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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CHRISTIAN LOUBOUTIN S.A.; CHRISTIAN LOUBOUTIN, L.L.C.; and CHRISTIAN LOUBOUTIN,

Plaintiffs/Counterclaim-Defendants,

v.

YVES SAINT LAURENT AMERICA, INC.; YVES SAINT LAURENT AMERICA HOLDING, INC.; YVES SAINT LAURENT S.A.S.; YVES SAINT LAURENT (an unincorporated association); JOHN AND JANE DOES A-Z (UNIDENTIFIED); and XYZ COMPANIES 1-10 (UNIDENTIFIED),

Defendants/Counterclaim-Plaintiffs.

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: Civil Action No.: 11 Civ. 2381 (VM)
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: ECF Case
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: ANSWER TO FIRST
: **AMENDED COUNTERCLAIMS**
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Plaintiffs/Counterclaim-Defendants Christian Louboutin S.A., Christian Louboutin, L.L.C. and Christian Louboutin (collectively, "Louboutin"), answer Defendants/Counterclaim-Plaintiffs Yves Saint Laurent America, Inc., Yves Saint Laurent America Holding, Inc., and

Yves Saint Laurent S.A.S.'s (collectively, "YSL") First Amended Counterclaims ("Amended Counterclaims") as follows (the headings below track those headings used by Defendants):

AMENDED COUNTERCLAIMS

Introduction

1. Louboutin denies the allegations contained in Paragraph 1 of the Amended Counterclaims.

2. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of allegations concerning the "use of red outsoles for their ornamental qualities" by YSL and third parties but denies that the colors of any YSL shoes have received significant attention in any media in the United States and denies the remaining allegations contained in Paragraph 2 of the Amended Counterclaims.

3. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations relating to the period of time that YSL has sold shoes with red outsoles except admits that any such sales by YSL took place well after the adoption, use and extraordinary growth of the Red Sole trademark by Louboutin and denies the remaining allegations contained in Paragraph 3 of the Amended Counterclaims.

4. Louboutin denies the allegations contained in Paragraph 4 of the Amended Counterclaims.

5. Louboutin denies the allegations contained in Paragraph 5 of the Amended Counterclaims.

6. Louboutin denies the allegations contained in Paragraph 6 of the Amended Counterclaims.

7. Louboutin denies the allegations contained in Paragraph 7 of the Amended Counterclaims.

8. The allegations contained in Paragraph 8 of the Amended Counterclaims purport to describe the nature of the relief sought by YSL, and therefore no responsive pleading is required. To the extent Paragraph 8 makes factual allegations, they are denied.

Jurisdiction and Venue

9. Louboutin admits the allegations contained in Paragraph 9 of the Amended Counterclaims.

10. Louboutin admits the allegations contained in Paragraph 10 of the Amended Counterclaims.

11. Louboutin admits the allegations contained in Paragraph 11 of the Amended Counterclaims.

The Parties

12. Louboutin admits the allegations contained in Paragraph 12 of the Amended Counterclaims.

13. Louboutin admits the allegations contained in Paragraph 13 of the Amended Counterclaims.

14. Louboutin admits that Counterclaim-Plaintiff has its principal place of business at 7, Avenue Geoge V, Paris 75008, France, and is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 14 of the Amended Counterclaims.

15. Louboutin admits the allegations contained in Paragraph 15 of the Amended Counterclaims.

16. Louboutin admits the allegations contained in Paragraph 16 of the Amended Counterclaims.

17. Louboutin admits the allegations contained in Paragraph 17 of the Amended Counterclaims.

The YSL Brand

18. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 18 of the Amended Counterclaims.

19. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 19 of the Amended Counterclaims.

20. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 20 of the Amended Counterclaims.

YSL's Historical Use of Red Outsoles

21. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 21 of the Amended Counterclaims, except denies any use by YSL of a red sole was frequent and/or that sale by YSL of shoes with red soles similar to those used by Louboutin were other than minimal and/or infringing..

22. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 22 of the Amended Counterclaims, except denies that any sales of YSL shoes in the United States with outsoles that infringed the Louboutin Red Sole mark were numerous either in terms of models or pairage being at best,

minimal and in large measure of colors that were not similar to that color forming Louboutin's Red Sole mark..

23. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 23 of the Amended Counterclaims, except denies, on information and belief, that either the Tai Tai or Lotus model shoes were sold to consumers in the United States and denies to the extent implicated, that the alleged runway show of YSL took place in the United States.

24. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 24 of the Amended Counterclaims, except denies that “[t]here are numerous other examples of YSL shoes with red outsoles promoted and/or sold in the United States” denies that the particular shoe shown was sold in the United States to any degree, and denies that any such runway show of YSL took place in the United States.

25. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 25 of the Amended Counterclaims, except denies any implication that by reason of any shoe of YSL being in an “offered” collection that shoe was sold in the United States in other than minimal amounts and admits that the YSL shoes as pictured infringe upon and were released for sale after issuance of the Red Sole mark to Louboutin.

26. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 26 of the Amended Counterclaims, except specially denies that YSL “monochrome” shoes contain the same red color from upper to outsole.

27. Louboutin denies the allegations contained in Paragraph 27 of the Amended Counterclaims.

Third Party Use of Red Outsoles

28. Louboutin is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 28 of the Amended Counterclaims, except denies that any third party user of a red sole has received broad media coverage in the United States, or is well known to the public *in the United States*, except Louboutin.

Louboutin's Contested Marks

29. Louboutin denies the allegations contained in Paragraph 29 of the Amended Counterclaims.

30. Louboutin admits the allegations contained in Paragraph 30 of the Amended Counterclaims, except denies that the reason Mr. Louboutin abandoned the first application was to avoid responding to the USPTO's office action and that Louboutin's primary cause of action is based only on U.S. Reg. No. 3,361,597 and denies that U.S. Reg. No. 3,376,197 is limited to red outsoles on footwear.

31. Louboutin denies the allegations contained in Paragraph 31 of the Amended Counterclaims.

32. Louboutin denies the allegations contained in Paragraph 32 of the Amended Counterclaims.

33. Louboutin admits that Mr. Louboutin designed and sold shoes with blue outsoles, silver outsoles and pink outsoles on a “trial” basis, or for other designers but denies the remaining allegations contained in Paragraph 33 of the Amended Counterclaims.

Louboutin’s Bad Faith and Unlawful Interference with YSL’s Business

34. Louboutin admits that it contacted YSL regarding the Tribute, Tribtoo, Palais and Woodstock models in January 2011 and that YSL refused to stop selling Tribute, Tribtoo, Palais and Woodstock models bearing red outsoles and denies the remaining allegations contained in Paragraph 34 of the Amended Counterclaims.

35. Louboutin admits that it sent a letter to YSL on March 14, 2011 and that it filed its Complaint and motion papers on April 7, 2011 and denies the remaining allegations contained in Paragraph 35 of the Amended Counterclaims.

36. Louboutin denies the allegations contained in Paragraph 36 of the Amended Counterclaims.

37. Louboutin denies the allegations contained in Paragraph 37 of the Amended Counterclaims, except admits on information and belief, it was advised by certain department stores in the United States that they had independently elected to return inventory of the infringing YSL shoes to YSL.

38. Louboutin denies the allegations contained in Paragraph 38 of the Amended Counterclaims.

Answer to the First Counterclaim

Cancellation of Marks under 15 U.S.C. §§ 1119, 1052(f) [Lack of Distinctiveness]

39. Louboutin repeats and realleges with the same force and effect as though fully set forth here in full, its answer to each and every allegation contained in each paragraph incorporated by reference in Paragraph 39 of the Amended Counterclaims.

40. Louboutin denies the characterization of its United States Trademark Registrations as “Contested Marks,” denies that they were fraudulently obtained or are invalid, admits it is asserting trademark rights in and to Registration No. 3,361,597, only, and denies it is asserting trademark rights to application Serial No. 76/261,832, which was withdrawn, admits the assertion of trademark rights extends to bright red lacquer applied to the outsole of women’s luxury shoes and denies the remaining allegations in Paragraph 40 of the Amended Complaint..

41. Louboutin denies the allegations contained in Paragraph 41 of the Amended Counterclaims.

42. Louboutin denies the allegations contained in Paragraph 42 of the Amended Counterclaims.

43. Louboutin denies the allegations contained in Paragraph 43 of the Amended Counterclaims.

44. Louboutin denies the allegations contained in Paragraph 44 of the Amended Counterclaims.

Answer to the Second Counterclaim
Cancellation of Marks under §§ 15 U.S.C. 1119, 1052(f) [Ornamental]

45. Louboutin repeats and realleges with the same force and effect as though fully set forth here in full, its answer to each and every allegation contained in each paragraph incorporated by reference in Paragraph 45 of the Amended Counterclaims.

