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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ADIDAS AMERICA, INC. and ADIDAS
AG,

Plaintiffs,

v.

THE TOPLINE CORPORATION,

Defendant.

No.

COMPLAINT

(Trademark & Trade Dress Infringement,
Trademark & Trade Dress Dilution, Unfair
Competition, and Deceptive Trade Practices)

DEMAND FOR JURY TRIAL

Plaintiffs adidas America, Inc. and adidas AG *f/k/a* adidas-Salomon AG (collectively, "adidas" or "Plaintiffs") state the following for their complaint against The Topline Corporation (hereinafter, "Defendant"):

1. This is an action at law and in equity for trademark infringement and dilution, trade dress infringement and dilution, injury to business reputation, unfair competition, and deceptive trade practices arising under the Trademark Act of 1946, 15 U.S.C. §§ 1051 *et seq.* (2004) ("Lanham Act"); the antidilution laws of the several states, including the Oregon antidilution statute, O.R.S. § 647.107; the fair business practices and unfair and deceptive trade practices acts of the several states; and the common law.

2. Defendant is offering for sale and selling footwear that bears confusingly similar imitations of Plaintiffs' registered Three-Stripe Mark, registered Corporate Logo mark,

COMPLAINT (No.) – 1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress. Defendant's footwear
2 is not manufactured by adidas, nor is Defendant connected or affiliated with, or authorized by,
3 adidas in any way. Defendant's merchandise is likely to cause confusion and to deceive
4 consumers and the public regarding its source, and dilutes and tarnishes the distinctive quality of
5 adidas's marks and trade dresses.
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10 JURISDICTION AND VENUE

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12 3. This Court has subject matter jurisdiction under section 39 of the Lanham Act,
13 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331 and 1338. This Court has jurisdiction over
14 Plaintiffs' related state and common-law claims pursuant to 28 U.S.C. §§ 1338 and 1367. In
15 addition, this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because the parties'
16 citizenship is diverse and the amount in controversy exceeds \$75,000, exclusive of interest and
17 costs.
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24 4. This Court has personal jurisdiction over Defendant because Defendant resides in
25 this district. This Court also has personal jurisdiction over Defendant because, on information
26 and belief, Defendant has distributed or sold infringing merchandise within this State, has
27 distributed or sold infringing merchandise to various companies with the knowledge that those
28 companies sell the merchandise in retail stores in this State, has engaged in acts or omissions
29 within this State causing injury, has engaged in acts or omissions outside of this State causing
30 injury within this State, has manufactured or distributed products used or consumed within this
31 State in the ordinary course of trade, has entered contracts with residents of this State, or has
32 otherwise made or established contacts with this State sufficient to permit the exercise of
33 personal jurisdiction. This District is a proper venue pursuant to 28 U.S.C. § 1391(b)(2), because
34 a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this
35 District.
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THE PARTIES

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3 5. Plaintiff adidas AG is a joint stock company organized and existing under the
4 laws of the Federal Republic of Germany, having its office and principal place of business at
5 Postfach 1120, D-91072 Herzogenaurach, Federal Republic of Germany.
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9 6. Plaintiff adidas America, Inc. is a corporation organized and existing under the
10 laws of the State of Delaware, having its principal place of business at 5055 N. Greeley Avenue,
11 Portland, Oregon 97217. adidas America, Inc. is wholly owned by adidas AG and its affiliates,
12 and within this country adidas America, Inc. is a licensed distributor of ADIDAS-brand
13 merchandise, including goods bearing the distinctive Three-Stripe trademark and the distinctive
14 Corporate Logo trademark. Plaintiffs adidas AG and adidas America, Inc., and any predecessors
15 or related entities, are collectively referred to as "adidas."
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23 7. On information and belief, Defendant, The Topline Corporation, is a Washington
24 corporation with a principal place of business at 13150 SE 32nd St., Bellevue, Washington
25 98006.
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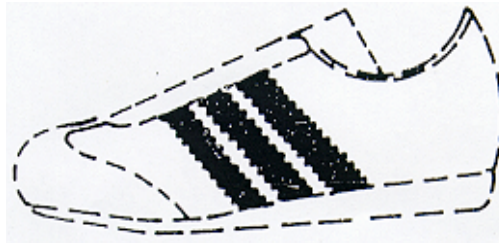
FACTS COMMON TO ALL CLAIMS FOR RELIEF

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29
30 **A. The World Famous Three-Stripe Mark and Corporate Logo mark**

31 8. adidas is currently, and for years has been, one of the world's leading
32 manufacturers of athletic footwear, sportswear, and sporting equipment. Over fifty-five years
33 ago, adidas first placed three parallel bands on its athletic shoes, and the Three-Stripe Mark came
34 to signify the quality and reputation of adidas footwear to the sporting world early in the
35 company's history.
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41 9. At least as early as 1952, adidas began using the Three-Stripe Mark on athletic
42 footwear sold in the United States and worldwide. Pages from adidas catalogs featuring
43 footwear bearing the Three-Stripe Mark are attached as **Exhibit 1**.
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1 10. adidas is the owner of a federal trademark registration, Reg. No. 1,815,956, issued
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3 by the United States Patent and Trademark Office on January 11, 1994, for the Three-Stripe
4
5 Mark, as depicted below, for "athletic footwear."
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15 Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058
16 and 1065, and this registration is incontestable. A copy of the Certificate of Registration for this
17 mark is attached as **Exhibit 2**.
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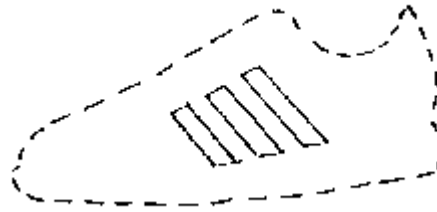
20
21 11. adidas is the owner of a federal trademark registration, Reg. No. 1,833,868, issued
22
23 by the United States Patent and Trademark Office on May 3, 1994, for the Three-Stripe Mark, as
24
25 depicted below, covering "athletic footwear."
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35 Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058
36 and 1065, and this registration is incontestable. A copy of the Certificate of Registration for this
37 mark is attached as **Exhibit 3**.
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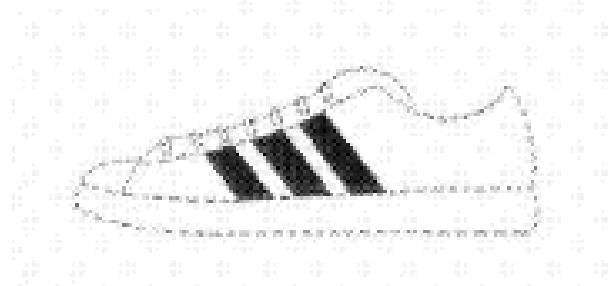
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41 12. adidas is the owner of a federal trademark registration, Reg. No. 2,278,589, issued
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43 by the United States Patent and Trademark Office on September 21, 1999, for the Three-Stripe
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45 Mark, as depicted below, covering "athletic footwear."
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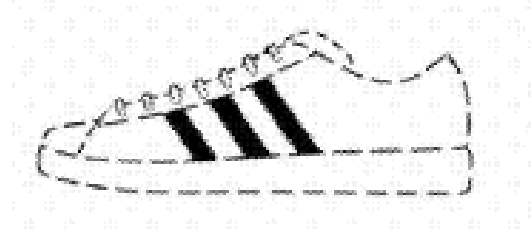


Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058 and 1065, and this registration is incontestable. A copy of the Certificate of Registration for this mark is attached as **Exhibit 4**.

13. adidas is the owner of a federal trademark registration, Reg. No. 3,029,129, issued by the United States Patent and Trademark Office on December 13, 2005, for the Three-Stripe Mark as depicted below, covering "footwear." A copy of the Certificate of Registration for this mark is attached as **Exhibit 5**.



14. adidas is the owner of a federal trademark registration, Reg. No. 3,029,135, issued by the United States Patent and Trademark Office on December 13, 2005, for the Three-Stripe Mark as depicted below, covering "footwear." A copy of the Certificate of Registration for this mark is attached as **Exhibit 6**.



1 15. adidas is the owner of a federal trademark registration, Reg. No. 2,909,861, issued
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3 by the United States Patent and Trademark Office on December 14, 2004, for the Three-Stripe
4 Mark, as depicted below, covering "footwear, namely, slides." A copy of the Certificate of
5 Registration for this mark is attached as **Exhibit 7**.
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20 16. adidas is the owner of a federal trademark registration, Reg. No. 2,999,646, issued
21 by the United States Patent and Trademark Office on September 27, 2005, for the Three-Stripe
22 Mark, as depicted below, covering "footwear, namely, slides." A copy of the Certificate of
23 Registration for this mark is attached as **Exhibit 8**.
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37 17. adidas also owns numerous additional trademark registrations for the Three-Stripe
38 Mark covering footwear and various items of apparel including U.S. Reg. Nos. 870,136,
39 961,353, 2,016,963, 2,058,619, 2,278,591, 2,284,308, 3,029,127, 3,063,742, 3,063,745,
40 3,087,329, 3,183,656, and 3,236,505. A copy of the Certificate of Registration for each of these
41 marks is attached as **Exhibit 9**.
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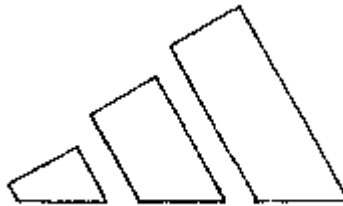
47 18. The Three-Stripe Mark is non-functional, and the public well recognizes and
48 understands that the Three-Stripe Mark distinguishes and identifies adidas's merchandise.
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1 Indeed, unsolicited media coverage has heralded and referred to the "iconic three stripes"
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3 (*Footwear News*, June 16, 2008), the "signature three stripes" (*L.A. Times*, August 13, 2004), the
4
5 "famous brand with the three stripes" (*San Francisco Chronicle*, July 7, 2002), the "legendary
6
7 Adidas three stripes" (*Brand Strategy*, September 27, 1999), and "the classic Adidas Three-
8
9 Stripe motif" (*Tennis*, July 1997).

10
11 19. adidas also owns a federal registration for a word mark using the term "three
12
13 stripes," namely THE BRAND WITH THE THREE STRIPES, Reg. No. 1,674,229, for sport
14
15 and leisure wear. A copy of the Certificate of Registration for this mark is attached as

16
17 **Exhibit 10.**

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19 20. Since at least as early as 1990, adidas has used the following design mark (the
20
21 "Corporate Logo" mark) in connection with footwear and apparel, and adidas owns a federal
22
23 trademark registration for the mark (i.e., Reg. No. 2,179,796):



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35 Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058
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37 and 1065, and this registration is incontestable. A copy of the Certificate of Registration for this
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39 mark is attached as **Exhibit 11.**

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41 21. adidas also owns a registration (i.e., Reg. No. 2,411,802) for the Corporate Logo
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43 mark, as depicted below, in connection with footwear, apparel, and sporting goods:



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10 Affidavits have been filed pursuant to Sections 8 and 15 of the Lanham Act, 15 U.S.C. §§ 1058
11 and 1065, and this registration is incontestable. A copy of the Certificate of Registration for this
12 mark is attached as **Exhibit 12**.
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16 22. adidas also owns additional trademark registrations for the Corporate Logo mark
17 covering watches, mineral water and sports drinks and cosmetics, including U.S. Reg. Nos.
18 2,532,007, 2,723,750 and 2,627,645.
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22 23. The Corporate Logo mark is non-functional, and the public well recognizes and
23 understands that the Corporate Logo mark distinguishes and identifies adidas's merchandise.
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26 24. Plaintiffs' Three-Stripe Mark and Corporate Logo mark are well-known and
27 famous and have been for many years. Plaintiffs have used the Three-Stripe Mark and Corporate
28 Logo mark in connection with their frequent sponsorship of sports tournaments and
29 organizations, as well as professional athletes and collegiate sports teams. For example, adidas
30 has long-term relationships with the National Basketball Association, Notre Dame, the
31 University of California at Los Angeles, the University of Nebraska, and the University of
32 Tennessee. Among many others, NBA stars Tim Duncan, Kevin Garnett, and Tracy McGrady,
33 professional golfer Sergio Garcia, baseball player Nomar Garciaparra, and soccer star David
34 Beckham all are sponsored by adidas. For many years, adidas has been a sponsor of the World
35 Cup soccer tournament, the world-famous Boston Marathon, and many other events, teams, and
36 individuals. (By way of further example, adidas previously had a long-term relationship with the
37 New York Yankees.) Prominent use of the Three-Stripe Mark and the Corporate Logo mark in
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1 connection with these sponsorship activities has further enhanced the marks' recognition and
2 fame.
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4 25. For decades, adidas has extensively and continuously used and promoted the
5 Three-Stripe Mark and the Corporate Logo mark in connection with athletic footwear and
6 sportswear. In recent years, annual sales of products bearing the Three-Stripe Mark and the
7 Corporate Logo mark have totaled in the billions of dollars globally and in the hundreds of
8 millions of dollars within the United States. The Three-Stripe Mark and the Corporate Logo
9 mark have achieved international fame and tremendous public recognition.
10

