

**LAW OFFICES OF  
TODD WENGROVSKY, PLLC.**

285 Southfield Road, Box 585

Calverton, New York 11933

Tel (631) 727-3400

Fax (631) 727-3401

contact@twlegal.com

**Patent, Trademark, and Copyright Litigation**

via E-Mail

June 4, 2010

Jennifer Halter, Esq.  
Gibson, Dunn & Crutcher, LLP.  
1200 Park Avenue  
New York, NY 10166

Re: Gucci v. Durango Merchant Services, LLC., et. al.  
SDNY 09-CV-6925

Ms. Halter:

This is in reply to your letter dated June 1, 2010 regarding Durango's: (1) residual reports; (2) search terms; and (3) allegedly insufficient document production.

Transmitted herewith are two reports illustrating Durango's and its agents' residual revenues resulting from the merchants in question. The first shows accounts received by Durango directly, the second shows accounts referred to Durango by agents. It should be noted that if Durango were actively pursuing replica accounts via its website (as claimed by Gucci), Durango would have had far greater than seven (7) possible replica accounts in its own portfolio for the time period in question.

It should further be noted that any relevant business names known to Gucci that are not shown on the attached reports are likely the result of such businesses using d/b/a's instead of corporate names, or businesses having changed their names. The businesses listed by Gucci that are apparently in this category are as follows:

"Y Bags"

"Lee Luxury Bags"

"Simply Chic Purses"

"Purse Scene"

Since Durango does not have materials regarding such account names, the processors would have to provide any requested information.

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Next, the “search terms” issue is largely irrelevant to Durango, and instead seems to be geared towards the processors, Frontline and Woodforest. This is because Durango’s discoverable documents consist of “lead sheets” (discussed below) and the above-noted residual information – as distinguished from massive electronic files.

Regarding allegedly-insufficient document production, Plaintiff continues to rely on the inaccurate assumption that Durango (who is merely a broker and not a processor) permanently maintains and possesses all merchant-related documentation. This is simply not the case. Once a merchant account is approved by a processing bank such as Frontline or Woodforest, there is no reason for Durango to keep the merchant’s application package, particularly since the package is replete with social security numbers, bank account numbers, and other highly sensitive, personal information. In fact, the voluminous nature of the application packages is in itself sufficient reason for a small company like Durango to discard the material once Durango’s work (making the referral) is complete.

Once again, Durango must therefore rely solely on the residual reports for merchant account names. Durango would not know exactly what the merchant was selling unless the merchant’s company name suggests same. As such, Durango has reviewed its residual reports and put forth its best efforts to identify account names that *may* suggest that the merchants were selling replica-based products.

Finally, although your letter identifies an alleged discrepancy with regard to a document previously produced in another proceeding, *that* document was maintained because it was a “lead sheet” and not an application package. Lead sheets do not contain applicants’ personal information, and are sometimes kept as a means of determining which *agents* have referred merchants to Durango.

We trust that the foregoing clarifications, coupled with the attached reports, resolve any remaining discovery issues between Gucci and Durango.

Sincerely,

/s/ Todd Wengrovsky

Todd Wengrovsky