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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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9 bebe stores, inc. and bebe studio, inc.

MJJ

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

C 07 00357
Case No. _____

12 bebe stores, inc., a California corporation; and
13 bebe studio, inc., a California corporation,

14 Plaintiffs,

15 vs.

16 forever 21, Inc., a Delaware corporation;
17 forever 21 Retail, Inc., a California
18 corporation; forever 21 Logistics, LLC, a
19 Delaware limited liability company; and
20 forever XXI, Inc., a California corporation,

21 Defendants.

COMPLAINT FOR COPYRIGHT
INFRINGEMENT, UNFAIR
COMPETITION AND TORTIOUS
INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE

DEMAND FOR JURY TRIAL

22 Plaintiffs, bebe stores, inc. and bebe studio, inc. (collectively, "bebe"), complain in
23 this action against forever 21, Inc., forever 21 Retail, Inc., forever 21 Logistics, LLC, and
24 forever XXI, Inc. as follows:

25 PARTIES

26 1. bebe stores, inc. is a corporation organized and existing under the laws of
27 the State of California, with its principal place of business at 400 Valley Drive, Brisbane,
28 California 94005.

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1 in this Court pursuant to 28 U.S.C. §§ 1331 and 1338. Supplemental jurisdiction for the
2 claims of unfair competition and tortious interference with prospective economic
3 advantage is proper in this Court pursuant to 28 U.S.C. § 1367 because these claims form
4 part of the same case or controversy as the claim for copyright infringement.

5 9. General and specific personal jurisdiction are proper over forever 21 in this
6 District because of forever 21’s (a) pervasive and systematic business activity within the
7 District, (b) sales of the infringing articles within the District, and (c) knowing harm of
8 bebe in this District by knowing placement of infringing articles into the stream of
9 commerce for sale within this District and by engaging in unfair competition and tortious
10 interference with prospective economic advantage in this District.

11 10. Venue is proper in this District pursuant to 28 U.S.C. § 1400(A).

12 **INTRA-DISTRICT ASSIGNMENT**

13 11. Because this action is an Intellectual Property Action within the meaning of
14 Civil Local Rule 3-2(C), the action is to be assigned on a District-wide basis.

15 **FACTUAL BACKGROUND**

16 12. bebe owns United States Copyright Registration No. VA 1-385-194, which
17 is dated November 28, 2006, covers a print design on fabric, and is entitled “Tulip Field.”
18 A copy of Registration No. VA 1-385-194, with deposit depicting the claimed design, is
19 attached hereto as Exhibit A.

20 13. bebe owns United States Copyright Registration No. VA 1-385-195, which
21 is dated November 28, 2006, covers a print design on fabric, and is entitled “Wavy
22 Tulip.” A copy of Registration No. VA 1-385-195, with deposit depicting the claimed
23 design, is attached hereto as Exhibit B.

24 14. bebe owns United States Copyright Registration No. VA 1-385-192, which
25 is dated November 28, 2006, covers a print design on fabric, and is entitled “Conna.” A
26 copy of Registration No. VA 1-385-192, with deposit depicting the claimed design, is
27 attached hereto as Exhibit C.

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1 15. bebe owns United States Copyright Registration No. VA 1-385-197, which
2 is dated November 28, 2006, covers a design utilized on clothing, and is entitled
3 "Eyelet." A copy of Registration No. VA 1-385-197, with deposit depicting the claimed
4 design, is attached hereto as Exhibit D.

5 16. bebe owns United States Copyright Registration No. VA 1-363-651, which
6 is dated May 25, 2006, covers a design utilized on clothing and is entitled "Sequin Bead
7 Floral V-Neck Cami." A copy of Registration No. VA 1-363-651, with deposit depicting
8 the claimed design, is attached hereto as Exhibit E.

9 17. bebe owns United States Copyright Registration No. VA 1-363-650, which
10 is dated May 25, 2006, covers a design utilized on clothing, and is entitled "Sequin Bead
11 Floral Front V-Neck Cami." A copy of Registration No. VA 1-363-650, with deposit
12 depicting the claimed design, is attached hereto as Exhibit F.

13 18. bebe owns United States Copyright Registration No. VA 1-385-196, which
14 is dated November 28, 2006, covers a print design on fabric, and is entitled "Tilla." A
15 copy of Registration No. VA 1-385-196, with deposit depicting the claimed design, is
16 attached hereto as Exhibit G.

