

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TENNESSEE, WESTERN DIVISION**

VARSITY BRANDS, INC., VARSITY	)	
SPIRIT CORPORATION and VARSITY	)	
SPIRIT FASHIONS & SUPPLIES, INC.,	)	
	)	
Plaintiffs,	)	No.: _____
	)	
v.	)	
	)	
IT’S GREEK TO ME, INC.	)	
	)	
Defendant.	)	

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**COMPLAINT**

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Plaintiffs Varsity Brands, Inc., Varsity Spirit Fashions and Supplies, Inc. and Varsity Spirit Corporation by and through their undersigned attorneys, for their complaint against Defendant It’s Greek To Me, Inc., hereby allege as follows:

**NATURE OF THE ACTION**

1. This is a civil action for copyright infringement arising under the copyright laws of the United States, 17 U.S.C. § 101 et seq., as amended (the “Copyright Act”).

**PARTIES**

2. Plaintiff Varsity Brands, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 6745 Lenox Center Court, Suite 300, Memphis, Tennessee 38115.

3. Plaintiff Varsity Spirit Corporation is a corporation organized and existing under the laws of the State of Tennessee with its principal place of business at 6745 Lenox Center Court, Suite 300, Memphis, Tennessee 38115.

4. Plaintiff Varsity Spirit Fashions & Supplies, Inc. is a corporation organized and

existing under the laws of the State of Minnesota with its principal place of business at 6745 Lenox Center Court, Suite 300, Memphis, Tennessee 38115. Plaintiffs Varsity Brands, Inc., Varsity Spirit Fashions and Supplies, Inc. and Varsity Spirit Corporation are hereinafter referred to collectively as “Varsity.”

5. Upon information and belief, Defendant It’s Greek To Me, Inc., (“Defendant”) is a corporation organized and existing under the laws of the State of Kansas and has its principal place of business at 520 McCall Road, Manhattan, Kansas, 66505, and is doing business and committing tortious acts within this District.

6. Upon information and belief, Defendant has a registered agent and registered office in Tennessee.

### **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332 and 1338(a).

8. This court has personal jurisdiction over Defendant because Defendant has conducted business in the State of Tennessee and purposefully has availed itself of the benefits and laws of the State of Tennessee.

9. Upon information and belief, examples of Defendant conducting business in the State of Tennessee and purposefully availing itself of the benefits and laws of the State of Tennessee include sales throughout the State of Tennessee and in this District.

10. Venue is properly laid in this District pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(a).

## **FACTUAL BACKGROUND**

### **Varsity's Original Designs and Catalogs**

11. Varsity is and for many years has been engaged in the business of designing, manufacturing and selling high-quality apparel and accessories for use in cheerleading and related activities.

12. Varsity's success is due in no small measure to its employment, at great cost to Varsity, of highly talented individuals who create for Varsity original and attractive two-dimensional designs ("Varsity Designs") that are reproduced and/or applied to Varsity apparel and accessories, in a continuing effort to appeal to existing and potential customers in the highly competitive cheerleading apparel and accessories business.

13. The Varsity Designs are created as works made for hire by Varsity's employees, and constitute copyrightable subject matter under the Copyright Act.

14. Varsity owns all right, title and interest in and to the Varsity Designs.

15. Each year, Varsity produces, at great expense, using models, photographers and graphic designers, original full-color catalogs showing Varsity apparel and accessories (the "Varsity Catalogs") and distributes copies of such Varsity Catalogs to its customers and potential customers in the highly competitive cheerleading apparel and accessories business.

### **Defendant's Infringing Activities**

16. Defendant offers its apparel for sale through catalogs, which are accessible via its website and, upon information and belief, the mail and its sales representatives, and are distributed in interstate commerce.

17. Defendant, without permission, license or consent from Varsity, has copied Varsity Designs. The Varsity Designs at issue, and the unauthorized copies appearing in

Defendant's current catalogs and/or online, include the following:

(a) Varsity Design 043 (copy attached hereto as Exhibit 1) and Defendant's "Pyramid Shell & Notch Front Skirt Cheerleading Uniform," appearing online at Defendant's website, [www.gtmsportswear.com](http://www.gtmsportswear.com), and in Defendant's catalog (copy attached hereto as Exhibit 2).

(b) Varsity Design 074 (copy attached hereto as Exhibit 3), Defendant's "Pike Shell & Triple Pleat Skirt Cheerleading Uniform," appearing online at Defendant's website, [www.gtmsportswear.com](http://www.gtmsportswear.com), and in Defendant's catalog (copy attached hereto as Exhibit 4), and Defendant's "Pike Shell & Colorblocked 3-Pleat Skirt Cheerleading Uniform," appearing online at Defendant's website, [www.gtmsportswear.com](http://www.gtmsportswear.com), and in Defendant's catalog (copy attached hereto as Exhibit 5).

