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HELLS ANGELS MOTORCYCLE CORPORATION

10 OCT 25 PM 2:59  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

FILED

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7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11 CV10 8029 CBM (MANX)

12 HELLS ANGELS MOTORCYCLE  
CORPORATION,

Case No. \_\_\_\_\_

13 Plaintiff,

COMPLAINT FOR TRADEMARK  
14 INFRINGEMENT, UNFAIR  
15 COMPETITION AND  
TRADEMARK DILUTION  
(INJUNCTIVE RELIEF SOUGHT)

16 v.

17 ALEXANDER MCQUEEN  
TRADING LIMITED,  
SAKS INCORPORATED, and  
18 ZAPPOS RETAIL, INC.

19 Defendants.

20  
21 Plaintiff, HELLS ANGELS MOTORCYCLE CORPORATION, by and  
22 through its undersigned attorney, hereby complains as follows:

23 **JURISDICTION AND VENUE**

24 1. This action arises under the Trademark Act of 1946 (the Lanham Act), as  
25 amended by the Federal Trademark Dilution Act of 1995 (15 U.S.C. §§ 1051 *et seq.*).  
26 This court has jurisdiction over such claims pursuant to 28 U.S.C. § 1331 (federal  
27 question), 28 U.S.C. §§ 1338(a) and 1338(b) (trademark and unfair competition), and  
28 15 U.S.C. § 1121(a) (Lanham Act).





1 design as trademark and service mark.

2 11. Plaintiff's registrations for the HAMC Marks have become incontestible  
3 under 15 U.S.C. §1065. These registrations are, therefore, conclusive evidence of  
4 Plaintiff's exclusive right to use the HAMC Marks.

5 12. From decades of notoriety, the HAMC Marks have acquired very  
6 widespread public recognition, consequently they evoke strong and immediate  
7 reactions whenever used. The impact of these marks is virtually incomparable, and as  
8 a result they have great commercial value. Defendants seek to exploit that value for  
9 their own gain.

### 10 **DEFENDANTS' INFRINGING PRODUCTS**

11 13. Plaintiff HAMC is informed and believes that Defendants MCQUEEN,  
12 SAKS and ZAPPOS, and each of them, have in the past and continue to manufacture,  
13 source, market and/or sell jewelry, apparel and accessories that infringe and dilute the  
14 HAMC Marks (hereinafter the "infringing products").

15 14. In particular, Plaintiff HAMC is informed and believes that Defendants  
16 MCQUEEN, SAKS and ZAPPOS, and each of them, manufactures, sources, markets  
17 and/or sells jewelry designs that are confusingly similar to the HAMC Death Head  
18 mark. These infringing jewelry designs include, without limitation, the examples  
19 illustrated in Exhibit B, which are referred to therein as the "Hells Four-Finger Ring"  
20 design.

21 15. In particular, Plaintiff HAMC is informed and believes that Defendants  
22 MCQUEEN, SAKS and ZAPPOS, and each of them, manufactures, sources, markets  
23 and/or sells infringing handbags that employ the same design as the "Hells Four-  
24 Finger Ring" and also confusingly similar to the HAMC Death Head mark. These  
25 infringing handbags include, without limitation, the examples illustrated in Exhibit C,  
26 which are referred to therein as the "Hells Knuckle Duster" design.

27 16. In particular, Plaintiff HAMC is informed and believes that Defendants  
28 MCQUEEN, SAKS and ZAPPOS, and each of them, manufactures, sources, markets

1 and/or sells apparel and accessories named with the HELLS ANGELS word mark.  
2 These infringing items include, without limitation, the examples illustrated in Exhibit  
3 D, the “Hells Angels Jacquard Box Dress” and “Hells Angels Pashmina.”

4 17. Plaintiff HAMC is informed and believes that Defendants MCQUEEN,  
5 SAKS and ZAPPOS, and each of them, have produced, manufactured, designed,  
6 marketed, offered for sale and sold substantial quantities of products infringing the  
7 HAMC Marks, and have obtained and continue to obtain substantial profits from such  
8 sales.

