

GIBSON DUNN

Gibson, Dunn & Crutcher LLP

200 Park Avenue
New York, NY 10166-0193
Tel 212.351.4000
www.gibsondunn.com

Jennifer Colgan Halter
Direct: 212.351.3927
Fax: 212.351.6324
JHalter@gibsondunn.com

Client: T 35409-00028

June 1, 2010

VIA E-MAIL (Contact@TWLegal.com)

Todd Wengrovsky
Law Office of Todd Wengrovsky, PLLC
285 Southfield Road, Box 585
Calverton, NY 11933

Re: Gucci America, Inc. v. Frontline Processing Corp., et al., 09 Civ. 6925 (SDNY) (HB)

Dear Mr. Wengrovsky:

We are in receipt of your letter dated May 28, 2010 in which you provided a list of possible replica merchants serviced by Durango. There are several additional outstanding items and concerns regarding Durango's discovery responses, which we have outlined below.

I. Residual Reports. To date, Durango has produced only the residual report for TheBagAddiction.com although Durango has provided its services to a number of replica products merchants. Please confirm that Durango will produce to Plaintiff the residual reports for each of the merchants identified in your letter no later than Friday, June 4, 2010. Additionally, Nathan Counley is listed as the sales agent on merchant account applications for all of the following replica merchants, and we expect that Durango will produce residual reports for each of these merchants as well:

1. YBags.com
2. FreshNewKickz.com
3. TheFreshestKicks.com
4. CostlessWatches.com
5. SummerSunGlasses.com
6. Dress4Envy.com
7. SimplyChicPurses.com
8. ThePurseScene.com
9. Worldof23.com

GIBSON DUNN

Todd Wengrovsky

June 1, 2010

Page 2

10. CarbonCopyReplicas.com
11. Hotshotwatches.com
12. Kicksland.com
13. GenuineWatches.com
14. MichellesBoutiqueOnline.com
15. CharismaticStyle.com
16. Bagarama.net
17. PinkCalyx.com
18. Discount Replicas.com
19. LilTrendyBabies.com
20. PrimetimeAthleticWear.com
21. LeeLuxuryBags.com
22. LeeLuxuryLines.com
23. FreshStyle.com
24. ThePurseBoutique.com

II. List of Search Terms – Third Request. Despite several requests, you have not responded to our request for a list of the search terms Durango used in conducting its search of electronic communications.

III. Deficient Document Production. We are all the more troubled by Durango's failure to provide Plaintiff with its search terms due to certain discrepancies in Durango's representations to the Court. We have already brought to your attention the existence of responsive e-mail communications between Nathan Counley and replica merchant Stephanie Walker, which Durango has not produced. Moreover, Durango recently represented to the Court that it "does not generally keep records on merchants once they are set-up for more than three months due to privacy concerns." *See* May 17, 2010 Letter to Judge Baer. This statement is directly contradicted by Durango's production of the attached September 10, 2006 e-mail regarding Laurette, which was forwarded to Nathan Counley by Shane Kairalla.

GIBSON DUNN

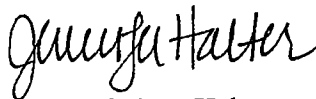
Todd Wengrovsky
June 1, 2010
Page 3

As this email was produced in response to an August 2009 subpoena, it is clear that Durango does, in fact, “keep records on merchants” for far longer than “three months.”

Despite the sentiment expressed in your May 10, 2010 letter that “Durango has always been cooperative with Gucci, commencing with providing documents in good faith upon receipt of a subpoena served during the Laurette litigation,” it should be noted that this September 2006 e-mail—which was clearly responsive to plaintiffs’ subpoena in that case—was never produced by Durango in the Laurette litigation. In fact, Durango similarly represented at the time that it had “searched everywhere” for documents responsive to the Laurette litigation subpoena. Durango has offered no explanation for these inconsistencies, all of which raise serious doubts regarding Durango’s representation that it has produced all responsive documents in this litigation.

In light of the upcoming discovery deadline, please provide a written response to each of the issues outline above no later than tomorrow, June 2, 2010.

Sincerely,



Jennifer Colgan Halter
JCH/jch

Attachment(s)

12

Nathan Courley - Durango Merchant Services

From: Shane Kairalla [shane@durango-direct.com]
Sent: Sunday, September 10, 2006 10:12 PM
To: 'Nathan Courley'
Subject: FW: Merchantmetro.com Mattchen

Follow Up Flag: Follow up
Flag Status: Completed

-----Original Message-----

From: admin@thebagaddiction.com [mailto:admin@thebagaddiction.com]
Sent: Sunday, September 10, 2006 1:01 PM
To: merchant@merchantmetro.com
Cc: shane@durango-direct.com
Subject: Merchantmetro.com Mattchen

The form below was submitted by from Ip address: 206.170.50.186 on 09/10/2006 at 11:01 am

agentid; merchant@merchantmetro.com
send_to; merchant@merchantmetro.com
Salutation; Mrs.
First_Name; Jennifer
Last_Name; Mattchen
Company_Name; Laurette Company
Your_Title; owner
Email; admin@thebagaddiction.com
Email0; admin@thebagaddiction.com
Company_Phone_Number; 9165803500
Street_Address; 3031 stanford ranch 2-148 City; rocklin State; ca Zip_Code; 95765 Country; United States
Years_In_Business; 3 Do_you_have_a_web_site?; Yes Web_Address; www.thebagaddiction.com
Web_Address_2;
Web_Address_3;
Web_Address_4;
Web_Address_5;
Type_of_Website; products
Description_Of_Business; replica handbags and accessories Average_Sale_Amount; 250 Estimated_Monthly_Sales; 25k-50k Desired_Currencies; US Dollar Are_You_Currently_Processing?; Yes Current_Processor; cardservice
Can_you_provide_past_processing_statements?;
Yes
submit; APPLY NOW
ReferringDomain; www.merchantmetro.com
RefAgentEmail; hai@merchantmetro.com