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 12 Bridget Brown and Bella Bridesmaid, LLC

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA

15 BRIDGET BROWN and BELLA
 16 BRIDESMAID, LLC,

17 Plaintiffs,

18 vs.

19 YVONNE YOUNG,

20 Defendant.

Case No.:

C11-02517 HRL

**COMPLAINT FOR TRADEMARK
 INFRINGEMENT, FALSE
 ADVERTISING, CYBERSQUATTING,
 UNFAIR COMPETITION, FALSE
 PROMISE AND BREACH OF
 CONTRACT**

DEMAND FOR JURY TRIAL

21 Plaintiff alleges:

22 1. **Jurisdiction.** This court has subject matter jurisdiction over this matter under 15
 23 U.S.C. § 1121 and § 1125(d) and 28 U.S.C. §§ 1331 and 1338 (a) and (b). This civil action
 24 includes counts for infringement of a trademark registered in the United States Patent and
 25 Trademark Office, as authorized by the Trademark Act, for false advertising under section 43(a)
 26 of the Lanham Act, for violation of the Anti-Cybersquatting Consumer Protection Act, and for a
 27 related claim of unfair competition.

28 2. This court has personal jurisdiction over the parties because:

a. Plaintiff Bridget Brown ("Brown") is a natural person residing in the
 County of San Francisco, State of California.

b. Plaintiff Bella Bridesmaid, LLC ("BBL" or, together with Brown,
 "Plaintiffs") is a California limited liability company with its principal place of business at 2250
 Union Street, #1B, San Francisco, California 94123.

1 c. Defendant is a natural person and Plaintiffs are informed and believe that
2 she resides at 321 El Bonito Way, Millbrae, California 94030.

3 3. Brown is the founder of the nationally recognized luxury boutiques operating under
4 the brand name BELLA BRIDESMAID, which cater specifically to bridesmaids, carrying
5 gowns and accessories suitable for bridal parties. Through Brown's efforts over the past
6 decade, Bella Bridesmaid has become a nationally recognized mark with tremendous goodwill.
7 Brown has licensed the mark to Bella Bridesmaid Franchises, LLC, which has established more
8 than 40 Bella Bridesmaid franchises in 26 states. Bella Bridesmaid boutiques carry high end
9 gowns and the system has a number of exclusive arrangements with designers whose dress lines
10 are not carried in any other stores.

11 4. Since 2000, while expanding the Bella Bridesmaid name across the country, Brown
12 has owned and operated the founding, flagship Bella Bridesmaid boutique in San Francisco.
13 The San Francisco boutique is widely known throughout the San Francisco bridal industry. It is
14 currently located at 2250 Union Street, Suite 1B in San Francisco.

15 5. As a result of Plaintiffs' substantial advertising and promotional efforts for the
16 boutiques' high end services, Plaintiff's marks are widely and favorably recognized and relied
17 upon by the consuming public in the bridal industry as indicating luxury services originating
18 exclusively from Plaintiff.

19 6. In order to protect the extensive goodwill symbolized by the mark, Brown sought
20 and obtained a federal registration for her mark, BELLA BRIDESMAID + Design, for retail
21 store services featuring bridal clothing and accessories on the Principal Register of the United
22 States Patent and Trademark Office Registration Number 3,114,088, with a registration dated
23 July 11, 2006 (the "Mark"). The Mark was first used in commerce no later than March 1, 2000.

24 7. In or about November, 2009, Plaintiffs became aware that a storefront that had
25 previously belonged to a bridal salon called L'Ezu Atelier suddenly had signage for a bridal
26 salon advertising itself as "The Bella Bride."

27 8. Plaintiffs subsequently discovered that on June 1, 2009, Defendant registered the
28 domain name "thebellabride.com" as the URL for her Internet website. Plaintiffs' domain name

1 is "bellabridesmaid.com," a domain name it has held and used in commerce in connection with
2 its federally registered trademark since 2000.

3 9. In response to these discoveries, Plaintiffs contacted Defendant, notifying her of their
4 claim of infringement and asking her to her change the name of her salon.

5 10. Following Plaintiffs' initial demand, Brown met with Defendant in person, and
6 thereafter Defendant agreed to change the name of her salon to "Yve's Bella Bride", to use
7 "Yve's" as the shorthand reference to the salon, and indicated that she would eventually
8 transition exclusively to "Yve's", dropping the "Bella Bride" portion entirely. From January
9 2010 forward, Defendant represented to Plaintiffs that she was in the process of changing her
10 store signage and other advertising, and simply needed time in which to complete required
11 business license paperwork and approve a final design for the new name.

12 11. Despite Defendant's representations and promises, as of the date of the filing of this
13 Complaint, Defendant has failed to cease the use of the offending mark, including but not
14 limited to signage that continues to utilize the "The Bella Bride" mark.

15 12. In April 2011, Plaintiffs further discovered that although Defendant had assured
16 them that she always answers the phones at "The Bella Bride" as "Yve's Bella Bride," her
17 outgoing voicemail message referred to the store exclusively as "The Bella Bride."