11 **B. The SUPERSTAR Trade Dress**

12 26. The SUPERSTAR model is a famous shoe featuring a distinctive appearance,
13 including a unique and non-functional combination of three stripes on the side of the shoe
14 parallel to equidistant small holes, a rubber "shell toe," a particularly flat sole and a colored
15 portion on the outer back heel section, that identifies to consumers that the origin of the product
16 lies with adidas (the "SUPERSTAR Trade Dress"), as depicted below:
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45 27. Since introducing its SUPERSTAR Trade Dress, adidas has spent millions of
46 dollars promoting the product and its appearance. As a result of adidas's continuous and
47 exclusive use of the SUPERSTAR Trade Dress in connection with its products, the trade dress
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1 enjoys wide public acceptance and association with adidas, and has come to be recognized
2
3 widely and favorably by the public as an indicator of the origin of adidas's goods.

4
5 28. The fame and popularity of the SUPERSTAR Trade Dress, and particularly the
6
7 "shell toe" feature, is evident from popular press reports, including the following:

- 8
9 • "I have lots of Adidas because I like the shell-toe classic like Run-DMC." David
10
11 A. Keeps, "Taye Diggs," *In Style*, December 2002, at 250.
- 12
13 • "Perfect to chill to, dust off the Adidas shell toes, post up on the stoop, and blare
14
15 it out the window." Heather Kuldell, "Beastie Boys DJ Scratches Your Eyes
16
17 Out," *The Georgia State University Signal*, Sept. 27, 2001.
- 18
19 • "New York's biggest trendsetters are going public with their locker room gear this
20
21 summer Annemie Dreves - a.k.a. 'Number 56' - pairs this football-style
22
23 jersey with well-worn jeans slit at the ankles and shell-toe Adidas." Danielle
24
25 Levitt & Libby Callaway, "Gym Dandies," *The New York Post*, Sept. 2, 2001.
- 26
27 • "One such shoe is the Adidas Superstar, with its now famous rubber shell toe.
28
29 Introduced in 1969 as a basketball shoe, it was worn by three-quarters of National
30
31 Basketball Association players by the mid '70s but fell in popularity in the '80s,
32
33 when chunky Nikes and Reeboks dominated. Championed by rappers Run DMC,
34
35 who wrote My Adidas in 1986, and later the Beastie Boys, they became a cult
36
37 fashion item, prompting Adidas to re-release old models." Dominique Jackson,
38
39 "Sneaky Feelings," *The Australian*, Aug. 17, 2001.
- 40
41 • "This season she's wearing fraying and faded Earl Jeans, Adidas shell toes and an
42
43 asymmetric top." *PR Week*, July 13, 2001, p. 11.
- 44
45 • "dido . . . In her urban chic attire, she is an English rose with a thorny edge
46
47 For casual days, she gravitates toward Adidas shell-toe sneakers, T-shirts with
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49 iron-on decals, and Katayone Adeli or Diesel pants." Heidi Sherman, "Amped +
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1 Vamped: Sample the Style High Notes of Destiny's Child, Sheryl Crow, Macy
2 Gray and More," *In Style*, July 2001, at 186.

- 3
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- 5 • "But when Michele Corbett stopped in during her lunch hour to buy a pair of
- 6 popular Adidas called Superstars (some call them shell toes), she was told that
- 7 particular pair was not on sale." Bruce Mohl, "Old-Fashioned Bill-Paying Gets
- 8 New Wrinkle," *The Boston Globe*, May 13, 2001, at C3.
- 9
- 10 • "'It's hard for me not to be passionate, because passion is something that's in me,'
- 11 says the 22-year-old star, decked out in diamonds and a white linen Enyce suit
- 12 with Adidas shell-toe sneakers." Farrah Weinstein, "Style and Substance: Tyrese
- 13 Gibson," *The New York Post*, July 1, 2001, at 52.
- 14
- 15 • "He expects the trefoil group to appeal to women as it already does to high school
- 16 girls who favor the brand's shell-toe shoes and three-stripe jackets." Rosemary
- 17 Feitelberg, "Adidas Maps Three-Tier Apparel Plan," *Women's Wear Daily*, Oct.
- 18 12, 2000, at 11.
- 19
- 20 • "Fusing rock with hip-hop has been the subject of experiments before many nu-
- 21 metal groups could fit into a pair of shell-toe Adidas." Chris Macias, "Kings of
- 22 Rock N' Rap," *Sacramento Bee*, Oct. 17, 1999, at E19.
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35 29. As a result of adidas's extensive use and promotion of its SUPERSTAR Trade
36 Dress, adidas has built up and now owns valuable goodwill that is symbolized by the trade dress.
37 The purchasing public has come to associate the SUPERSTAR Trade Dress with adidas.
38 adidas's SUPERSTAR Trade Dress is distinctive and non-functional and has achieved significant
39 secondary meaning.
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45 **C. The MEI Trade Dress and PRAJNA Trade Dress**

