

THE HONORABLE _____



06-CV-05292-CMP

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CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THE NEIMAN MARCUS GROUP, INC.;
BERGDORF GOODMAN, INC.;
AND NM NEVADA TRUST,

Plaintiffs,

vs.

DOTSTER, INC. A/K/A
REVENUEDIRECT; AND
SCOTT FISH,

Defendants.

NO. **C06 5292 RBL**

COMPLAINT
[Cybersquatting; Trademark
Infringement; Dilution; Unfair and
Deceptive Trade Practices; and Unfair
Competition]

JURY TRIAL DEMANDED

The Neiman Marcus Group, Inc., Bergdorf Goodman, Inc., and NM Nevada Trust, (collectively "Plaintiffs"), for their complaint against Dotster, Inc. a/k/a RevenueDirect, and Scott Fish, (collectively "Defendants"), allege as follows:

JURISDICTION AND VENUE

1. This is an action for cybersquatting under 15 U.S.C. § 1125(d); for trademark infringement under 15 U.S.C. § 1114(1); for false designation of origin under 15 U.S.C. § 1125(a); for dilution under 15 U.S.C. § 1125(c) and R.C.W. § 19.77.160; and for unfair competition under R.C.W. § 19.86.020, *et seq.*, and the Washington common law. This Court

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lead T-3/3

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1 has subject matter jurisdiction over the claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C.
2 §§ 1331 and 1338.
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5 2. This Court has supplemental jurisdiction over the claims in this Complaint that
6 arise under the statutory and common law of the State of Washington pursuant to 28 U.S.C.
7 § 1367(a), because the state law claims are so related to the federal claims that they form part of
8 the same case or controversy.
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11
12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because Dotster,
13 Inc. resides in this District and because a substantial part of the events giving rise to the claims
14 occurred in this District.
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17

18 **FACTS AND BACKGROUND**

19 **Parties and Personal Jurisdiction**

20
21 4. The Neiman Marcus Group, Inc. ("Neiman Marcus") is a corporation organized
22 and existing under the laws of the State of Delaware, having its principal place of business at
23 1618 Main Street, Dallas, Texas 75201.
24
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26

27 5. NM Nevada Trust is a Massachusetts business trust, with its address at
28 3200 Las Vegas Boulevard, Las Vegas, Nevada 89109.
29
30

31 6. Bergdorf Goodman, Inc. ("Bergdorf Goodman") is a corporation organized and
32 existing under the laws of the State of New York, having its principal place of business at
33 1618 Main Street, Dallas, Texas 75201.
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37 7. Dotster, Inc. ("Dotster") is a Delaware corporation located at 8100 NE Parkway
38 Dr, Ste 300, Vancouver, WA 95662. This Court has personal jurisdiction over Dotster because it
39 resides within this District, has its principal place of business within this District, and conducts
40 substantial business within this District related to the unlawful activities at issue in this
41 Complaint. The harm suffered by Plaintiffs flows directly from the business conducted by
42 Dotster within this District.
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1 14. The Neiman Marcus Marks are famous marks.
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3 15. In the Fall of 1999, Neiman Marcus expanded its retailing strategy by launching
4 an e-commerce website at www.neimanmarcus.com.
5

6
7 **Bergdorf Goodman's Business and Trademarks**
8

9 16. Bergdorf Goodman's and NM Nevada Trust's predecessors in interest established
10 the Bergdorf Goodman retail business in 1901 as a local specialty store in New York City. Over
11 the past century Bergdorf Goodman has grown into one of the nation's best-known retail stores,
12 and operates a worldwide mail order catalog retail business.
13
14

15 17. Bergdorf Goodman operates its world famous main retail store in Manhattan,
16
17 New York.
18

19 18. NM Nevada Trust owns the trade names, trademarks and service marks
20
21 BERGDORF GOODMAN, which are valid marks and are the subject of numerous registrations
22 on the Principal Register of the United States (collectively, the "Bergdorf Goodman Marks").
23 The Bergdorf Goodman Marks are valid and incontestable under the provisions of 15 U.S.C.
24 § 1065. A table summarizing the registrations of the Bergdorf Goodman Marks as well as copies
25 of the registration certificate for each mark are attached to this complaint as Exhibit 2.
26
27

28 19. NM Nevada Trust licenses the Bergdorf Goodman Marks to Bergdorf Goodman.
29

30 20. The Bergdorf Goodman Marks are used in interstate commerce in connection
31 with the sale, offering for sale, distribution, and advertising of Bergdorf Goodman's goods and
32 services.
33
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35 21. As a result of over a century of use, the Bergdorf Goodman Marks have
36 developed extensive goodwill in the market and are extremely valuable to Bergdorf Goodman
37 and NM Nevada Trust.
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40 22. The Bergdorf Goodman Marks are famous marks.
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1 23. In addition to identifying Bergdorf Goodman's retail outlets, the Bergdorf
2 Goodman Marks and service marks are also used in connection with a highly successful direct-
3 mail business, offering similar goods and services.
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6
7 24. In 2001, Bergdorf Goodman expanded its retailing strategy by launching an e-
8 commerce website at www.bergdorfgoodman.com.
9