46. Louboutin denies the characterization of its United States Trademark Registrations as “Contested Marks,” denies that they were fraudulently obtained or are invalid, and admits the remaining allegations contained in Paragraph 46 of the Amended Counterclaims.

47. Louboutin denies the allegations contained in Paragraph 47 of the Amended Counterclaims.

48. Louboutin denies the allegations contained in Paragraph 48 of the Amended Counterclaims.

49. Louboutin denies the allegations contained in Paragraph 49 of the Amended Counterclaims.

50. Louboutin denies the allegations contained in Paragraph 50 of the Amended Counterclaims.

Answer to the Third Counterclaim
Cancellation of Marks under 15 U.S.C. §§ 1119, 1064(3) [Fraud on the USPTO]

51. Louboutin repeats and realleges with the same force and effect as though fully set forth here in full, its answer to each and every allegation contained in each paragraph incorporated by reference in Paragraph 51 of the Amended Counterclaims.

52. Louboutin denies the allegations contained in Paragraph 52 of the Amended Counterclaims.

53. Louboutin denies the allegations contained in Paragraph 53 of the Amended Counterclaims.

54. Louboutin denies the allegations contained in Paragraph 54 of the Amended Counterclaims.

55. Louboutin denies the allegations contained in Paragraph 55 of the Amended Counterclaims.

Answer to the Fourth Counterclaim
Cancellation of Marks under 15 U.S.C §§ 1119, 1064(3) [Functionality]

56. Louboutin repeats and realleges with the same force and effect as though fully set forth here in full, its answer to each and every allegation contained in each paragraph incorporated by reference in Paragraph 56 of the Amended Counterclaims.

57. Louboutin denies the allegations contained in Paragraph 57 of the Amended Counterclaims.

58. Louboutin denies the allegations contained in Paragraph 58 of the Amended Counterclaims.

59. Louboutin denies the allegations contained in Paragraph 59 of the Amended Counterclaims.

Answer to the Fifth Counterclaim
Tortious Interference with Business Relations

60. Louboutin repeats and realleges with the same force and effect as though fully set forth here in full, its answer to each and every allegation contained in each paragraph incorporated by reference in Paragraph 60 of the Amended Counterclaims.

61. Louboutin denies the allegations contained in Paragraph 61 of the Amended Counterclaims.

62. Louboutin denies the allegations contained in Paragraph 62 of the Amended Counterclaims.

63. Louboutin denies the allegations contained in Paragraph 63 of the Amended Counterclaims.

Answer to the Sixth Counterclaim
Unfair Competition

64. Louboutin repeats and realleges with the same force and effect as though fully set forth here in full, its answer to each and every allegation contained in each paragraph incorporated by reference in Paragraph 64 of the Amended Counterclaims.

65. Louboutin denies the allegations contained in Paragraph 65 of the Amended Counterclaims.

66. Louboutin denies the allegations contained in Paragraph 66 of the Amended Counterclaims.

YSL'S PRAYER FOR RELIEF

Louboutin denies that YSL is entitled to any relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

67. YSL fails to state Amended Counterclaims against Louboutin upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

68. YSL's amended counterclaims are barred either in whole or in part by the doctrines of waiver, laches, and/or estoppel.

THIRD AFFIRMATIVE DEFENSE

69. YSL's amended counterclaims are barred, in whole or in part, by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

70. YSL's amended counterclaims are barred, in whole or in part, because all of Louboutin's activities were undertaken and conducted in good faith.

FIFTH AFFIRMATIVE DEFENSE

71. YSL failed to plead its counterclaim for fraud on the U.S. Patent and Trademark with the particularity required by Fed. R. Civ. P. 9(b).

SIXTH AFFIRMATIVE DEFENSE

72. YSL has sustained no actual damages caused by Louboutin.

SEVENTH AFFIRMATIVE DEFENSE

73. YSL's alleged damages, if any, must be reduced in whole or in part, by the amount that it was able to mitigate such alleged damages, or by the amount YSL failed to mitigate its alleged damages.

EIGHTH AFFIRMATIVE DEFENSE

74. YSL fails to state counterclaims upon which an award of punitive damages or attorneys' fees can be granted.

