## **Document Filed Electronically**

## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

GUCCI AMERICA, INC. : Civil Action No. 09-6925-HB

:

Plaintiff, : District Judge Harold Baer, Jr.

v.

FRONTLINE PROCESSING CORPORATION; WOODFOREST NATIONAL BANK; DURANGO MERCHANT SERVICES LLC d/b/a NATIONAL BANKCARD SYSTEMS OF DURANGO; ABC COMPANIES; and JOHN DOES,

55,

Defendants.

## DEFENDANTS' NOTICE OF MOTION UNDER FED. R. CIV. P. 56 FOR SUMMARY JUDGMENT ON STATUTORY DAMAGES CLAIM

PLEASE TAKE NOTICE that defendants Woodforest National Bank ("Woodforest") and Durango Merchant Services LLC ("Durango"), will move this Court before The Honorable Harold Baer, Jr. at the United States Courthouse for the Southern District of New York, for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure, granting summary judgment in favor of the defendants on the claims by plaintiff Gucci America, Inc. for statutory damages.

Defendants submit that statutory damages are not allowed as a matter of law for a claim for contributory trademark infringement. In support of this motion, defendants rely on the memorandum of law filed concurrently herewith, and the declaration of counsel in support. Defendants have also submitted a proposed Order.

Respectfully submitted,

LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK, LLP 600 South Avenue West Westfield, NJ 07090 Attorneys for Defendant Woodforest National Bank

Dated: July 7, 2010

By: s/ William L. Mentlik

William L. Mentlik Charles P. Kennedy Gregg A. Paradise Tel: 908.654.5000

E-mail:wmentlik@ldlkm.com ckennedy@ldlkm.com gparadise@ldlkm.com litigation@ldlkm.com

Law Offices of Todd Wengrovsky, PLLC. 285 Southfield Road, Box 585 Calverton, NY 11933 Attorneys for Defendant Durango Merchant Services LLC d/b/a National Bankcard Systems of Durango

By s/ Todd Wengrovsky
Todd Wengrovsky (TW 4823)
Tel: 631.727.3400
E-mail:Contact@TWlegal.com

1214892\_1.doc 2