10
11 **Dotster's Registration and Use of Internet Domain Names for its Own**
12 **Pecuniary Benefit**
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14 25. Plaintiffs are informed and believe and on that basis allege that Dotster is also
15 known as, and conducts business as, RevenueDirect.
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18 26. Plaintiffs are informed and believe and on that basis allege that RevenueDirect is
19 an alter ego of Dotster.
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22 27. Plaintiffs are informed and believe and on that basis allege that Dotster is a
23 registrar of Internet domain names accredited by the Internet Corporation for Assigned Names
24 and Numbers ("ICANN").
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28 28. Plaintiffs are informed and believe and on that basis allege that Dotster, as an
29 ICANN accredited registrar, has direct access to register Internet domain names from one or
30 more Internet registries, including the .com registry operated by VeriSign, Inc.
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33 29. *Plaintiffs are informed and believe and on that basis allege that Dotster registered*
34 numerous Internet domain names for its own use (the "Dotster Domain Names").
35

36
37 30. Plaintiffs are informed and believe and on that basis allege that, at the time
38 Dotster registered each of the Dotster Domain Names, Dotster did not have an identifiable
39 customer for the Dotster Domain Names.
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42 31. Plaintiffs are informed and believe and on that basis allege that Dotster was both
43 the registrant and the registrar for the Dotster Domain Names.
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1 32. Plaintiffs are informed and believe and on that basis allege that Dotster, as an
2 ICANN accredited registrar, was able to delete some of the Dotster Domain Names from the
3 registry within 5 days and receive a refund of all registration fees.
4
5

6 33. Plaintiffs are informed and believe and on that basis allege that Dotster registers
7 numerous Dotster Domain Names and determines how much traffic each domain name receives,
8 and then deletes those registrations with lower traffic to receive a refund of the registration fees.
9
10

11 34. Plaintiffs are informed and believe and on that basis allege that Dotster, as an
12 ICANN accredited registrar, was able to register the Dotster Domain Names without listing
13 whois information in its registrar database, although failing to list the whois information is a
14 breach of Dotster's registrar agreement with ICANN.
15
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17 35. Plaintiffs are informed and believe and on that basis allege that at the time of
18 registration of the Dotster Domain Names, Dotster provided material and misleading false
19 contact information, or failed to provide contact information, for some of the Dotster Domain
20 Names.
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23 36. Plaintiffs are informed and believe and on that basis allege that Dotster uses the
24 domain name servers ns1.puredns.com and ns2.puredns.com for each of the Dotster Domain
25 Names.
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28 37. Plaintiffs are informed and believe and on that basis allege that Dotster hosts
29 websites at the Dotster Domain Names which display HTML links featuring advertisements.
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32 38. Plaintiffs are informed and believe and on that basis allege that Dotster causes
33 pop-up and pop-under advertisements to be displayed when users access the websites at the
34 Dotster Domain Names.
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37 39. Plaintiffs are informed and believe and on that basis allege that when Internet
38 users click on one or more of the displayed HTML links or pop-up or pop-under advertisements
39 on the websites at the Dotster Domain Names that Dotster receives payment from one or more
40 advertisers, search engines, or affiliate programs.
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1 40. Plaintiffs are informed and believe and on that basis allege that each URL
2 embedded within the displayed HTML links contains the programming code "client=ca dp
3 dotster" which identifies Dotster as the client to the advertisers, search engines, or affiliate
4 programs.
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9 41. Plaintiffs are informed and believe and on that basis allege that on each of the
10 websites at the Dotster Domain Names, Dotster provides an HTML link titled "Offer to Buy This
11 Domain." Clicking on this HTML link creates an email to Dotster at domainsale@gmail.com.
12

13
14 42. Plaintiffs are informed and believe and on that basis allege that Scott Fish
15 receives the emails sent to the domainsale@gmail.com email address and that he responds on
16 behalf of Dotster using the RevenueDirect alias and Dotster's email address
17 domains@revenuirect.com.
18

19
20 43. Plaintiffs are informed and believe and on that basis allege that Scott Fish is an
21 employce of Dotster. A printout of a web posting by Scott Fish announcing his employment at
22 Dotster is attached to this Complaint as Exhibit 3.
23

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25 44. Plaintiffs are informed and believe and on that basis allege that Dotster and Scott
26 Fish offer to sell each of the Dotster Domain Names. A copy of correspondence between Scott
27 Fish and the purchaser of garacey.com, one of the Dotster Domain Names, is attached to this
28 Complaint as Exhibit 4.
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31 45. Plaintiffs are informed and believe and on that basis allege that Dotster accepts
32 payment for the sale of the Dotster Domain Names via its Paypal account
33 "domains@revenuirect.com."
34