46 30. Building on the success of the Three-Stripe Mark in the athletic footwear market,
47 adidas developed two new footwear models in 2001, which adidas called the "Mei" and the
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1 "Prajna." These designs marked a successful attempt to develop footwear that has an athletic
2 feel, yet is uniquely targeted to a more trendy, fashion-conscious consumer.
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5 31. adidas's Mei shoe is a popular shoe that features a distinctive appearance,
6 including a unique and non-functional combination of stripes on the side and wrapping around
7 underneath the shoe, small perforated scattered holes spread around the upper of the shoe, a
8 camel-colored rubber sole that rises in two places along the side of the shoe, and a laceless
9 tongue with a hole or "pull," that identifies to consumers that the origin of the product lies with
10 adidas (the "MEI Trade Dress"), as depicted below:
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30 32. Because the Mei shoe is sold as a part of adidas's "Sport Performance" category of
31 footwear, it often bears the Corporate Logo mark on the heel patch, as depicted below:
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48 33. adidas's Prajna shoe is a popular shoe featuring a distinctive appearance,
49 including a unique and non-functional combination of stripes on the side of a low-profile shoe, a
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1 unique "woven" stitching pattern covering the front of the upper portion of the shoe, a camel-
2 colored rubber sole, a unique eye stay with hidden lace loops, and a heel patch that matches the
3 color of the stripes, that identifies to consumers that the origin of the product lies with adidas (the
4 "PRAJNA Trade Dress"), as depicted below:
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19 34. adidas's Mei and Prajna shoes were released as a part of adidas's Spring 2002 line,
20 and they were first shipped into the United States in material quantities in February of 2002. The
21 Mei and Prajna quickly achieved a high degree of fame, and adidas had sold millions of dollars
22 worth of Mei and Prajna shoes within the United States within the first year that they hit the
23 market.
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29 35. Since as early as December 2001, the Mei and Prajna shoes have garnered
30 significant media attention as having a fresh, cool look popular to a wide segment of the public.
31 The shoes have been featured in such magazines as *Glamour*, *Vogue*, *Elle*, *New York Magazine*,
32 and *Sports Illustrated Women*, as well as many others. Moreover, the Mei received *Time*
33 *Magazine's* award for "Shoe of the Year" in 2002, and the Mei also was on Oprah Winfrey's list
34 of favorite things for Spring 2003. Copies of documents reflecting these honors are attached as
35 **Exhibit 13**.
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43 36. As a result of adidas's extensive use and promotion of its MEI Trade Dress and
44 PRAJNA Trade Dress, as well as significant sales and media attention, adidas has built up and
45 now owns valuable goodwill that is symbolized by these trade dresses. The purchasing public
46 has come to associate the MEI Trade Dress and PRAJNA Trade Dress with adidas. adidas's MEI
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1 Trade Dress and PRAJNA Trade Dress are distinctive and non-functional and have achieved
2 significant secondary meaning.
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4 **DEFENDANT'S UNLAWFUL ACTIVITIES**

5
6 37. On information and belief, Defendant has imported, caused to be imported, sold,
7 or offered for sale, goods in interstate commerce that bear a confusingly similar imitation of
8 Plaintiffs' Three-Stripe Mark and SUPERSTAR Trade Dress, including without limitation the
9 footwear depicted below:
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38 38. On information and belief, Defendant has imported, caused to be imported, sold
39 or offered for sale, goods in interstate commerce that bear a confusingly similar imitation of
40 Plaintiffs' Three-Stripe Mark and MEI Trade Dress, including without limitation the footwear
41 depicted below:
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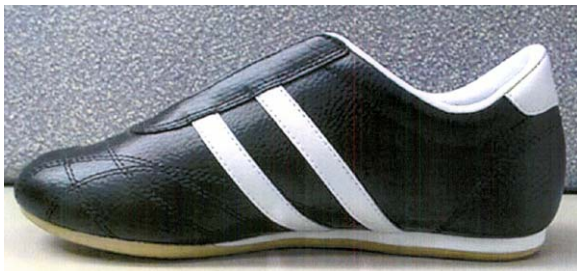
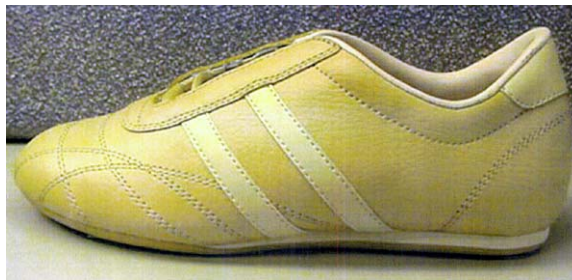
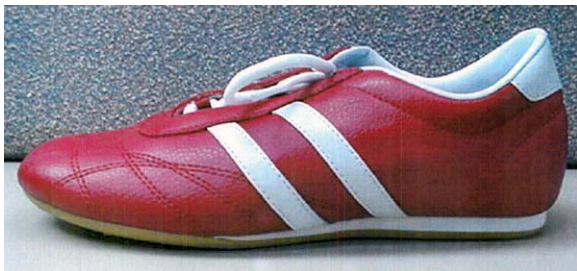


39. On information and belief, Defendant's MEI imitation bears a confusingly similar imitation of Plaintiffs' Corporate Logo mark, as depicted below:



40. On information and belief, Defendant has imported, caused to be imported, sold, or offered for sale, goods in interstate commerce that bear a confusingly similar imitation of Plaintiffs' Three-Stripe Mark and PRAJNA Trade Dress, including without limitation the footwear depicted below:

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41. On information and belief, Defendant has imported, caused to be imported, sold, or offered for sale, goods in interstate commerce that bear a confusingly similar imitation of Plaintiffs' Three-Stripe Mark, including without limitation the footwear depicted below:



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15 42. The goods imported, distributed, offered for sale, and sold by Defendant are not
16 manufactured by adidas, nor is Defendant associated or connected with adidas, or licensed,
17 authorized, sponsored, endorsed, or approved by adidas in any way.
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21 43. Plaintiffs used the Three-Stripe Mark, the Corporate Logo mark, the
22 SUPERSTAR Trade Dress, the MEI Trade Dress, and the PRAJNA Trade Dress extensively and
23 continuously before Defendant began using confusingly similar imitations of adidas's footwear.
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27 44. The goods sold by Defendant are similar to and compete with goods sold by
28 Plaintiffs, and the parties' goods are sold through overlapping channels of trade.
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31 45. Defendant's use of confusingly similar imitations of Plaintiffs' Three-Stripe Mark,
32 Corporate Logo mark, SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress
33 is likely to deceive, confuse, and mislead prospective purchasers and purchasers into believing
34 that footwear sold by Defendant is manufactured by, authorized by, or in some manner
35 associated with Plaintiffs, which it is not. The likelihood of confusion, mistake, and deception
36 engendered by Defendant's misappropriation of Plaintiffs' marks and trade dresses is causing
37 irreparable harm to the goodwill symbolized by the Three-Stripe Mark, the Corporate Logo
38 mark, the SUPERSTAR Trade Dress, the MEI Trade Dress, and the PRAJNA Trade Dress and
39 the reputation for quality that they embody.
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49 46. Defendant's activities are likely to cause confusion before, during, and after the
50 time of purchase because purchasers, prospective purchasers, and others viewing Defendant's
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1 footwear at the point of sale or on a wearer are likely -- due to Defendant's use of confusingly
2 similar imitations of the Three-Stripe Mark, the Corporate Logo mark, the SUPERSTAR Trade
3 Dress, the MEI Trade Dress, and the PRAJNA Trade Dress -- to mistakenly attribute the product
4 to adidas. This is particularly damaging with respect to those persons who perceive a defect or
5 lack of quality in Defendant's products. This is also particularly damaging to the uniqueness of
6 the adidas brand and adidas's ability to control the public perception of its brand. By causing
7 such a likelihood of confusion, mistake, and deception, Defendant is inflicting irreparable harm
8 to the goodwill symbolized by the Three-Stripe Mark, the Corporate Logo mark, the
9 SUPERSTAR Trade Dress, the MEI Trade Dress, and the PRAJNA Trade Dress and the
10 reputation for quality that they embody.