18. On May 10, 2011, Varsity, through its counsel, sent a letter to Defendant demanding that it cease its infringing activities.

19. However, to date Defendant has not ceased its infringing activities.

**FIRST CLAIM FOR RELIEF**  
**(Copyright Infringement)**

20. Varsity realleges and incorporates herein by references the assertions contained in paragraphs 1 through 19 above.

21. Design 043 is registered in Varsity's name at the United States Copyright Office under Registration No. VA 1-653-819, with an effective date of August 21, 2008. A copy of the Certificate of Registration is attached hereto as Exhibit 6.

22. Defendants, without authorization from Varsity, are selling, distributing, and advertising and have sold goods bearing a design that is copied from and substantially similar to Varsity's Design 043.

23. Defendants have thereby infringed Varsity's copyright in Design 043.

24. Upon information and belief, Defendant's infringing acts were committed with knowledge or in reckless disregard of Varsity's exclusive rights in Design 043 under the Federal Copyright Act.

25. Upon information and belief, by the acts complained of, Defendants have made substantial profits and gains which they are not in law or in equity entitled to retain.

26. The aforementioned acts by Defendant have damaged, and if not enjoined, will continue to damage Varsity and cause it irreparable harm, for which Varsity has no adequate remedy at law.

## **SECOND CLAIM FOR RELIEF**

### **(Copyright Infringement)**

27. Varsity realleges and incorporates herein by references the assertions contained in paragraphs 1 through 26 above.

28. Design 074 is registered in Varsity's name at the United States Copyright Office under Registration No. VA 1-411-535, with an effective date of May 9, 2007. A copy of the Certificate of Registration is attached hereto as Exhibit 7.

29. Defendants, without authorization from Varsity, are selling, distributing, and advertising and have sold goods bearing a design that is copied from and substantially similar to Varsity's Design 074.

30. Defendants have thereby infringed Varsity's copyright in Design 074.

31. Upon information and belief, Defendant's infringing acts were committed with knowledge or in reckless disregard of Varsity's exclusive rights in Design 074 under the Federal Copyright Act.

32. Upon information and belief, by the acts complained of, Defendants have made substantial profits and gains which they are not in law or in equity entitled to retain.

33. The aforementioned acts by Defendant have damaged, and if not enjoined, will continue to damage Varsity and cause it irreparable harm, for which Varsity has no adequate remedy at law.

### **PRAYER FOR RELIEF**

WHEREFORE, Varsity respectfully requests that the Court:

1. Enter judgment that Defendant has infringed upon Varsity's copyrights in the Varsity Designs at issue.

2. Preliminarily and permanently enjoin Defendant, its officers, directors, agents, partners, employees and related companies, and all persons acting for, with, by, through or under them, from manufacturing, copying, reproducing, distributing, advertising, promoting, offering for sale or selling any product or articles bearing any design identical or substantially similar to any of the Varsity Designs at issue;

3. Order the impoundment of the infringing goods pursuant to 17 U.S.C. § 503;

4. Order the Defendant, its officers, directors, agents, partners, employees and related companies, and all persons acting for, with, by, through, or under them, to destroy all products or articles infringing the copyrights in the Varsity Designs at issue, as well as all other infringing materials;

5. (a) Award to Varsity its actual damages incurred as a result of Defendant's acts of copyright infringement, and all profits Defendant realized as a result of its acts of copyright infringement, in amounts to be determined at trial; or (b) in the alternative, award to Varsity, pursuant to 17 U.S.C. § 504, statutory damages;

6. Award to Varsity, pursuant to 17 U.S.C. § 505, its costs and attorneys' fees incurred as a result of Defendants' acts of copyright infringement;

7. Award to Varsity such other and further relief as the Court deems just and proper.

Dated this 9th day of June, 2011.

Respectfully submitted,

s/ Adam S. Baldrige

Grady M. Garrison (#008097)

Adam S. Baldrige (#023488)

Laura P. Merritt (#026482)

BAKER, DONELSON, BEARMAN, CALDWELL  
& BERKOWITZ, PC

165 Madison Avenue, Suite 2000

Memphis, TN 38103

Telephone: (901) 526-2000

Facsimile: (901) 577-0814

Email: [ggarrison@bakerdonelson.com](mailto:ggarrison@bakerdonelson.com)

Email: [abaldrige@bakerdonelson.com](mailto:abaldrige@bakerdonelson.com)

Email: [lmerritt@bakerdonelson.com](mailto:lmerritt@bakerdonelson.com)

*Attorneys for Varsity Brands, Inc.,  
Varsity Spirit Corporation and  
Varsity Spirit Fashions & Supplies, Inc.*