17 19. bebe owns United States Copyright Registration No. VA 1-385-193, which
18 is dated November 28, 2006, covers a print design on fabric, and is entitled "Modern
19 Indochine." A copy of Registration No. VA 1-385-193, with deposit depicting the
20 claimed design, is attached hereto as Exhibit H.

21 20. Founded in 1976, bebe designs, develops and produces a distinctive line of
22 contemporary women's apparel and accessories, which it markets under the "bebe,"
23 "BEBE SPORT," and "bebe O" brand names. bebe currently operates 244 stores, of
24 which 184 are bebe stores, 20 are bebe outlet stores and 40 are bebe SPORT stores.
25 These stores are located in the United States, Puerto Rico and Canada, with additional
26 licensed stores in Greece, Israel, Thailand and Singapore. In addition, bebe operates an
27 on-line store at www.bebe.com.
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1 21. bebe’s target customers are women between the ages of 21 and 35 who seek
2 current fashion trends interpreted to suit their needs. The “bebe look” with that signature
3 hint of sensuality, appeals to the hip, sophisticated and body conscious woman who takes
4 pride in her appearance. Celebrities are among bebe’s fashionable clientele list. They
5 include Alicia Keys, Britney Spears, Destiny’s Child, Ciara, Eva Longoria, Paris Hilton,
6 Shakira, Virginia Madsen, Gabrielle Union, Jennifer Lopez and Mischa Barton.

7 22. Upon information and belief, forever 21 was originally founded as
8 “FASHION 21” many years after bebe had already established itself as a fashion
9 trendsetter. Eventually, “FASHION 21” changed its name to “forever 21,” and as part of
10 its name change, forever 21 even changed the look of its name by abandoning the use of
11 all capital letters and copying the hip and sophisticated, all lower case lettering that bebe
12 had been using since 1976. As an example, the upper left-hand corner of forever 21’s
13 website at www.forever21.com shows forever 21’s prominent use of all lower case letters
14 in its name.

15 23. Furthermore, as its name suggests, forever 21 targets the same young
16 customers that bebe targets. For example, forever 21’s website states on its “frequently
17 asked questions” or “FAQ’s” webpage at <http://www.forever21.com/forever/faq.asp> that
18 its target customers are “young [female] customers” as well as those women who are
19 “young at heart.”

20 24. bebe sold the designs identified in paragraphs 12-19 above (“Copyrighted
21 Designs”) as part of its line of apparel in its retail stores. bebe’s Copyrighted Designs
22 were part of bebe-branded garments sold in bebe stores throughout the United States,
23 internationally, and at www.bebe.com.

24 25. Not only did forever 21 copy the hip and sophisticated, all lower case
25 lettering style of bebe’s name, but in or about 2006, bebe became aware of forever 21’s
26 sale of garments (“Infringing Garments”) bearing designs (“Knock-Off Designs”) that
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1 were identical or virtually identical to bebe’s Copyrighted Designs on garments sold by
2 bebe.

3 26. forever 21’s Knock-Off Designs were placed on garments sold by forever
4 21 and are identical, virtually identical, substantially similar and/or strikingly similar to
5 bebe’s Copyrighted Designs that are the subject of bebe’s copyright registrations
6 identified in paragraphs 12-19 above. The following subparagraphs compare bebe’s
7 Copyrighted Designs on its garments to forever 21’s Knock-Off Designs on the
8 Infringing Garments:

9 a. As shown in Exhibit I, bebe sells a Smocked Tie Strap Dress with
10 the copyrighted and registered “Tulip Field” design, as identified previously in paragraph
11 12 above and in Exhibit A, and forever 21 sells a “DRESS/SHRT
12 LNGTH/DRS/SLVLS/N/A/” with an identical, virtually identical, substantially similar
13 and/or strikingly similar design.

14 b. As shown in Exhibit J, bebe sells a Kimono Dress with the
15 copyrighted and registered “Wavy Tulip” design, as identified previously in paragraph 13
16 above and in Exhibit B, and forever 21 sells a “SHRT LNGHT DRS/3/BLACK/WHITE”
17 with an identical, virtually identical, substantially similar and/or strikingly similar design.

18 c. As shown in Exhibit K, bebe sells a Cap Sleeve Amanda with the
19 copyrighted and registered “Conna” design, as identified previously in paragraph 14
20 above and in Exhibit C, and forever 21 sells a “WOVEN TOP/WOVEN
21 SHIRT/SSLV/N/A/” with an identical, virtually identical, substantially similar and/or
22 strikingly similar design.