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21 47. Upon information and belief, Defendant continues to use confusingly similar
22 imitations of adidas's Three-Stripe Mark, Corporate Logo mark, SUPERSTAR Trade Dress, MEI
23 Trade Dress, and PRAJNA Trade Dress in connection with the sale of products that are directly
24 competitive with those offered by adidas. Defendant began selling these imitations well after
25 adidas had established protectable rights in its Three-Stripe Mark, Corporate Logo mark,
26 SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress.

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33 48. On information and belief, Defendant knowingly, willfully, intentionally, and
34 maliciously adopted and used confusingly similar imitations of Plaintiffs' Three-Stripe Mark,
35 Corporate Logo mark, SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress.

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39 **FIRST CLAIM FOR RELIEF**
40 **(Federal Trademark Infringement)**

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42 49. Plaintiffs repeat and incorporate by reference the allegations in paragraphs 1-48.

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44 50. Defendant's use of confusingly similar imitations of Plaintiffs' Three-Stripe Mark
45 and Corporate Logo mark is likely to cause confusion, deception, and mistake by creating the
46 false and misleading impression that Defendant's goods are manufactured or distributed by
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1 Plaintiffs, or are associated or connected with Plaintiffs, or have the sponsorship, endorsement,
2 or approval of Plaintiffs.
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4 51. Defendant has used marks confusingly similar to Plaintiffs' federally registered
5 marks in violation of 15 U.S.C. § 1114, and Defendant's activities have caused and, unless
6 enjoined by this Court, will continue to cause a likelihood of confusion and deception of
7 members of the trade and public and, additionally, injury to Plaintiffs' goodwill and reputation as
8 symbolized by the federally registered Three-Stripe Mark and Corporate Logo mark, for which
9 Plaintiffs have no adequate remedy at law.
10

11 52. Defendant's actions demonstrate an intentional, willful, and malicious intent to
12 trade on the goodwill associated with Plaintiffs' federally registered Three-Stripe Mark and
13 Corporate Logo mark to Plaintiffs' great and irreparable injury.
14

15 53. Defendant has caused and is likely to continue causing substantial injury to the
16 public and to Plaintiffs, and Plaintiffs are entitled to injunctive relief and to recover Defendant's
17 profits, actual damages, enhanced profits and damages, costs, and reasonable attorneys' fees
18 under 15 U.S.C. §§ 1114, 1116 and 1117.
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23 **SECOND CLAIM FOR RELIEF**
24 **(Federal Unfair Competition as to Three-Stripe Mark and Corporate Logo mark)**
25

26 54. Plaintiffs repeat and incorporate by reference the allegations in paragraphs 1-53.
27

28 55. Defendant's use of knockoff duplicates or confusingly similar imitations of
29 Plaintiffs' Three-Stripe Mark and Corporate Logo mark has caused and is likely to cause
30 confusion, deception, and mistake by creating the false and misleading impression that
31 Defendant's goods are manufactured or distributed by Plaintiffs, or are affiliated, connected, or
32 associated with Plaintiffs, or have the sponsorship, endorsement, or approval of Plaintiffs.
33

34 56. Defendant has made false representations, false descriptions, and false
35 designations of origin of its goods in violation of 15 U.S.C. § 1125(a), and Defendant's activities
36 have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion
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1 and deception of members of the trade and public and, additionally, injury to Plaintiffs' goodwill
2 and reputation as symbolized by the Three-Stripe Mark and the Corporate Logo mark, for which
3 Plaintiffs have no adequate remedy at law.
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7 57. Defendant's actions demonstrate an intentional, willful, and malicious intent to
8 trade on the goodwill associated with Plaintiffs' Three-Stripe Mark and Corporate Logo mark to
9 the great and irreparable injury of Plaintiffs.
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12 58. Defendant's conduct has caused, and is likely to continue causing, substantial
13 injury to the public and to Plaintiffs, and Plaintiffs are entitled to injunctive relief and to recover
14 Defendant's profits, actual damages, enhanced profits and damages, costs, and reasonable
15 attorneys' fees pursuant to 15 U.S.C. §§ 1125(a), 1116 and 1117.
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21 **THIRD CLAIM FOR RELIEF**
22 **(Federal Unfair Competition as to SUPERSTAR Trade Dress, MEI Trade Dress, and**
23 **PRAJNA Trade Dress)**
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25 59. Plaintiffs repeat and incorporate by reference the allegations in paragraphs 1-58.
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27 60. Plaintiffs' SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade
28 Dress have acquired secondary meaning.
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31 61. Defendant's use of knockoff duplicates or confusingly similar imitations of
32 Plaintiffs' SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress has caused
33 and is likely to cause confusion, deception, and mistake by creating the false and misleading
34 impression that Defendant's goods are manufactured or distributed by Plaintiffs, or are affiliated,
35 connected, or associated with Plaintiffs, or have the sponsorship, endorsement, or approval of
36 Plaintiffs.
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42 62. Defendant has made false representations, false descriptions, and false
43 designations of origin of its goods in violation of 15 U.S.C. § 1125(a), and Defendant's activities
44 have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion
45 and deception of members of the trade and public and, additionally, injury to Plaintiffs' goodwill
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1 and reputation as symbolized by the SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA
2 Trade Dress, for which Plaintiffs have no adequate remedy at law.
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4 63. Defendant's actions demonstrate an intentional, willful, and malicious intent to
5 trade on the goodwill associated with Plaintiffs' SUPERSTAR Trade Dress, MEI Trade Dress,
6 and PRAJNA Trade Dress to the great and irreparable injury of Plaintiffs.
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9 64. Defendant's conduct has caused, and is likely to continue causing, substantial
10 injury to the public and to Plaintiffs, and Plaintiffs are entitled to injunctive relief and to recover
11 Defendant's profits, actual damages, enhanced profits and damages, costs, and reasonable
12 attorneys' fees pursuant to 15 U.S.C. §§ 1125(a), 1116 and 1117.
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15 **FOURTH CLAIM FOR RELIEF**
16 **(Federal Dilution as to Three-Stripe Mark and Corporate Logo mark)**
17

