

**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

May 10, 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 May 5, 2010 regarding the allegedly insufficient document production of Defendant Durango Merchant Services, LLC.

It should first be noted that we disagree with your interpretation that Durango has waived its objections to Gucci's discovery demands. It was our clear understanding that Defendants would respond to Gucci's discovery requests within a reasonable time, particularly since the Court had issued no rulings regarding pending motions to dismiss. However, as outlined herein, this point is academic.

Your indictment of Durango as "deliberately obstructionist" is unfounded and represents a continued misunderstanding of the extent of Durango's role (or lack thereof) in the relevant marketplace. As noted on multiple occasions, it is not Durango Merchant Services' function, role, or responsibility to decide which merchants would represent acceptable accounts to approve for credit card processing, since the processing banks presumably perform any due diligence regarding same. Once again, Durango is merely a five-employee company that acts as a broker to refer merchants to actual credit card processors.

In addition, your characterization of my client is especially disturbing given 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.

Jennifer Halter, Esq.
May 10, 2010
Page 2 of 2

Furthermore, your letter expresses dissatisfaction with the *number of pages* produced by Durango. As you are well aware, the number of pages produced is not the measure of sufficiency of document production. If anything, the fact that Durango had only this quantity of documents to produce evidences Durango's sharply limited involvement in the facts and circumstances that gave rise to the original infringement litigation.

Next, please specifically note that Durango maintains no documents that literally define the phrase "high risk," but listed no fewer than *twenty-one examples* of same in its answer to Gucci's Interrogatory Number 5.

Finally, as expressly stated in Durango's answer to Gucci's Interrogatory Number 11, "*Durango does not generally keep records on merchants once they are set-up for more than three months due to privacy concerns.*"

Due to all of the foregoing, this is to confirm that my client has conducted a diligent and thorough search, including a search of electronic records, and Durango does not have any additional relevant document within its custody or control.

Sincerely,

/s/ Todd Wengrovsky

Todd Wengrovsky