23 d. As shown in Exhibit L, bebe sells an Embroidered Eyelet Top With
24 Belt with the copyrighted “Eyelet” design, as identified previously in paragraph 15 above
25 and in Exhibit D, and forever 21 sells a “WOVEN TOP/SLVLS/RED/TAUPE” with an
26 identical, virtually identical, substantially similar and/or strikingly similar design.

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1 e. As shown in Exhibit M, bebe sells a V Detailed Beaded Cami with
2 the copyrighted "Sequin Floral Front V Neck Cami" design, as identified previously in
3 paragraph 16 above and in Exhibit E, and forever 21 sells a "WOVEN TOP/WOVEN
4 TOP/SPAGHETTI/N/A" with an identical, virtually identical, substantially similar and/or
5 strikingly similar design.

6 f. As shown in Exhibit N, bebe sells a V Neck Beaded Cami Tank with
7 the copyrighted "Sequin Bead Floral V Neck Cami" design, as identified previously in
8 paragraph 17 above and in Exhibit F, and forever 21 sells a "WOVEN TOP/WOVEN
9 TOP/SPAGHETTI/N/A" with an identical, virtually identical, substantially similar and/or
10 strikingly similar design.

11 g. As shown in Exhibit O, bebe sells a Print Kimono With Solid Border
12 with the copyrighted "Tilla" design, as identified previously in paragraph 18 above and in
13 Exhibit G, and forever 21 sells a "WOVEN TOP/HALTER/TAUPE/BLACK/RED" with
14 an identical, virtually identical, substantially similar and/or strikingly similar design.

15 h. As shown in Exhibit P, bebe sells a Print Kimono With Solid Border
16 with the copyrighted and registered "Modern Indochine" design, as identified previously
17 in paragraph 19 above and in Exhibit H, and forever 21 sells a "WOVEN
18 TOP/CAPSLV/BLACK./RED/ORANGE" with an identical, virtually identical,
19 substantially similar and/or strikingly similar design.

20 27. bebe also sold other garments having other custom designs ("Custom
21 Designs") that were similarly part of bebe's line of apparel in its retail stores throughout
22 the United States. bebe's Custom Designs were part of bebe-branded garments sold in
23 bebe stores throughout the United States, internationally, and at www.bebe.com.

24 28. Also in or about 2006, bebe became aware of forever 21's sale of additional
25 Infringing Garments bearing other Knock-Off Designs that were identical or virtually
26 identical to bebe's Custom Designs on garments sold by bebe.
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1 29. The Knock-Off Designs of the Infringing Garments sold by forever 21 were
2 placed on garments and are identical, virtually identical, substantially similar and/or
3 strikingly similar to bebe’s Custom Designs. The following subparagraphs compare
4 bebe’s Custom Designs to forever 21’s Knock-Off Designs on the Infringing Garments:

5 a. As shown in Exhibit Q, bebe sells a Printed Full Tie Skirt with the
6 custom “Vivienne” design, and forever 21 sells a “KNEE LNIGHT
7 SKIRT/BLACK/WHITE/AQUA” with an identical, virtually identical, substantially
8 similar and/or strikingly similar design.

9 b. As shown in Exhibit R, bebe sells a Panel Cut Out Zebra Cami with
10 the custom “Panel Cut Out Zebra” design, and forever 21 sells a “WOVEN
11 TOP/SPAGHE/BLACK/WHITE” with an identical, virtually identical, substantially
12 similar and/or strikingly similar design.

13 c. As shown in Exhibit S, bebe sells a Smocked Tie Strap Dress with
14 the custom “Coba” design, and forever 21 sells a “DRESS KNEE
15 LNIGHT/DRS/SLVLS/N/A” with an identical, virtually identical, substantially similar
16 and/or strikingly similar design.

17 d. As shown in Exhibit T, bebe sells a Asprin Polka Dot Dress with the
18 custom “Polka Dot / Solid Style” design, and forever 21 sells a “DRESS KNEE
19 LNIGHT/DRS/SSLVLS/N/A” with an identical, virtually identical, substantially similar
20 and/or strikingly similar design.

21 e. As shown in Exhibit U, bebe sells a Lace Sleeve Pin Tuck Bib Shirt
22 with the custom “Bib” design, and forever 21 sells a “WOVEN TOP/CAPSLV” with an
23 identical, virtually identical, substantially similar and/or strikingly similar design.