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36 46. Plaintiffs are informed and believe and on that basis allege that Dotster accepts
37 payment for the sale of the Dotster Domain Names via checks mailed to Scott Fish at Dotster's
38 office at 8100 NE Parkway Dr, Ste 300, Vancouver, WA 95662.
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1 47. Plaintiffs are informed and believe and on that basis allege that Dotster deposits
2 these checks into Dotster's bank account. A copy of one such check is attached to this Complaint
3 as Exhibit 5.
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7 **Dotster's Registration, Use, and Trafficking in Internet Domain Names**
8 **that are Confusing Similar to Famous or Distinctive Trademarks**
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10 48. Plaintiffs are informed and believe and on that basis allege that some of the
11 Dotster Domain Names are confusingly similar to famous or distinctive trademarks
12 ("Confusingly Similar Internet Domain Names"). A representative list of some of the
13 Confusingly Similar Internet Domain Names is attached to this Complaint as Exhibit 6.
14
15

16 49. Plaintiffs are informed and believe and on that basis allege that Dotster
17 misrepresented to persons inquiring about the Confusingly Similar Internet Domain Names that
18 Dotster is not the registrant but merely the registrar. A copy of correspondence from Dotster's
19 Legal Counsel to Plaintiffs' attorney regarding the registration of the domain name
20 neimanmarcus.com is attached to this Complaint as Exhibit 7.
21
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23 50. Plaintiffs are informed and believe and on that basis allege that at the time of
24 registration Dotster provided materially false contact information or failed to provide contact
25 information for some of the Confusingly Similar Internet Domain Names. A copy of
26 correspondence from Plaintiffs' attorney to Dotster's Legal Counsel regarding Dotster's failure
27 to provide contact information for the Internet domain name neimanmarcus.com is attached to
28 this Complaint as Exhibit 7.
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31 51. Plaintiffs are informed and believe and on that basis allege that Dotster uses the
32 domain name servers ns1.puredns.com and ns2.puredns.com for each of the Confusingly Similar
33 Internet Domain Names.
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36 52. Plaintiffs are informed and believe and on that basis allege that Dotster uses the
37 Confusingly Similar Internet Domain Names to lure and divert Internet users searching for the
38 famous or distinctive trademarks.
39
40

1 53. Plaintiffs are informed and believe and on that basis allege that Dotster hosts
2 websites at the Confusingly Similar Internet Domain Names which display HTML links
3 featuring advertisements for goods and services that are directly competitive with those sold or
4 provided in connection with the famous or distinctive trademarks of others.
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9 54. Plaintiffs are informed and believe and on that basis allege that Dotster causes
10 pop-up and pop-under advertisements to be displayed when users access the websites at the
11 Confusingly Similar Internet Domain Names.
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15 55. Plaintiffs are informed and believe and on that basis allege that when Internet
16 users click on one or more of the displayed HTML links or pop-up or pop-under advertisements
17 on the websites Dotster receives payment from one or more advertisers, search engines, or
18 affiliate programs.
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22 56. Plaintiffs are informed and believe and on that basis allege that each URL
23 embedded within the displayed HTML links contains the programming code "client=ca dp
24 dotster" which identifies Dotster as the client to the advertisers, search engines, or affiliate
25 programs.
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30 57. Plaintiffs are informed and believe and on that basis allege that Dotster offers to
31 sell and sells the Confusingly Similar Internet Domain Names.
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35 58. Plaintiffs are informed and believe and on that basis allege that on each of the
36 websites at the Confusingly Similar Internet Domain Names, Dotster provides an HTML link
37 titled "Offer to Buy This Domain." Clicking on this HTML link creates an email to Dotster at
38 domainsale@gmail.com.
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42 59. Plaintiffs are informed and believe and on that basis allege that Dotster accepts
43 payments for the sale of the Confusingly Similar Internet Domain Names via its Paypal user
44 account, domains@revenueirect.com.
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**Dotster's Registration, Use, and Trafficking in Internet Domain Names
that are Confusing Similar to the Neiman Marcus and Bergdorf
Goodman Marks**

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5 60. Plaintiffs are informed and believe and on that basis allege that on or about
6
7 November 11, 2005, Dotster registered the Internet domain name neimanmarqus.com.
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9 61. Plaintiffs are informed and believe and on that basis allege that the
10
11 neimanmarqus.com Internet domain name is confusingly similar to the famous Neiman Marcus
12
13 Marks.
14

15 62. Plaintiffs are informed and believe and on that basis allege that Dotster did not
16
17 have an identifiable customer for whom Dotster registered the neimanmarqus.com Internet
18
19 domain name.
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21 63. Plaintiffs are informed and believe and on that basis allege that Dotster was both
22
23 the registrant and the registrar for this domain name.
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25 64. Plaintiffs are informed and believe and on that basis allege that at the time of the
26
27 registration Dotster did not provide whois information for the neimanmarqus.com Internet
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29 domain name.
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31 65. Plaintiffs are informed and believe and on that basis allege that Dotster used the
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33 neimanmarqus.com Internet domain name to lure and divert Internet users searching for the
34
35 famous Neiman Marcus Marks.
36

