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FILED: 2/14/11

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

GIVENCHY S.A.
Plaintiff,
v.
BCBG MAX AZRIA GROUP, INC.
Defendants.

CASE NO. CV 10-8394 GHK (SHx)
**ORDER RE: SUMMARY
JUDGMENT MOTIONS**

A deadline for dispositive motions has been set in the above-captioned case. Any motion(s) for summary judgment **SHALL** comply with all Federal and Local Rules, as well as this Order. Please be advised that this Order contains requirements more specific than the Local and Federal Rules.

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1 1. LOCAL RULE 7-3 CONFERENCE: The parties shall meet and confer, in
2 person, in order to narrow and crystallize the issues to be argued in any summary
3 judgment motion(s). The parties shall discuss *each issue* to be raised in the motion(s), as
4 well as the law and evidence relevant to that issue, so that the parties' briefing may reflect
5 that they are fully cognizant of the other side's position. If the briefing reveals that the
6 parties are not on the same page with respect to the issues and positions presented, the
7 motion(s) shall be stricken.

8 2. TIMING: The motion(s) shall be properly noticed under the Local Rules, *see*
9 L.R. 6-1, and filed by the deadline set in the Scheduling Order, but in no event less than
10 twenty days after the 7-3 conference has taken place. *See* L.R. 7-3.

11 3. JOINT BRIEF: The parties shall work cooperatively to create a single, *fully*
12 *integrated* joint brief covering all parties' summary judgment motions, in which each
13 issue (or sub-issue) raised by a party is immediately followed by the opposing
14 party's/parties' response. The joint brief shall set out each issue (or sub-issue), including
15 legal argument and direct citation to evidence (*i.e.*, not simply to the statement of
16 undisputed and disputed facts), followed, seriatim, by the response with respect to that
17 issue (or sub-issue), including legal argument and direct citation to evidence.

18 4. CITATION TO EVIDENCE: All citation to evidence in the joint brief shall be
19 directly to the exhibit and page number(s) of the evidentiary appendix, (*see infra* ¶ 7), or
20 page and line number(s) of a deposition. Parenthetical explanations are encouraged. The
21 parties shall cite to relevant evidence to support factual assertions throughout the joint
22 brief. Failure to cite evidence to support a factual assertion shall be deemed the party's
23 admission that the party lacks evidence of that fact. Evidence not cited by a party in the
24 joint brief shall be deemed admitted to be irrelevant.

25 5. UNNECESSARY SECTIONS: Because we are familiar with the basic facts of
26 our cases, the parties need include neither a 'statement of the facts' section, nor a
27 'procedural history' section. We are also familiar with the general standard for summary
28 judgment, so that need not be argued, but if a party believes a specialized standard is

1 applicable they may brief such a standard. If preliminary issues—such as burden of proof,
2 standard of review, or choice of law—are at issue, however, the parties shall brief such
3 issues in accordance with ¶ 3, *supra*.

4 6. PAGE LIMITATION: Each separately-represented party shall be limited to
5 twenty-five pages, exclusive of tables of contents and authorities. Repetition shall be
6 avoided, and, as always, brevity is preferred. Leave for additional space will be given
7 only in extraordinary cases. The excessive use of footnotes in an attempt to avoid the
8 page limitation shall not be tolerated. All substantive material, other than brief argument
9 on tangential issues, shall be in the body of the brief.

10 7. EVIDENTIARY APPENDIX: The joint brief shall be accompanied by one
11 separate, tabbed appendix¹ of all *admissible* evidence relied upon by any party, including
12 declarations and documentary evidence. Declarations shall be of *admissible* evidence, and
13 shall *not* contain argument. L.R. 7-7. Depositions, *see* L.R. 32-1, and physical exhibits
14 shall be lodged separately. The evidentiary appendix shall include a table of contents.

15 8. EVIDENTIARY OBJECTIONS: All necessary evidentiary objections shall be
16 made in the relevant section(s) of the joint brief.

17 9. JOINT APPENDIX OF UNDISPUTED AND DISPUTED FACTS: The joint
18 brief shall also be accompanied by a joint appendix of undisputed and disputed facts. The
19 14-point font requirement of Local Rule 11-3.1.1 is waived for the purposes of this factual
20 appendix only. In order to avoid a Notice of Document Discrepancy, this appendix shall
21 be entitled “Statement of Uncontroverted Facts.” *See* L.R. 56-1. This appendix shall
22 consist of a five column table:

23 a. The first column shall contain the number of the fact alleged by a
24 party to be undisputed. All asserted undisputed facts shall be sequentially
25 numbered, but shall be divided into sections clearly denoting which party is
26 asserting the undisputed fact (*e.g.*, D1, D2, . . . , P51, P52, . . .). Facts agreed
27

28 ¹A large appendix may be divided into multiple volumes.

1 to be undisputed need not be reasserted in later sections.

2 b. The second column shall contain a plain statement of the fact.
3 *Facts shall not be compound.* If, for instance, the required response is that
4 the fact is disputed *in part*, the fact is compound. Furthermore, neither legal
5 arguments nor conclusions constitute facts.

6 c. The third column shall contain citation to admissible evidence the
7 party believes supports that fact. If multiple pieces of evidence are cited,
8 parenthetical explanations of the nature and relevance of each piece of
9 evidence shall be included.

10 d. The fourth column shall contain the opposing party's/parties'
11 response to the asserted undisputed fact. The following are the only
12 appropriate responses: (1) "Undisputed"; (2) "Disputed," along with a *brief*
13 explanation of the dispute (*e.g.*, "unsupported by admissible evidence," or
14 "conflicting evidence presented"). Legal argument is not an appropriate
15 response. *See* L.R. 11-7.

16 e. The fifth column shall contain citation to admissible evidence
17 supporting the party's/parties' assertion of the dispute. If multiple pieces of
18 evidence are cited, parenthetical explanations of the nature and relevance of
19 each piece of evidence shall be included. If the party does not dispute the
20 fact, or simply disputes the sufficiency of the asserting party's evidence, no
21 citation is necessary.

22 10. FAILURE TO PROPERLY DISPUTE A FACT: A party's failure to properly
23 dispute any fact asserted to be undisputed by the opposing side shall result in our deeming
24 that fact established for the purposes of resolving the motion(s). *See* L.R. 56-3.

25 11. FAILURE TO COMPLY WITH THIS ORDER: If it appears from the joint
26 brief that the parties have not discharged their Local Rule 7-3 obligations in good faith,
27 that the parties have not worked to fully integrate the document, or that the parties have
28 otherwise failed to fully comply with this Order, the motion(s) shall be stricken, and the

1 parties shall be required to repeat the process. If it appears that a party is/some parties are
2 primarily responsible for the parties' failure to properly file an adequate joint brief, that
3 party/those parties shall be subject to appropriate sanctions.

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5 **IT IS SO ORDERED.**

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7 DATED: This 14th Day of February, 2011.

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11 _____
12 GEORGE H. KING
13 United States District Judge
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