18 13. Since the opening of Defendant's store in late 2009, Plaintiffs have received
19 numerous comments and inquiries about the business from individuals who believe that
20 Defendant's store, "The Bella Bride," is related to or otherwise affiliated with Plaintiff's "Bella
21 Bridesmaid" store. Plaintiffs have also received complaints from confused customers who have
22 assumed a relationship between the two businesses.

23 FIRST COUNT

24 (Trademark Infringement)

25 14. Since late 2009, Defendant has operated its business using the "The Bella Bride"
26 mark, for the sale of retail services in operating a bridal gown boutique.

1 15. "The Bella Bride" as used by Defendant is confusingly similar to the registered
2 trademark belonging to Brown and used by Bella Bridesmaid. Defendant has used this
3 confusingly similar mark in its advertising and promotion.

4 16. The unlicensed use of any colorable variation of Brown's trademark by Defendant is
5 likely to cause and has caused mistake or confusion or deception in the minds of the public and
6 constitutes an infringement of Brown's federally registered trademark.

7 17. Because Brown has no control over the nature of Defendant's unlicensed use of the
8 infringing mark, Brown and her business, Bella Bridesmaid, will be and are being damaged by
9 Defendant's unauthorized use of the mark, and Brown's rights in her registered mark have been
10 and will be diluted as a result of Defendant's conduct, to Plaintiffs' detriment.

11 18. The infringements charged above are knowing and willful infringements.

12 19. The goodwill of the Bella Bridesmaid business under its BELLA BRIDESMAID
13 registered trademark is of enormous value, and Plaintiffs will suffer irreparable harm if
14 infringement is allowed to continue to the detriment of Plaintiffs' trade reputation and goodwill.

15 WHEREFORE, Plaintiffs pray for judgment as hereinafter set forth.

16 SECOND COUNT

17 (False Advertising; §43(a) of the Lanham Act)

18 20. Defendant's use of the "The Bella Bride" mark constitutes false advertising which is
19 likely to deceive customers and perspective customers into believing that Defendant's bridal
20 salon is associated with the bridesmaid boutique operated by the Plaintiffs, and, as a
21 consequence, is likely to divert customers away from the Plaintiffs.

22 21. Plaintiffs have no control over the nature and quality of the services provided by
23 Defendant. Any failures, neglect or fault by Defendant in providing such services will reflect
24 adversely on Plaintiffs as the believed source and origin thereof, hampering efforts by Plaintiffs
25 to continue to protect their reputation for quality service, resulting in loss of sales thereof and
26 the considerable expenditures to promote its services under the mark, all to the irreparable harm
27 of Plaintiffs.

28 22. Defendant's false advertising will continue unless enjoined by this court.

1 unless restrained will deprive Plaintiffs of actual and potential customers and goodwill, all to
2 their damage in amounts to be proven at trial.

3 31. Unless the use of Brown's trademark by Defendant is restrained, Defendant will
4 continue these acts to the detriment of Plaintiffs.

5 FIFTH COUNT

6 (Promise Made Without Intention)

7 33. In response to Plaintiffs' demands that Defendant stop infringing on the Mark,
8 Defendant agreed to change the name of her salon to "Yve's Bella Bride," and stated that she
9 would eventually drop the "Bella Bride" portion entirely.

10 32. Plaintiffs agreed to allow her a reasonable period of time in which to modify her
11 signage. Defendant initially indicated that she would have the change completed by May 2010.
12 In August and September 2010, she asked for additional time, and Plaintiffs granted it to her.

13 33. At the time Defendant made her promise to Plaintiff, she had no intention of
14 performing it. The promise was made by Defendant with the intention to induce Plaintiffs to act
15 in reliance on the promise in the manner hereafter alleged, or with the expectation that Plaintiffs
16 would so act.

17 34. Defendant failed to abide by her promise to change the name of her business
18 between 2009 and the present, and Plaintiffs believe and therefore allege that Defendant has no
19 intention changing the name of her salon from "The Bella Bride" to "Yve's Bella Bride" and
20 further no intention of dropping the "Bella Bride" portion of the name entirely.

21 35. In reliance on Defendant's repeated promise to change the name of her business
22 voluntarily, Plaintiffs did not file a complaint or seek injunctive relief against Defendant for a
23 period of over one year.

24 36. As a proximate result of the fraudulent conduct of Defendant as herein alleged,
25 Plaintiffs have been damaged. The goodwill in the Mark has been damaged as a result of
26 Defendant's infringement, and BBL has lost both goodwill and profits as a result of the
27 continued infringement.

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- h. On the fifth count, that Plaintiffs recover exemplary damages; and
- i. For costs of suit.

Plaintiffs demand a jury trial. Fed. R. Civ. Pro. § 38(b); Federal CRC 3-6.

Dated: May 24, 2011

FITZGERALD ABBOTT & BEARDSLEY LLP

By



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Attorneys for Plaintiffs Bridget Brown and Bella
Bridesmaid, LLC