37 66. Plaintiffs are informed and believe and on that basis allege that Dotster hosted a
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39 website at the neimanmarqus.com Internet domain name which displayed HTML links featuring
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41 advertisements for goods and services that are directly competitive with those sold or provided in
42
43 connection with the famous Neiman Marcus Marks.
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45 67. Plaintiffs are informed and believe and on that basis allege that Dotster caused
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47 pop-up and pop-under advertisements to be displayed when users accessed the website at the
48
49 neimanmarqus.com Internet domain name.
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1 68. Plaintiffs are informed and believe and on that basis allege that when Internet
2 users clicked on one or more of the displayed HTML links or pop-up or pop-under
3 advertisements on the website hosted at the neimanmarqus.com Internet domain name that
4
5 Dotster received payment from one or more advertisers, search engines, or affiliate programs.
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9 69. Plaintiffs are informed and believe and on that basis allege that the January 21,
10 2006 correspondence from Plaintiffs' attorney to Dotster's Legal Counsel provided notice to
11 Dotster of the Neiman Marcus Marks and that Dotster received this notice. A copy of
12
13 correspondence from Dotster's Legal Counsel to Plaintiffs' attorney regarding the registration of
14
15 the domain name neimanmarqus.com is attached to this Complaint as Exhibit 7.
16
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19 70. Plaintiffs are informed and believe and on that basis allege that Dotster has
20
21 registered at least the following Internet domain names:

- 22 bergdorfgoddman.com
- 23 bergdorfgoodmon.com
- 24 bergdorfgoogman.com
- 25 bergerdorfgoodman.com
- 26 bergmangoodman.com
- 27 borgdorfgoodman.com

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29
30
31 (collectively the "Bergdorf Goodman Related Domain Names"); and

- 32 emanmarcus.com
- 33 neimanmarqus.com nehmanmarcus.com
- 34 neimanmaracus.com
- 35 neimanmarcurs.com
- 36 neimanmarcuse.com
- 37 neimenmarus.com
- 38 neimumarcus.com
- 39 nclmanmarcus.com
- 40 nemammarcus.com
- 41 nemimarcus.com
- 42 neumenmarcus.com
- 43 niumanmarcus.com
- 44 neamanmarcus.com
- 45 neimanmarisu.com
- 46 neimanns.com
- 47 nemninmarcus.com
- 48 neumanmarcos.com

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Perkins Coie LLP
1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Phone: (503) 727-2000
Fax: (503) 727-2222

1 neumenmarcus.com
2 newmenmarcus.com
3 ninemmarcus.com
4

5 (collectively the "Neiman Marcus Related Domain Names"). The Bergdorf Goodman Related
6 Domain Names and the Neiman Marcus Related Domain Names are collectively referred to as the
7 "Infringing Domain Names."
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11 71. Plaintiffs are informed and believe and on that basis allege that some of the
12 Infringing Domain Names were deleted within the fifth day for a refund or sold to another
13 registrant by Dotster.
14
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17 72. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
18 allege that each of the Neiman Marcus Related Domain Names are *confusingly similar to the*
19 famous Neiman Marcus Marks
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23 73. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
24 basis allege that each of the Bergdorf Goodman Related Domain Names is confusingly similar to
25 the famous Bergdorf Goodman Marks.
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29 74. Plaintiffs are informed and believe and on that basis allege that Dotster did not
30 have an identifiable customer for whom Dotster registered the Infringing Domain Names.
31
32

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34 75. Plaintiffs are informed and believe and on that basis allege that Dotster was both
35 the registrant and the registrar for the Infringing Domain Names.
36
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39 76. Plaintiffs are informed and believe and on that basis allege that at the time of
40 registration Dotster did not provide whois information for the Infringing Domain Names.
41 Dotster's whois system returned "No match for [domain name]" for each of the Infringing
42 Domain Name. Whois information retrieved in March 2006, for each of the Infringing Domain
43 Name is attached to this Complaint as Exhibit 8.
44
45

