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9 Attorneys for Plaintiff

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 STAR FABRICS, INC., a California
13 Corporation,

14 Plaintiff,

15 v.

16
17 SEARS HOLDINGS CORPORATION, an
Illinois Corporation; SEARS, ROEBUCK &
18 COMPANY, a Delaware Corporation;
19 SAKUTORI DESIGNS, LLC, a Hawaiian
Limited Liability Company; FRENCH
20 CONNECTION GROUP, INC., a New York
21 Corporation; PACIFIC ALLIANCE USA,
INC., a New York Corporation; and DOES 1
22 through 10,

23 Defendants.
24

Case No.:

**PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

25 Star Fabrics, Inc., by and through its undersigned attorneys, hereby prays to
26 this honorable Court for relief based on the following:
27

1 **JURISDICTION AND VENUE**

2 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
3 *et seq.*

4 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
5 1338 (a) and (b).

6 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
7 1400(a) in that this is the judicial district in which a substantial part of the acts and
8 omissions giving rise to the claims occurred.

9 **PARTIES**

10 4. Plaintiff STAR FABRICS, INC. is a corporation organized and existing
11 under the laws of the State of California with its principal place of business located
12 at 1440 East Walnut Street, Los Angeles, California 90011.

13 5. Plaintiff is informed and believes and thereon alleges that Defendant
14 SEARS HOLDINGS CORPORATION is a corporation organized and existing under
15 the laws of the state of Illinois with its principal place of business located at 3333
16 Beverly Rd., Hoffman Estates, IL 60179, and is doing business in and with the state
17 of California.

18 6. Plaintiff is informed and believes and thereon alleges that Defendant
19 SEARS, ROEBUCK & COMPANY (collectively with SEARS HOLDINGS
20 CORPORATION, “SEARS”) is a corporation organized and existing under the laws
21 of the state of Delaware with its principal place of business located at 3333 Beverly
22 Rd., Hoffman Estates, IL 60179, and is doing business in and with the state of
23 California.

24 7. Plaintiff is informed and believes and thereon alleges that Defendant
25 SAKUTORI DESIGNS, LLC (“SAKUTORI”) is a corporation organized and
26 existing under the laws of the state of Hawaii with its principal place of business
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1 located at 729 Emily Street, Honolulu, HI 96813, and is doing business in and with
2 the state of California.

3 8. Plaintiff is informed and believes and thereon alleges that Defendant
4 FRENCH CONNECTION GROUP, INC. (“FRENCH”) is a corporation organized
5 and existing under the laws of the state of New York with its principal place of
6 business located at 184-10 Jamaica Avenue, 3rd Floor, Hollis, NY 11423, and is
7 doing business in and with the state of California.

8 9. Plaintiff is informed and believes and thereon alleges that Defendant
9 PACIFIC ALLIANCE USA, INC. (“PACIFIC”) is a corporation organized and
10 existing under the laws of the state of New York with its principal place of business
11 located at 350 Fifth Avenue, 9th Floor, New York, NY 10118, and is doing business
12 in and with the state of California.

13 10. Plaintiff is informed and believes and thereon alleges that Defendants
14 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
15 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,
16 or have engaged in one or more of the wrongful practices alleged herein. The true
17 names, whether corporate, individual or otherwise, of Defendants 1 through 10,
18 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants
19 by such fictitious names, and will seek leave to amend this Complaint to show their
20 true names and capacities when same have been ascertained.

21 11. Plaintiff is informed and believes and thereon alleges that at all times
22 relevant hereto each Defendant was the agent, affiliate, officer, director, manager,
23 principal, alter-ego, and/or employee of the remaining Defendants and was at all
24 times acting within the scope of such agency, affiliation, alter-ego relationship
25 and/or employment and actively participated in, subsequently ratified and/or adopted
26 each and all of the acts or conduct alleged, with full knowledge of all the facts and
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1 circumstances, including, but not limited to, full knowledge of each violation of
2 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

3 **CLAIMS RELATED TO DESIGN NO. 60704**

4 12. Plaintiff is and at all relevant times was the exclusive owner of an original
5 two-dimensional artwork used for purposes of textile printing entitled 60704
6 ("Subject Design A").

7 13. Plaintiff applied for and received a United States Copyright Registration
8 for Subject Design A.

9 14. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
10 bearing Subject Design A to numerous parties in the fashion and apparel industries.

11 15. Plaintiff is informed and believes and thereon alleges that following this
12 distribution of product bearing Subject Design A, SEARS and/or DOE Defendants,
13 and each of them, created, manufactured, caused to be manufactured, imported,
14 distributed, and/or sold fabric and/or garments comprised of fabric featuring a design
15 which is identical, or substantially similar, to Subject Design A (hereinafter "Subject
16 Product A") without Plaintiff's authorization, including but not limited to garments
17 sold by SEARS under SKU 840510049997 and bearing the label "Islandwear by
18 Sidan." An image of Subject Design A and an exemplar of Subject Product A are set
19 forth hereinbelow:

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Subject Design A



Subject Product A



CLAIMS RELATED TO DESIGN NO. 63327

16. Plaintiff is and at all relevant times was the exclusive owner of an original two-dimensional artwork used for purposes of textile printing entitled 63327 (“Subject Design B”).