9 18. The actions of Defendants MCQUEEN, SAKS and ZAPPOS, and each  
10 of them, have caused and will cause Plaintiff HAMC irreparable harm for which  
11 money damages and other remedies are inadequate. Unless Defendants, and each of  
12 them, are restrained by this Court, they will continue and/or expand the illegal  
13 activities alleged in this Complaint and otherwise continue to cause great and  
14 irreparable damage and injury to Plaintiff. Accordingly, in addition to other relief  
15 sought, Plaintiff HAMC is entitled to preliminary and permanent injunctive relief  
16 against Defendants MCQUEEN, SAKS and ZAPPOS, and all persons acting in  
17 concert with them.

18 **FIRST CLAIM**  
19 **Federal Trademark Infringement**  
20 **(Lanham Act § 32 – 15 U.S.C. §§ 1114-1117)**

21 19. Plaintiff HAMC realleges and incorporates by reference each of the  
22 allegations contained in paragraphs 1 through 18 of this Complaint.

23 20. Without consent of Plaintiff HAMC, Defendants MCQUEEN, SAKS  
24 and ZAPPOS, and each of them, have used, in connection with the sale, offering for  
25 sale, distribution or advertising of the infringing products, designs that infringe upon  
26 the HAMC Marks.

27 21. These acts of infringement have been committed with the intent to cause  
28 confusion, mistake or deception, and are in violation of 15 U.S.C. § 1114.

22. As a direct and proximate result of the infringing activities of Defendants

1 MCQUEEN, SAKS and ZAPPOS, and each of them, Plaintiff HAMC has suffered  
2 substantial damage.

3 23. Defendants' infringement of the HAMC Marks as alleged herein is an  
4 exceptional case and was intentional, entitling Plaintiff HAMC to treble the actual  
5 damages and to an award of attorneys' fees under 15 U.S.C. §§ 1117(a) and 1117(b).

6 **SECOND CLAIM**  
7 **Federal Unfair Competition**  
8 **(Lanham Act § 43(a) – 15 U.S.C. § 1125(a))**

9 24. Plaintiff HAMC realleges and incorporates by reference each of the  
10 allegations contained in paragraphs 1 through 23 of this Complaint.

11 25. Defendants' conduct constitutes the use of words, symbols or devices  
12 tending falsely to describe the infringing products, within the meaning of 15 U.S.C. §  
13 1125(a)(1). Defendants' conduct is likely to cause confusion, mistake, or deception  
14 by or in the public as to the affiliation, connection, association, origin, sponsorship or  
15 approval of the infringing products to the detriment of Plaintiff HAMC and in  
16 violation of 15 U.S.C. § 1125(a)(1).

17 26. As a direct and proximate result of the infringing activities of Defendants  
18 MCQUEEN, SAKS and ZAPPOS, and each of them, Plaintiff HAMC has suffered  
19 substantial damage.

20 **THIRD CLAIM**  
21 **Federal Dilution of Famous Mark**  
22 **(Federal Trademark Dilution Act of 1995)**  
23 **(Lanham Act § 43(c) – 15 U.S.C. § 1125(c))**

24 27. Plaintiff HAMC realleges and incorporates by reference each of the  
25 allegations contained in paragraphs 1 through 26 of this Complaint.

26 28. The HAMC Marks are distinctive and famous within the meaning of the  
27 Federal Trademark Dilution Act of 1995, 15 U.S.C. § 1125(c), as amended.

28 29. Defendants' activities have diluted or are likely to dilute the distinctive  
quality of the HAMC Marks in violation of 15 U.S.C. § 1125(c), as amended.

30. Plaintiff HAMC is entitled to injunctive relief pursuant to 15 U.S.C. §

1 1125(c).

2 31. Because Defendants willfully intended to trade on Plaintiff HAMC's  
3 reputation or to cause dilution of the HAMC Marks, Plaintiff HAMC is entitled to  
4 damages, extraordinary damages, fees and costs pursuant to 15 U.S.C. § 1125(c)(2).