18 65. Plaintiffs repeat and incorporate by reference the allegations in paragraphs 1-64.
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20 66. Plaintiffs have extensively and continuously promoted and used the registered
21 Three-Stripe Mark and Corporate Logo mark both in the United States and throughout the world,
22 and the marks have thereby become famous and well-known symbols of adidas's goods and
23 services.
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26 67. Defendant is making commercial use in commerce of marks that dilute and are
27 likely to dilute the distinctiveness of Plaintiffs' Three-Stripe Mark and Corporate Logo mark by
28 eroding the public's exclusive identification of these famous marks with Plaintiffs, tarnishing and
29 degrading the positive associations and prestigious connotations of the marks, and otherwise
30 lessening the capacity of the marks to identify and distinguish goods and services.
31

32 68. Defendant's actions demonstrate an intentional, willful, and malicious intent to
33 trade on the goodwill associated with Plaintiffs' Three-Stripe Mark and Corporate Logo mark or
34 to cause dilution of the Three-Stripe Mark and the Corporate Logo mark, to the great and
35 irreparable injury of Plaintiffs.
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1 enhanced profits and damages, costs, and reasonable attorneys' fees pursuant to 15 U.S.C.
2 §§ 1125(c), 1116 and 1117.
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5 **SIXTH CLAIM FOR RELIEF**
6 **(State Trademark Dilution and Injury to Business Reputation**
7 **as to Three-Stripe Mark and Corporate Logo mark)**
8

9 75. Plaintiffs repeat and incorporate by reference the allegations contained in
10 paragraphs 1-74.
11

12 76. Plaintiffs have extensively and continuously promoted and used the registered
13 Three-Stripe Mark and Corporate Logo mark both in the United States and throughout the world,
14 and the marks have thereby become distinctive, famous, and well-known symbols of adidas's
15 goods and services.
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20 77. Defendant's unauthorized use of Plaintiffs' registered Three-Stripe Mark and
21 Corporate Logo mark dilutes and is likely to dilute the distinctiveness of Plaintiffs' marks by
22 eroding the public's exclusive identification of these famous marks with Plaintiffs, tarnishing and
23 degrading the positive associations and prestigious connotations of the marks, and otherwise
24 lessening the capacity of the marks to identify and distinguish Plaintiffs' goods and services.
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30 78. Defendant's actions demonstrate an intentional, willful, and malicious intent to
31 trade on the goodwill associated with Plaintiffs' Three-Stripe Mark and Corporate Logo mark or
32 to cause dilution of the Three-Stripe Mark and the Corporate Logo mark, to the great and
33 irreparable injury of Plaintiffs.
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38 79. Defendant is causing and will continue to cause irreparable injury to Plaintiffs'
39 goodwill and business reputation, and dilution of the distinctiveness and value of Plaintiffs'
40 famous and distinctive Three-Stripe Mark and Corporate Logo mark in violation of the Oregon
41 antidilution act, O.R.S. § 647.107 (2007), as well as the antidilution laws of the several states,
42 including Alabama, ALA. CODE § 8-12-17 (2007); Alaska, ALASKA STAT. §45.50.180
43 (Michie 2007); Arizona, ARIZ. REV. STAT. ANN. §44-1448.01 (West 2007); Arkansas, ARK.
44 CODE ANN. § 4-71-213 (2007); California, CAL. BUS. & PROF. CODE § 14330 (West 2007);
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1 Connecticut, CONN. GEN. STAT. ANN § 35-11i(c) (West 2007); Delaware, DEL. CODE
 2 ANN. tit. 6, § 3313 (2007); Florida, FLA. STAT. ANN. § 495.151 (West 2007); Georgia, GA.
 3 CODE ANN. § 10-1-451 (2007); Hawaii, HAW. REV. STAT. ANN. §482-32 (Michie 2007);
 4 Idaho, IDAHO CODE § 48-513 (Michie 2007); Illinois, 765 ILL. COMP. STAT. ANN. 1036/65
 5 (2007); Iowa, IOWA CODE ANN. § 548.113 (West 2007); Kansas, KAN. STAT. ANN. § 81-
 6 214 (2007); Louisiana, LA. REV. STAT. ANN. § 51:223.1 (West 2007); Maine, ME. REV.
 7 STAT. ANN. tit. 10, § 1530 (West 2007); Massachusetts, MASS. GEN. LAWS. ANN. ch. 110B,
 8 § 12 (West 2007); Minnesota, MINN. STAT. ANN. § 333.285 (West 2007); Mississippi, MISS.
 9 CODE. ANN. § 75-25-25 (2007); Missouri, MO. ANN. STAT. § 417.061(1) (West 2007);
 10 Montana, MONT. CODE ANN. § 30-13-334 (2007); Nebraska, NEB. REV. STAT. ANN. §87-
 11 140 (Michie 2007); New Hampshire, N.H. REV. STAT. ANN. § 350-A:12 (2007); New Jersey,
 12 N.J. STAT. ANN. 56:3- 13.20 (West 2007); New Mexico, N.M. STAT. ANN. § 57-3B-15
 13 (Michie 2002); New York, N.Y. GEN. BUS. Law § 360-1 (2007); Pennsylvania, 54 PA. CONS.
 14 STAT. ANN. § 1124 (West 2007); Rhode Island, R.I. GEN. LAWS § 6-2-12 (2007); South
 15 Carolina, S. C. CODE ANN. § 39-15-1165 (2002) Tennessee, TENN. CODE ANN. § 47-25-
 16 513 (2007); Texas, TEX. BUS. & COM. CODE ANN. § 16.29 (Vernon 2007); Utah, UT. CODE
 17 ANN. §70-3a-403 (2007); Washington, WASH. REV. CODE ANN. § 19.77.160 (2007); West
 18 Virginia, W. VA. CODE ANN. 47-2-13 (Michie 2007); and Wyoming, WYO. STAT. ANN. §
 19 40-1-115 (Michie 2007). Plaintiffs therefore are entitled to injunctive relief, damages and costs,
 20 as well as, if appropriate, enhanced damages and reasonable attorneys' fees.