46
47 77. Plaintiffs are informed and believe and on that basis allege that Dotster used the
48 Infringing Domain Names to lure and divert Internet users searching for the famous Neiman
49 Marcus Marks or famous Bergdorf Goodman Marks, respectively.
50
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1 78. Plaintiffs are informed and believe and on that basis allege that Dotster hosted a
2 website at each of the Infringing Domain Names which displayed HTML links featuring
3 advertisements for goods and services that are directly competitive with those sold or provided in
4 connection with the famous Neiman Marcus Marks or famous Bergdorf Goodman Marks,
5 respectively. Printouts from the website at each of the Infringing Domain Names are attached to
6 this Complaint as Exhibit 9.
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13 79. Plaintiffs are informed and believe and on that basis allege that each URI
14 embedded within the displayed HTML links contains programming code that identifies Dotster
15 as the client, namely "client=ca dp dotster."
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19 80. Plaintiffs are informed and believe and on that basis allege that Dotster caused or
20 causes pop-up and pop-under advertisements to be displayed when users accessed the website at
21 each of the Infringing Domain Names. Printouts of the advertisements displayed when users
22 accessed the website at each of the Infringing Domain Names are attached to this Complaint as
23 Exhibit 10.
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28 81. Plaintiffs are informed and believe and on that basis allege that when Internet
29 users clicked on one or more of the displayed HTML links or pop-up or pop-under
30 advertisements on the website hosted at each of the Infringing Domain Names that Dotster
31 received or receives payments from one or more advertisers, search engines, or affiliate
32 programs.
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39 82. Plaintiffs are informed and believe and on that basis allege that on each of the
40 websites at the Infringing Domain Names Dotster provides an HTML link titled "Offer to Buy
41 This Domain." Clicking on this HTML link creates an email to Dotster at
42 domainsale@gmail.com.
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47 83. Plaintiffs are informed and believe and on that basis allege that on or about
48 March 14, 2006, Dotster and Scott Fish offered to sell the bergmangoodman.com Internet
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1 domain name for \$1,000. Copies of Scott Fish's offer to Plaintiffs' investigator are attached to
2 this Complaint as Exhibit 11.
3

4 84. On or about March 15, 2006 Dotster and Scott Fish sold the
5 bergmangoodman.com Internet domain name for \$800.00 dollars. Copies of the correspondence
6 between Scott Fish and Plaintiffs' investigator confirming the sale are attached to this Complaint
7 as Exhibit 11.
8
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10 85. Plaintiffs are informed and believe and on that basis allege that Dotster accepted
11 payment for the sale of the bergmangoodman.com Internet domain name via its Paypal account
12 domains@revenuedirect.com.
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19 **FIRST CAUSE OF ACTION**

20 **[Cybersquatting on the Neiman Marcus Marks Under 15 U.S.C. § 1125(d)]**

21 86. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 85 as though
22 fully set forth here.
23
24

25 87. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
26 allege that Dotster registered the Neiman Marcus Related Domain Names.
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28

29 88. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
30 allege that Dotster is the registrant for the Neiman Marcus Related Domain Names.
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32

33 89. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
34 allege that Defendants trafficked in the Neiman Marcus Related Domain Names.
35
36

37 90. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
38 allege that Dotster used the Neiman Marcus Related Domain Names.
39
40

41 91. The Neiman Marcus Marks were distinctive at the time Dotster registered the
42 Neiman Marcus Related Domain Names.
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45 92. The Neiman Marcus Marks were famous at the time Dotster registered the
46 Neiman Marcus Related Domain Names.
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48
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1 93. The Neiman Marcus Related Domain Names are confusingly similar to the
2 famous and distinctive Neiman Marcus Marks.
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4 94. Dotster registered, trafficked in, or used the Neiman Marcus Related Domain
5 Names with the bad faith intent to profit from the Neiman Marcus Marks.
6
7

8 95. Scott Fish trafficked in the Neiman Marcus Related Domain Names with the bad
9 faith intent to profit from the Neiman Marcus Marks.
10
11

12 96. Defendants do not have any intellectual property rights in the Neiman Marcus
13 Marks. Neiman Marcus and NM Nevada Trust have not authorized Defendants to use the
14 Neiman Marcus Marks.
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18 97. None of the Neiman Marcus Domain Names consists of the legal name of Dotster
19 or Scott Fish, nor a name that is otherwise commonly used to identify Dotster or Scott Fish.
20
21

22 98. Dotster registered and used the Neiman Marcus Related Domain Names to divert
23 consumers from Neiman Marcus' website to a site accessible under the Neiman Marcus Related
24 Domain Names for its commercial gain by creating a likelihood of confusion as to the source,
25 sponsorship, affiliation, or endorsement of the site.
26
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29 99. Defendants offered to sell the Neiman Marcus Related Domain Names for their
30 financial gain.
31
32

33 100. Dotster provided material and misleading false contact information, or failed to
34 provide contact information when registering the Neiman Marcus Domain Names.
35
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37

38 101. Dotster intentionally failed to maintain accurate contact information for the
39 Neiman Marcus Domain Names.
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42 102. Dotster's prior failure to provide contact information for the Dotster Domain
43 Names indicates Dotster's pattern of failing to provide accurate contact information.
44
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46 103. Dotster has registered multiple Internet domain names which Dotster knew were
47 distinctive at the time of registration of the domain names, or dilutive of famous marks of others
48 that were famous at the time of registration.
49
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1 104. The Neiman Marcus Marks are famous within the meaning of subsection
2
3 15 U.S.C. Section 1125(c)(1).

4
5 105. Dotster's registration, use, and trafficking in, the Neiman Marcus Related Domain
6
7 Names constitutes cybersquatting in violation of 15 U.S.C. Section 1125(d), entitling
8
9 Neiman Marcus and NM Nevada Trust to relief.

10
11 106. Scott Fish's trafficking in the Neiman Marcus Related Domain Names constitutes
12
13 cybersquatting in violation of 15 U.S.C. Section 1125(d), entitling Neiman Marcus and
14
15 NM Nevada Trust to relief.