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff HAMC prays that this Court grant it the following  
7 relief:

8 a.) Adjudge that the HAMC Marks have been infringed by Defendants in  
9 violation of the rights of Plaintiff HAMC under 15 U.S.C. § 1114;

10 b.) Adjudge that Defendants have competed unfairly with Plaintiff HAMC  
11 in violation of its rights under 15 U.S.C. § 1125(a);

12 c.) Adjudge that Defendants' activities are likely to, or have, diluted the  
13 famous HAMC Marks in violation of the rights of Plaintiff HAMC under 15 U.S.C. §  
14 1125(c);

15 d.) Adjudge that Defendants, their subsidiaries, parent and affiliated  
16 companies, successors, assigns, agents, and employees, and all others acting for, with,  
17 by, through or in concert with Defendants, shall be enjoined and restrained at first  
18 during the pendency of this action and thereafter permanently from using the HELLS  
19 ANGELS word mark, the HAMC Death Head design mark, and any other mark,  
20 word, name or symbol that is likely to cause confusion with, or cause dilution of, the  
21 HAMC Marks;

22 e.) Adjudge that Defendants be required immediately to recall and sequester  
23 their inventories of the infringing products, and to supply an accounting of such  
24 inventories to Plaintiff HAMC's counsel;

25 f.) Adjudge that Defendants be required to deliver their entire inventories of  
26 the infringing products to a mutually selected third party for supervised destruction;

27 g.) Adjudge that Defendants, within thirty (30) days after service of the  
28 judgment demanded herein, be required to file with this Court and serve upon counsel

1 for Plaintiff HAMC a written report under oath setting forth in detail the manner in  
2 which they have complied with the judgment;

3 h.) Adjudge that Plaintiff HAMC recover from Defendants its damages in  
4 an amount to be proven at trial;

5 i.) Adjudge that Defendants be required to account for any profits that are  
6 attributable to its illegal acts, and that Plaintiff HAMC be awarded three times  
7 Defendants' profits under 15 U.S.C. § 1117, plus prejudgment interest;

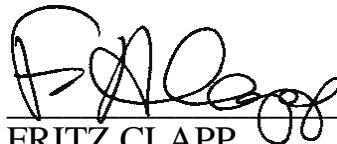
8 j.) Order an accounting of and impose a constructive trust on all of  
9 Defendants' funds and assets that arise out of Defendants' infringing activities;

10 k.) Adjudge that Defendants be required to pay exemplary damages for  
11 fraud, malice and gross negligence, whether grounded on proof of actual damages or  
12 on proof of unjust enrichment;

13 l.) Adjudge that Plaintiff HAMC be awarded the costs of this action,  
14 together with reasonable attorney's fees and disbursements; and

15 m.) Adjudge that all such other and further relief be awarded to Plaintiff  
16 HAMC as the Court deems just and equitable.



17 Dated: October 25, 2010

18 

19 \_\_\_\_\_  
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21 Attorney at Law  
22 P.O. Box 2517  
23 Beverly Hills, CA 90213  
24 Telephone: 888-292-5784  
25 Facsimile: 888-467-2341  
26 Email: <mail@fritzclapp.com>  
27 Attorney for Plaintiff HELLS ANGELS  
28 MOTORCYCLE CORPORATION