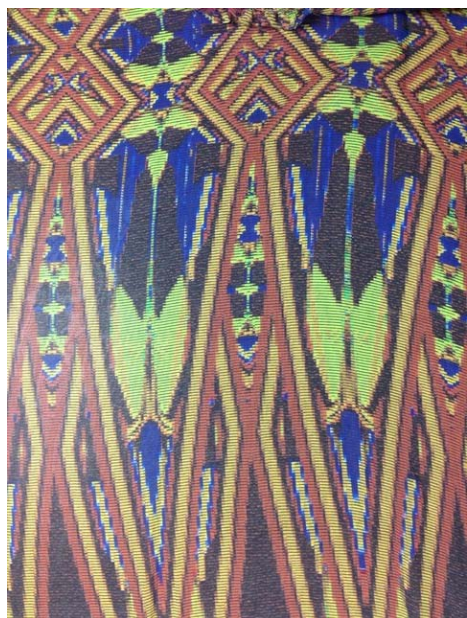
17. Plaintiff applied for and received a United States Copyright Registration for Subject Design B.

18. Prior to the acts complained of herein, Plaintiff sampled and sold fabric bearing Subject Design B to numerous parties in the fashion and apparel industries.

19. Plaintiff is informed and believes and thereon alleges that following this distribution of product bearing Subject Design B, SEARS, SAKUTORI, and/or DOE Defendants, and each of them, created, manufactured, caused to be manufactured, imported, distributed, and/or sold fabric and/or garments comprised of fabric featuring a design which is identical, or substantially similar, to Subject Design B (hereinafter “Subject Product B”) without Plaintiff’s authorization, including but not limited to garments sold by SEARS under SKU 654231929090 and bearing the label

1 “Lauren Michele Honolulu” and RN 126701, which indicates that the garments were
2 manufactured by or for SAKUTORI. An image of Subject Design B and an
3 exemplar of Subject Product B are set forth hereinbelow:

4 **Subject Design B**



Subject Product B



15 **CLAIMS RELATED TO DESIGN NO. 64890**

16 20. Plaintiff is and at all relevant times was the exclusive owner of an original
17 two-dimensional artwork used for purposes of textile printing entitled 64890
18 (“Subject Design C”).

19 21. Plaintiff applied for and received a United States Copyright Registration
20 for Subject Design C.

21 22. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
22 bearing Subject Design C to numerous parties in the fashion and apparel industries.

23 23. Plaintiff is informed and believes and thereon alleges that following this
24 distribution of product bearing Subject Design C, SEARS, FRENCH, PACIFIC,
25 and/or DOE Defendants, and each of them, created, manufactured, caused to be
26 manufactured, imported, distributed, and/or sold fabric and/or garments comprised
27 of fabric featuring a design which is identical, or substantially similar, to Subject
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1 Design C (hereinafter “Subject Product C”) without Plaintiff’s authorization,
2 including but not limited to garments sold by SEARS under SKU 727883229471 and
3 bearing the label “UK Style by French Connection” and RN 123475, which indicates
4 that the garments were manufactured by or for PACIFIC. An image of Subject
5 Design C and an exemplar of Subject Product C are set forth hereinbelow:

6 **Subject Design C**



Subject Product C



18 **CLAIMS OF COPYRIGHT INFRINGEMENT**

19 24. Plaintiff is informed and believes and thereon alleges that Defendants, and
20 each of them, had access to Subject Designs A, B, and/or C (collectively, “Subject
21 Designs”), including, without limitation, through (a) access to Plaintiff’s showroom
22 and/or design library; (b) access to illegally distributed copies of Subject Designs by
23 third-party vendors and/or DOE Defendants, including without limitation
24 international and/or overseas converters and printing mills; (c) access to Plaintiff’s
25 strike-offs and samples, and (d) access to garments in the marketplace manufactured
26 with lawfully printed fabric bearing Subject Designs.

1 25. Plaintiff is informed and believes and thereon alleges that one or more of
2 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
3 further informed and believes and thereon alleges that said Defendant(s), and each of
4 them, has an ongoing business relationship with Defendant retailers, and each of
5 them, and supplied garments to said retailers, which garments infringed Subject
6 Designs in that said garments were composed of fabric which featured unauthorized
7 print designs that were identical or substantially similar to Subject Designs, or were
8 an illegal modification thereof.

9 26. Plaintiff is informed and believes and thereon alleges that Defendants, and
10 each of them, infringed Plaintiff's copyright by creating, making and/or developing
11 directly infringing and/or derivative works from Subject Designs and by producing,
12 distributing and/or selling product bearing unauthorized reproductions of Subject
13 Designs (hereinafter, "Subject Product") through a nationwide network of retail
14 stores, catalogues, and through on-line websites.

15 27. Due to Defendants', and each of their, acts of infringement, Plaintiff has
16 suffered damages in an amount to be established at trial.

17 28. Due to Defendants', and each of their, acts of copyright infringement as
18 alleged herein, Defendants, and each of them, have obtained profits they would not
19 otherwise have realized but for their infringement of Subject Designs. As such,
20 Plaintiff is entitled to disgorgement of Defendants', and each of their, profits
21 attributable to the infringement of Subject Designs in an amount to be established at
22 trial.

23 29. Plaintiff is informed and believes and thereon alleges that Defendants, and
24 each of them, have committed copyright infringement with actual or constructive
25 knowledge of Plaintiff's rights such that said acts of copyright infringement were,
26 and continue to be, willful, intentional and malicious.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

- a. That Defendants—each of them—and their respective agents and servants be enjoined from importing, manufacturing, distributing, offering for sale, selling or otherwise trafficking in any product that infringes Plaintiff’s copyrights in Subject Designs;
- b. That Plaintiff be awarded all profits of Defendants, and each of them, plus all losses of Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys’ fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Dated: October 2, 2014

DONIGER/BURROUGHS

By: /s/ Howard S. Han
Stephen M. Doniger, Esq.
Howard S. Han, Esq.
Attorneys for Plaintiff