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SEVENTH CLAIM FOR RELIEF

**(State Trade Dress Dilution and Injury to Business Reputation
 as to SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress)**

80. Plaintiffs repeat and incorporate by reference the allegations contained in paragraphs 1-79.

81. Plaintiffs have extensively and continuously promoted and used the SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress in the United States and throughout

1 the world, and these trade dresses have thereby become distinctive, famous, and well-known
2 symbols of adidas's goods and services.
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5 82. Defendant's unauthorized use of Plaintiffs' SUPERSTAR Trade Dress, MEI Trade
6 Dress, and PRAJNA Trade Dress dilutes and is likely to dilute the distinctiveness of Plaintiffs'
7 trade dresses by eroding the public's exclusive identification of these famous trade dresses with
8 Plaintiffs, tarnishing and degrading the positive associations and prestigious connotations of the
9 trade dresses, and otherwise lessening the capacity of the trade dresses to identify and distinguish
10 Plaintiffs' goods and services.
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13 83. Defendant's actions demonstrate an intentional, willful, and malicious intent to
14 trade on the goodwill associated with Plaintiffs' SUPERSTAR Trade Dress, MEI Trade Dress,
15 and PRAJNA Trade Dress or to cause dilution of these trade dresses, to the great and irreparable
16 injury of Plaintiffs.
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19 84. Defendant is causing and will continue to cause irreparable injury to Plaintiffs'
20 goodwill and business reputation, and dilution of the distinctiveness and value of Plaintiffs'
21 famous and distinctive SUPERSTAR Trade Dress, MEI Trade Dress, and PRAJNA Trade Dress
22 in violation of the Oregon antidilution act, O.R.S. § 647.107 (2007), as well as the antidilution
23 laws of the several states, including Alabama, ALA. CODE § 8-12-17 (2007); Alaska, ALASKA
24 STAT. §45.50.180 (Michie 2007); Arizona, ARIZ. REV. STAT. ANN. §44-1448.01 (West
25 2007); Arkansas, ARK. CODE ANN. § 4-71-213 (2007); California, CAL. BUS. & PROF.
26 CODE § 14330 (West 2007); Connecticut, CONN. GEN. STAT. ANN § 35-11i(c) (West 2007);
27 Delaware, DEL. CODE ANN. tit. 6, § 3313 (2007); Florida, FLA. STAT. ANN. § 495.151
28 (West 2007); Georgia, GA. CODE ANN. § 10-1-451 (2007); Hawaii, HAW. REV. STAT. ANN.
29 §482-32 (Michie 2007); Idaho, IDAHO CODE § 48-513 (Michie 2007); Illinois, 765 ILL.
30 COMP. STAT. ANN. 1036/65 (2007); Iowa, IOWA CODE ANN. § 548.113 (West 2007);
31 Kansas, KAN. STAT. ANN. § 81-214 (2007); Louisiana, LA. REV. STAT. ANN. § 51:223.1
32 (West 2007); Maine, ME. REV. STAT. ANN. tit. 10, § 1530 (West 2007); Massachusetts,
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1 MASS. GEN. LAWS. ANN. ch. 110B, § 12 (West 2007); Minnesota, MINN. STAT. ANN.
2 § 333.285 (West 2007); Mississippi, MISS. CODE. ANN. § 75-25-25 (2007); Missouri, MO.
3 ANN. STAT. § 417.061(1) (West 2007); Montana, MONT. CODE ANN. § 30-13-334 (2007);
4 Nebraska, NEB. REV. STAT. ANN. §87-140 (Michie 2007); New Hampshire, N.H. REV.
5 STAT. ANN. § 350-A:12 (2007); New Jersey, N.J. STAT. ANN. 56:3- 13.20 (West 2007); New
6 Mexico, N.M. STAT. ANN. § 57-3B-15 (Michie 2002); New York, N.Y. GEN. BUS. Law
7 § 360-1 (2007); Pennsylvania, 54 PA. CONS. STAT. ANN. § 1124 (West 2007); Rhode Island,
8 R.I. GEN. LAWS § 6-2-12 (2007); South Carolina, S. C. CODE ANN. § 39-15-1165 (2002)
9 Tennessee, TENN. CODE ANN. § 47-25-513 (2007); Texas, TEX. BUS. & COM. CODE
10 ANN. § 16.29 (Vernon 2007); Utah, UT. CODE ANN. §70-3a-403 (2007); Washington, WASH.
11 REV. CODE ANN. § 19.77.160 (2007); West Virginia, W. VA. CODE ANN. 47-2-13 (Michie
12 2007); and Wyoming, WYO. STAT. ANN. § 40-1-115 (Michie 2007). Plaintiffs therefore are
13 entitled to injunctive relief, damages and costs, as well as, if appropriate, enhanced damages and
14 reasonable attorneys' fees.
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29 **EIGHTH CLAIM FOR RELIEF**
30 **(Common Law Trademark Infringement and Unfair Competition)**

31 85. Plaintiffs repeat and incorporate by reference the allegations in paragraphs 1-84.

32 86. Defendant's acts constitute common law trademark infringement and unfair
33 competition, and have created and will continue to create a likelihood of confusion to the
34 irreparable injury of Plaintiffs unless restrained by this Court. Plaintiffs have no adequate
35 remedy at law for this injury.
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41 87. On information and belief, Defendant acted with full knowledge of Plaintiffs' use
42 of, and statutory and common law rights to, the Three-Stripe Mark and the Corporate Logo mark
43 and without regard to the likelihood of confusion of the public created by Defendant's activities.
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1 88. Defendant's actions demonstrate an intentional, willful, and malicious intent to
 2 trade on the goodwill associated with Plaintiffs' Three-Stripe Mark and Corporate Logo mark to
 3 the great and irreparable injury of Plaintiffs.
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 7 89. As a result of Defendant's acts, Plaintiffs have been damaged in an amount not as
 8 yet determined or ascertainable. At a minimum, however, Plaintiffs are entitled to injunctive
 9 relief, to an accounting of Defendant's profits, to damages, and to costs. Further, in light of the
 10 deliberately fraudulent and malicious use of confusingly similar imitations of Plaintiffs' Three-
 11 Stripe Mark and Corporate Logo mark, and the need to deter Defendant from similar conduct in
 12 the future, Plaintiffs additionally are entitled to punitive damages.
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 19 **NINTH CLAIM FOR RELIEF**
 20 **(Unfair and Deceptive Trade Practices)**