16
17 107. By reason of Defendants' acts alleged herein, Neiman Marcus and NM Nevada
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19 Trust's remedy at law is not adequate to compensate them for the injuries inflicted by
20
21 Defendants. Accordingly, Neiman Marcus and NM Nevada Trust are entitled to preliminary and
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23 permanent injunctive relief pursuant to 15 U.S.C. § 1116.

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25 108. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
26
27 allege that Defendants' acts are willful and malicious, and intended to injure and cause harm to
28
29 Neiman Marcus and NM Nevada Trust.

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31 109. By reason of Defendants' acts alleged herein, Neiman Marcus and NM Nevada
32
33 Trust are entitled to recover Defendants' profits, actual damages and the costs of the action, or
34
35 statutory damages under 15 U.S.C. § 1117(d), on election by Neiman Marcus and NM Nevada
36
37 Trust, in an amount of \$100,000 per domain name.

38
39 110. This is an exceptional case making Neiman Marcus and NM Nevada Trust
40
41 eligible for an award of attorneys' fees under 15 U.S.C. § 1117.

42
43 **SECOND CAUSE OF ACTION**
44 **[Cybersquatting on the Bergdorf Goodman Marks**
45 **Under 15 U.S.C. § 1125(d)]**
46

47 111. Plaintiffs reallege and incorporate by reference Paragraphs 1 through 110 as
48
49 though fully set forth here.
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1 112. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
2 basis allege that Dotster has registered the Bergdorf Goodman Related Domain Names.
3

4 113. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
5 basis allege that Dotster is the registrant for the Bergdorf Goodman Related Domain Names.
6
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8 114. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
9 basis allege that Defendants trafficked in the Bergdorf Goodman Related Domain Names.
10
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12 115. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
13 basis allege that Dotster used the Bergdorf Goodman Related Domain Names.
14
15

16 116. The Bergdorf Goodman Marks were distinctive at the time Dotster registered the
17 Bergdorf Goodman Related Domain Names.
18

19 117. The Bergdorf Goodman Marks were famous at the time Dotster registered the
20 Bergdorf Goodman Related Domain Names.
21
22

23 118. The Bergdorf Goodman Related Domain Names are confusingly similar to the
24 famous and distinctive Bergdorf Goodman Marks.
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27 119. Dotster registered, trafficked in, or used the Bergdorf Goodman Related Domain
28 Names with the bad faith intent to profit from the Bergdorf Goodman Marks.
29
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31 120. Scott Fish trafficked in the Bergdorf Goodman Related Domain Names with the
32 bad faith intent to profit from the Bergdorf Goodman Marks.
33
34

35 121. Defendants do not have any intellectual property rights in the Bergdorf Goodman
36 Marks. Bergdorf Goodman and NM Nevada Trust have not authorized Defendants to use the
37 Bergdorf Goodman Marks.
38
39

40 122. None of the Bergdorf Goodman Domain Names consists of the legal name of
41 Dotster or Scott Fish, nor a name that is otherwise commonly used to identify Dotster or Scott
42 Fish.
43
44

45 123. Dotster has registered and used or uses the Bergdorf Goodman Related Domain
46 Names to divert consumers from Bergdorf Goodman's website to a site accessible under the
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1 Bergdorf Goodman Related Domain Names for its commercial gain by creating a likelihood of
2 confusion as to the source, sponsorship, affiliation, or endorsement of the site.
3

4
5 124. Defendants offered to sell the Bergdorf Goodman Related Domain Names for
6 their financial gain.
7

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9 125. Dotster provided material and misleading false contact information, or failed to
10 provide contact information when registering the Bergdorf Goodman Domain Names.
11

12
13 126. Dotster intentionally failed to maintain accurate contact information for the
14 Bergdorf Goodman Domain Names.
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17 127. Dotster's prior failure to provide contact information for the Dotster Domain
18 Names indicates Dotster's pattern of failing to provide accurate contact information.
19

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21 128. Dotster has registered multiple Internet domain names which Dotster knows were
22 distinctive at the time of registration of the domain names, or dilutive of famous marks of others
23 that were famous at the time of registration.
24

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27 129. The Bergdorf Goodman Marks are famous within the meaning of subsection
28 15 U.S.C. Section 1125(c)(1).
29

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31 130. Dotster's registration, use, and trafficking in, the Bergdorf Goodman Related
32 Domain Names constitutes cybersquatting in violation of 15 U.S.C. Section 1125(d), entitling
33 Bergdorf Goodman and NM Nevada Trust to relief.
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37 131. Scott Fish's trafficking in the Bergdorf Goodman Related Domain Names
38 constitutes cybersquatting in violation of 15 U.S.C. Section 1125(d), entitling Bergdorf
39 Goodman and NM Nevada Trust to relief.
40