## HAMC MARKS

<i>Mark</i>	<i>Goods/Services [Int. Class]</i>	<i>Reg. No.</i>
<b>HELLS ANGELS</b>	Membership in an association of motorcyclists [200]	1,214,476
	T-shirts; entertainment services, namely, arranging and conducting concerts for the benefit of others [025, 041]	1,294,586
	Posters, calendars and adhesive labels [016]	1,943,341
	Belt buckles, embroidered and cloth patches [026]	3,338,837
	Jewelry, jewelry pins, clocks and watches, earrings, key rings made of precious metal, badges made of precious metal, and chains made of precious metal [014]; Books, booklets and newspapers concerning motorcycle clubs; posters, calendars and adhesive labels [016]; Shirts, t-shirts, pullovers, jackets, sweaters, sweat pants, trousers, vests, caps with visors, headwear and footwear [025]; Belt buckles, ornamental novelty badges, ornamental cloth patches and embroidered patches for clothing [026]; Entertainment services, namely, arranging and conducting concerts, parties, rallies and special events [041]	3,666,915
	Membership in a motorcycle club [200]	2,588,116
	Embroidered patches for clothing; ornamental cloth patches; belt buckles [026]	3,311,549
	Clocks; pins and rings [014]	3,311,550
	Jewelry, jewelry pins, clocks and watches, earrings, key rings made of precious metal, badges made of precious metal, and chains made of precious metal [014]; Books, booklets and newspapers concerning motorcycle clubs; posters, calendars and adhesive labels [016]; Shirts, t-shirts, pullovers, jackets, sweaters, sweat pants, trousers, vests, caps with visors, headwear and footwear [025]; Belt buckles, ornamental novelty badges, ornamental cloth patches and embroidered patches for clothing [026]; Entertainment services, namely, arranging and conducting concerts, parties, rallies and special events [041]	3,666,916
	Membership in a motorcycle club [200]	1,301,050

## EXHIBIT A



**Alexander McQueen  
Hells Four-Finger Ring/Gold**

A winged skull adorns all four fingers for a dramatic, eye-catching statement.

- Brass
- Crystal
- Length, about 3½"
- Width, about 1¼"
- Made in Italy

**\$495.00**    0401685109840



**Alexander McQueen  
Hells Four-Finger Ring/Silver**

A winged skull design adorns each knuckle for a signature, modern update of a typical ring.

- Brass
- Jet crystal
- Length, about 3 ½"
- Width, about 1 ¼"
- Made in Italy

**\$495.00**    0401685109727

***EXHIBIT B***

ALEXANDER  
MCQUEEN

SKU# 7709386 \$2329.00  
Sold by Zappos Retail, Inc.

Size: One Size

Color: Black



[ + Add To My Favorites ]

[ In Stock? ]



multiview

Alexander McQueen  
253132FSP0G Hell's Knuckle Duster



***EXHIBIT C***

Dresses 11 of 29

< PREVIOUS NEXT >

ZOOM IN



RESET

**HELLS ANGELS  
JACQUARD BOX  
DRESS**

804072485

\$1,595.00

extra-fine merino wool  
and silk blend jacquard  
knit box shaped dress  
51% wool, 49% silk

COLOR / MATERIAL

BLACK/IVORY/RED

XS

CLASSICS FASHION SCARVES

Fashion Scarves 5 of 13

< PREVIOUS NEXT >

ZOOM IN



RESET

**HELLS ANGELS  
PASHMINA**

804077579

\$560.00

black and ivory hell's  
angels printed pashmina

COLOR / MATERIAL

BLACK/LIGHT GREY

ADD ITEM TO BAG

ADD TO WISH LIST

PRINT DETAILS

SEND TO A FRIEND

**EXHIBIT D**

FRITZ CLAPP, ESQ. (Bar No. 99197)  
P.O. Box 2517  
Beverly Hills, CA 90213  
Telephone: (888) 292-5784  
Facsimile: (888) 467-2341

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

HELLS ANGELS MOTORCYCLE CORPORATION

CASE NUMBER

PLAINTIFF(S)

CV10 8029 CBM (HAW)

v.

ALEXANDER MCQUEEN TRADING LIMITED,  
SAKS INCORPORATED, and  
ZAPPOS RETAIL, INC.,

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): \_\_\_\_\_

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint  \_\_\_\_\_ amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, FRITZ CLAPP, ESQ., whose address is P.O. Box 2517, Beverly Hills, CA 90213. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

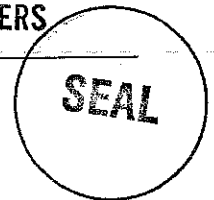
OCT 25 2010

Dated: \_\_\_\_\_

By: CHRISTOPHER POWERS

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].