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 22 90. Plaintiffs repeat and incorporate by reference the allegations in paragraphs 1-89.
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24 91. Defendant has been and is passing off its goods as those of adidas, causing a
 25 likelihood of confusion or of misunderstanding as to the source, sponsorship, or approval of
 26 Defendant's goods, causing a likelihood of confusion as to Defendant's affiliation, connection, or
 27 association with another, and otherwise damaging the public. Defendant's conduct constitutes
 28 unfair and deceptive acts or practices in the course of a business, trade, or commerce in violation
 29 of the unfair and deceptive trade practices statutes of several states, including Colorado, COLO.
 30 REV. STAT. ANN. §§ 6-1-101 to 6-1-115 (West 2007); Delaware, DEL. CODE ANN. tit. 6,
 31 §§ 2531 to 2536 (2007); Georgia, GA. CODE ANN. §§ 10-1-370 to 10-1-375 (2007); Hawaii,
 32 HAW. REV. STAT. §§ 481A-1 to 481A-5 (2007); Illinois, 815 ILL. COMP. STAT. ANN. 510/1
 33 to 510/7 (2007); Maine, ME. REV. STAT. ANN. tit. 10, §§ 1211 to 1216 (West 2007);
 34 Minnesota, MINN. STAT. ANN. § 325D.43 to .48 (West 2007); Nebraska, NEB. REV. STAT.
 35 §§ 87-301 to 87-306 (2007); New Mexico, N.M. STAT. ANN. §§ 57-12-1 to 57-12-22 (Michie
 36 2007); New York, N.Y. GEN. BUS. Law § 349 (McKinney 2007); Ohio, OHIO REV. CODE
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1 ANN. §§ 4165.01 to 4165.04 (West 2007); and Oklahoma, OKLA. STAT. ANN. tit. 78, §§ 51 to
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3 55 (West 2007).

4 92. Defendant's unauthorized use of confusingly similar imitations of Plaintiffs'
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6 Three-Stripe Mark and Corporate Logo mark has caused and is likely to continue to cause
7
8 substantial injury to the public and to Plaintiffs, and Plaintiffs are entitled to injunctive relief and
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10 to recover damages, punitive damages, punitive damages, costs and reasonable attorneys' fees.
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12 **PRAYER FOR RELIEF**

13
14 WHEREFORE, Plaintiffs pray that:

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16 1. Defendant and all of its agents, officers, employees, representatives, successors,
17
18 assigns, attorneys, and all other persons acting for, with, by, through, or under authority from
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20 Defendant, or in concert or participation with Defendant, and each of them, be enjoined
21
22 permanently, from:

23
24 a. using the Three-Stripe Mark, Corporate Logo mark, SUPERSTAR Trade
25
26 Dress, MEI Trade Dress, PRAJNA Trade Dress or any other copy, reproduction, or colorable
27
28 imitation or simulation of Plaintiffs' Three-Stripe Mark, Corporate Logo mark, SUPERSTAR
29
30 Trade Dress, MEI Trade Dress or PRAJNA Trade Dress on or in connection with Defendant's
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32 goods or services;

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34 b. using any trademark, trade dress, service mark, name, logo, design or
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36 source designation of any kind on or in connection with Defendant's goods or services that is a
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38 copy, reproduction, colorable imitation, or simulation of, or confusingly similar to the
39
40 trademarks, trade dresses, service marks, names, or logos of Plaintiffs;

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42 c. using any trademark, trade dress, service mark, name, logo, design or
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44 source designation of any kind on or in connection with Defendant's goods or services that is
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46 likely to cause confusion, mistake, deception, or public misunderstanding that such goods or
47
48 services are produced or provided by Plaintiffs, are sponsored or authorized by Plaintiffs, or are
49
50 in any way connected or related to Plaintiffs;
51

1 d. using any trademark, trade dress, service mark, name, logo, design or
2 source designation of any kind on or in connection with Defendant's goods or services that
3 dilutes or is likely to dilute the distinctiveness of the trademarks, trade dresses, service marks,
4 names, or logos of Plaintiffs; and
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6

7
8 e. passing off, palming off, or assisting in passing off or palming off,
9 Defendant's goods or services as those of Plaintiffs, or otherwise continuing any and all acts of
10 unfair competition as alleged in this First Amended Complaint;
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13
14 2. Defendant be ordered to recall all products bearing the Three-Stripe Mark,
15 Corporate Logo mark, SUPERSTAR Trade Dress, MEI Trade Dress, PRAJNA Trade Dress or
16 any confusingly similar imitation of these marks or trade dresses, which have been shipped by
17 Defendant or under its authority, to any customer including, but not limited to, any wholesaler,
18 distributor, retailer, consignor, or marketer, and also to deliver to each customer a copy of this
19 Court's order as it relates to said injunctive relief against Defendant;
20
21

22 3. Defendant be ordered to deliver up for impoundment and for destruction all
23 footwear, bags, boxes, labels, tags, signs, packages, receptacles, advertising, sample books,
24 promotional material, stationery or other materials in the possession, custody, or under the
25 control of Defendant that are found to adopt, to infringe, or to dilute any of Plaintiffs' trademarks
26 or trade dress or that otherwise unfairly compete with Plaintiffs and their products and services;
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29 4. Defendant be compelled to account to Plaintiffs for any and all profits derived by
30 Defendant from the sale or distribution of infringing goods as described in this First Amended
31 Complaint, including prejudgment interest thereon;
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34 5. Plaintiffs be awarded all damages caused by the acts forming the basis of this
35 First Amended Complaint, together with prejudgment interest thereon;
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38 6. Based on Defendant's knowing and intentional use of confusingly similar
39 imitations of Plaintiffs' Three-Stripe Mark, Corporate Logo mark, SUPERSTAR Trade Dress,
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1 MEI Trade Dress, and PRAJNA Trade Dress, the damages award be trebled and the award of
2 Defendant's profits be enhanced as provided for by 15 U.S.C. § 1117(a);
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4 7. Defendant be required to pay to Plaintiffs the costs of this action and Plaintiffs'
5 reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a), and the state statutes cited in this
6 First Amended Complaint;
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9 8. Based on Defendant's willful and deliberate infringement and dilution of
10 Plaintiffs' marks and trade dresses, and to deter such conduct in the future, Plaintiffs be awarded
11 punitive damages; and
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14 9. Plaintiffs have such other and further relief as the Court may deem just.
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18 **JURY TRIAL DEMAND**
19

20 Plaintiffs respectfully demand a trial by jury on all claims and issues so triable.
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22

23
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25 DATED: May 11, 2009

s/ William C. Rava, WSBA No. 29948

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