24 f. As shown in Exhibit V, bebe sells a Stripe Shirt Vest Short Sleeve
25 with the custom “Stripe / Solid” design, and forever 21 sells a WOVEN TOP/WOVEN
26 TOP/3QSLV/N/A with an identical, virtually identical, substantially similar and/or
27 strikingly similar design.

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1 g. As shown in Exhibit W, bebe sells a Ruched Bustier with Bows with
2 the custom "Ruched Bustier" design, and forever 21 sells a "WOVEN TOP/WOVEN
3 TOP/SLVLS/N/A" with an identical, virtually identical, substantially similar and/or
4 strikingly similar design.

5 h. As shown in Exhibit X, bebe sells a Smocked Rose Belt with the
6 custom "Rose" design, and forever 21 sells a "BELT Black/Silver" with an identical,
7 virtually identical, substantially similar and/or strikingly similar design.

8 i. As shown in Exhibit Y, bebe sells a Crossover Cami with Panels
9 with the custom "Panel" design, and forever 21 sells a "WOVEN TOP/WOVEN
10 TOP/SPAGHETTI/N/A" with an identical, virtually identical, substantially similar and/or
11 strikingly similar design.

12 j. As shown in Exhibit Z, bebe sells a Matte/Shiny V-Neck Blouson
13 with the custom "Matte/Shiny V-Neck" design, and forever 21 sells a "WOVEN
14 TOP/WOVEN TOP/SPAGHETTI/N/A" with an identical, virtually identical,
15 substantially similar and/or strikingly similar design.

16 k. As shown in Exhibit AA, bebe sells a Twist Neck & Strap Top with
17 the custom "Twist Neck & Strap" design, and forever 21 sells a
18 "WOVENTOP/SPAGHE/AQUA" with an identical, virtually identical, substantially
19 similar and/or strikingly similar design.

20 l. As shown in Exhibit BB, bebe sells a Cowl Neck Ruched Body
21 Halter with the custom "Cowl Neck Ruched Body" design, and forever 21 sells a KNIT
22 TOP/HALTER/CREAM with an identical, virtually identical, substantially similar and/or
23 strikingly similar design.

24 m. As shown in Exhibit CC, bebe sells a V-Neck Halter Top with Band
25 with the custom "V-Neck and Band" design, and forever 21 sells a "WOVEN
26 TOP/HALTER/BLACK/PINK" with an identical, virtually identical, substantially similar
27 and/or strikingly similar design.
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1 n. As shown in Exhibit DD, bebe sells a Dip Dye Cami with the
2 custom "Dip Dye" design, and forever 21 sells a "WOVENTOP/WOVEN
3 TOP/SPAGHETTI/N/A/CREAM/PINK/HOT PINK" with an identical, virtually
4 identical, substantially similar and/or strikingly similar design.

5 o. As shown in Exhibit EE, bebe sells a Raw Trim X Front Halter with
6 the custom "Raw Trim X" design, and forever 21 sells a "WOVEN TOP/WOVEN
7 TOP/HALTER/N/A" with an identical, virtually identical, substantially similar and/or
8 strikingly similar design.

9 p. As shown in Exhibit FF, bebe sells a Fold Up Cuff 2Fer with the
10 custom "Woven Basket" design, and forever 21 sells a "WOVEN
11 TOP/3QSLV/BLACK/CREAM" with an identical, virtually identical, substantially
12 similar and/or strikingly similar design.

13 q. As shown in Exhibit GG, bebe sells a Cami with Charmeuse with the
14 custom "Charmeuse" design, and forever 21 sells a "SWEATER/SWTR
15 TOP/SPAGHETTI/N/A" with an identical, virtually identical, substantially similar and/or
16 strikingly similar design.

17 r. As shown in Exhibit HH, bebe sells a Knit Tank with Bow with the
18 custom "Knit and Bow" design, and forever 21 sells a "KNIT TOP/KNI
19 TOP/SPAGHETTI/N/A" with an identical, virtually identical, substantially similar and/or
20 strikingly similar design.

21 s. As shown in Exhibit II, bebe sells a Print Tube Top with the custom
22 "Sunflower Peck" design, and forever 21 sells a "KNIT TOP/TUBE/BLACK/CRÈME"
23 with an identical, virtually identical, substantially similar and/or strikingly similar design.

24 t. As shown in Exhibit JJ, bebe sells a red Print Kimono With Print
25 Border with the custom "Modern Indochine" design and the custom "Tilla" design, and
26 forever 21 sells a "WOVEN TOP/CAPSLV/BLACK/RED/ORANGE" with an identical,
27 virtually identical, substantially similar and/or strikingly similar design.
28