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43 132. By reason of Defendants' acts alleged herein, Bergdorf Goodman and
44 NM Nevada Trust's remedy at law is not adequate to compensate them for the injuries inflicted
45 by Defendants. Accordingly, Bergdorf Goodman and NM Nevada Trust are entitled to
46 preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.
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1 133. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
2 basis allege that Defendants' acts are willful and malicious, and intended to injure and cause
3 harm to Bergdorf Goodman and NM Nevada Trust.
4

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6 134. By reason of Defendants' acts alleged herein, Bergdorf Goodman and
7 NM Nevada Trust are entitled to recover Defendants' profits, actual damages and the costs of the
8 action, or statutory damages under 15 U.S.C. § 1117(d), on election by Bergdorf Goodman and
9 NM Nevada Trust, in an amount of \$100,000 per domain name.
10

11 135. This is an exceptional case making Bergdorf Goodman and NM Nevada Trust
12 eligible for an award of attorneys' fees under 15 U.S.C. § 1117.
13

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19 **THIRD CAUSE OF ACTION**
20 **[Trademark Infringement of the Neiman Marcus Marks**
21 **Under 15 U.S.C. § 1114(1)]**
22

23 136. Plaintiffs reallege and incorporate by reference each of the allegations contained
24 in Paragraphs 1 through 135 of this Complaint as though fully set forth here.
25

26 137. Dotster's use in commerce of the Neiman Marcus Marks and the Neiman Marcus
27 Related Domain Names is likely to cause confusion, or to cause mistake, or to deceive the
28 relevant public that the Neiman Marcus Related Domain Names and websites displayed at the
29 Neiman Marcus Related Domain Names are authorized by or are affiliated with Neiman Marcus.
30

31 138. Dotster's use of the Neiman Marcus Marks and the Neiman Marcus Related
32 Domain Names are likely to cause initial interest confusion among the relevant public.
33

34 139. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
35 allege that Dotster knowingly failed to provide correct contact information for each of the
36 Neiman Marcus Related Domain Names.
37

38 140. The above-described acts of Dotster constitute trademark infringement in
39 violation of 15 U.S.C. § 1114(1), entitling Neiman Marcus and NM Nevada Trust to relief.
40

41 141. Dotster has unfairly profited from the infringing actions alleged.
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1 142. By reason of Dotster's acts Neiman Marcus and NM Nevada Trust have suffered
2 damage to the goodwill associated with the Neiman Marcus Marks and have suffered irreparable
3 harm.
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7 143. By reason of Dotster's acts Neiman Marcus and NM Nevada Trust's remedy at
8 law is not adequate to compensate them for the injuries inflicted by Dotster. Accordingly,
9 Neiman Marcus and NM Nevada Trust are entitled to preliminary and permanent injunctive
10 relief pursuant to 15 U.S.C. § 1116.
11

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15 144. By reason of Dotster's willful acts conducted in conscious disregard for Plaintiffs'
16 rights, Neiman Marcus and NM Nevada Trust are entitled to damages, and that those damages be
17 trebled under 15 U.S.C. § 1117.
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21 145. This is an exceptional case making Neiman Marcus and NM Nevada Trust
22 eligible for an award of attorneys' fees under 15 U.S.C. § 1117.
23

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25 **FOURTH CAUSE OF ACTION**
26 **[Trademark Infringement of the Bergdorf Goodman Marks**
27 **Under 15 U.S.C. § 1114(1)]**
28

29 146. Plaintiffs reallege and incorporate by reference each of the allegations contained
30 in Paragraphs 1 through 145 of this Complaint as though fully set forth here.
31

32
33 147. Dotster's use in commerce of the Bergdorf Goodman Marks and the Bergdorf
34 Goodman Related Domain Names in connection with Dotster's services is likely to cause
35 confusion, or to cause mistake, or to deceive the relevant public that the websites displayed on
36 Dotster's websites are authorized by or are affiliated with Bergdorf Goodman.
37

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39 148. Dotster's use of the Bergdorf Goodman Marks and the Bergdorf Goodman
40 Related Domain Names is likely to cause initial interest confusion among the relevant public.
41

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43 149. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
44 basis allege that Dotster knowingly failed to provide correct contact information for the
45 Goodman Related Domain Names.
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1 150. The above-described acts of Dotster constitute trademark infringement in
2 violation of 15 U.S.C. §1114(1), entitling Bergdorf Goodman and NM Nevada Trust to relief.
3

4 151. Dotster has unfairly profited from the actions alleged.
5

6 152. By reason of Dotster's acts Bergdorf Goodman and NM Nevada Trust have
7 suffered damage to the goodwill associated with the Bergdorf Goodman Marks and have
8 suffered irreparable harm.
9
10

11 153. By reason of Dotster's acts Bergdorf Goodman and NM Nevada Trust's remedy
12 at law is not adequate to compensate them for the injuries inflicted by Dotster. Accordingly,
13 Bergdorf Goodman and NM Nevada Trust are entitled to preliminary and permanent injunctive
14 relief pursuant to 15 U.S.C. § 1116.
15
16

