advertising, promotional materials,
28 labels, hangtags, packaging, or containers.

1 d. The use of any trademark, trade name, or trade dress that falsely
2 represents, or is likely to confuse, mislead, or deceive purchasers, customers, or
3 members of the public to believe that unauthorized product imported, exported,
4 manufactured, reproduced, distributed, assembled, acquired, purchased, offered, sold,
5 transferred, brokered, consigned, distributed, stored, shipped, marketed, advertised
6 and/or promoted by Ultimate OffPrice originates from Forever 21, or that said
7 merchandise has been sponsored, approved, licensed by, or associated with Forever 21
8 or is, in some way, connected or affiliated with Forever 21.

9 e. Engaging in any conduct that falsely represents that, or is likely to
10 confuse, mislead, or deceive purchasers, customers, or members of the public to
11 believe that Ultimate OffPrice itself is connected with, or is in some way sponsored by
12 or affiliated with Forever 21, purchases product from or otherwise has a business
13 relationship with Forever 21.

14 f. Affixing, applying, annexing, or using in connection with the
15 manufacture, distribution, advertising, sale, and/or offering for sale or other use of any
16 goods, a false description or representation, including words or symbols, tending to
17 falsely describe or represent such goods as being those of Forever 21.

18 g. Hiding, disposing of, destroying, moving, relocating or transferring
19 any and all products, advertising, promotional materials, labels, hangtags, packaging
20 or containers bearing any of the FOREVER 21 Marks; and/or
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1 h. Disposing of, destroying, moving, relocating or transferring any
2 documents or things, including electronic records, pertaining to the purchase,
3 procurement, development, making, manufacture, use, display, advertisement,
4 marketing, licensing, sale, offer for sale, distribution, shipping, or delivery of any
5 products or services bearing any FOREVER 21 Mark or which otherwise refer or
6 relate to Forever 21 or any FOREVER 21 Mark.

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8 IT IS SO ORDERED.

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10 DATED: August 18, 2010



11 HONORABLE OTIS D. WRIGHT II
12 United States District Judge

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