17 154. By reason of Dotster's willful acts conducted in conscious disregard for Bergdorf
18 Goodman and NM Nevada Trust's rights, Bergdorf Goodman and NM Nevada Trust are entitled
19 to damages, and that those damages be trebled, under 15 U.S.C. § 1117.
20
21

22 155. This is an exceptional case making Bergdorf Goodman and NM Nevada eligible
23 for an award of attorneys' fees under 15 U.S.C. § 1117.
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32 **FIFTH CAUSE OF ACTION**
33 **[False Designation of Origin of the Neiman Marcus Marks**
34 **Under 15 U.S.C. § 1125(a)]**
35

36 156. Plaintiffs reallege and incorporate by reference each of the allegations contained
37 in Paragraphs 1 through 155 of this Complaint as though fully set forth here.
38

39 157. Dotster's use in commerce of the Neiman Marcus Marks and the Neiman Marcus
40 Related Domain Names is likely to cause confusion, or to cause mistake, or to deceive the
41 relevant public that the Neiman Marcus Related Domain Names and websites displayed at the
42 Neiman Marcus Related Domain Names are authorized by or are affiliated with Neiman Marcus.
43
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45 158. Dotster's use of the Neiman Marcus Marks and the Neiman Marcus Related
46 Domain Names are likely to cause initial interest confusion among the relevant public.
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1 159. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
2 allege that Dotster knowingly failed to provide correct contact information for the Neiman
3 Marcus Related Domain Names.
4

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7 160. The above-described acts of Dotster constitute trademark infringement in
8 violation of 15 U.S.C. §1125(a), entitling Neiman Marcus and NM Nevada Trust to relief.
9

10
11 161. Dotster has unfairly profited from the actions alleged.
12

13 162. By reason of Dotster's acts alleged herein, Neiman Marcus and NM Nevada Trust
14 have suffered damage to the goodwill associated with the Neiman Marcus Marks and have
15 suffered irreparable harm.
16

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19 163. By reason of Dotster's acts alleged herein, Neiman Marcus and NM Nevada
20 Trust's remedy at law is not adequate to compensate them for the injuries inflicted by Dotster.
21 Accordingly, Neiman Marcus and NM Nevada Trust are entitled to preliminary and permanent
22 injunctive relief pursuant to 15 U.S.C. § 1116.
23

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27 164. By reason of Dotster's willful acts conducted in conscious disregard for Neiman
28 Marcus and NM Nevada Trust's rights, Neiman Marcus and NM Nevada Trust are entitled to
29 damages, and that those damages be trebled under 15 U.S.C. § 1117.
30

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33 165. This is an exceptional case making Neiman Marcus and NM Nevada Trust
34 eligible for an award of attorneys' fees under 15 U.S.C. § 1117.
35

36
37 **SIXTH CAUSE OF ACTION**
38 **[False Designation of Origin of the Bergdorf Goodman Marks**
39 **Under 15 U.S.C. § 1125(a)]**
40

41 166. Plaintiffs reallege and incorporate by reference each of the allegations contained
42 in Paragraphs 1 through 165 of this Complaint as though fully set forth here.
43

44
45 167. Dotster's use in commerce of the Bergdorf Goodman Marks and the Bergdorf
46 Goodman Related Domain Names is likely to cause confusion, or to cause mistake, or to deceive
47 the relevant public that the Bergdorf Goodman Marks and the Bergdorf Goodman Related
48 Domain Names are authorized by or are affiliated with Bergdorf Goodman.
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1 168. Dotster's use of the Bergdorf Goodman Marks and the Bergdorf Goodman
2 Related Domain Names is likely to cause initial interest confusion among the relevant public.
3

4 169. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
5 basis allege that Dotster knowingly failed to provide correct contact information for the Bergdorf
6 Goodman Related Domain Names.
7

8 170. The above-described acts of Dotster constitute trademark infringement in
9 violation of 15 U.S.C. § 1125(a), entitling Bergdorf Goodman and NM Nevada Trust to relief.
10

11 171. Dotster has unfairly profited from the actions alleged.
12

13 172. By reason of Dotster's acts alleged herein, Bergdorf Goodman and NM Nevada
14 Trust have suffered damage to the goodwill associated with the Bergdorf Goodman Marks and
15 have suffered irreparable harm.
16

17 173. By reason of Dotster's acts alleged herein, Bergdorf Goodman and NM Nevada
18 Trust's remedy at law is not adequate to compensate them for the injuries inflicted by Dotster.
19 Accordingly, Bergdorf Goodman and NM Nevada Trust are entitled to preliminary and
20 permanent injunctive relief pursuant to 15 U.S.C. § 1116.
21

22 174. By reason of Dotster's willful acts conducted in conscious disregard for Bergdorf
23 Goodman and NM Nevada Trust's rights, Bergdorf Goodman and NM Nevada Trust are entitled
24 to damages, and that those damages be trebled, under 15 U.S.C. § 1117.
25

26 175. This is an exceptional case making Bergdorf Goodman and NM Nevada Trust
27 eligible for an award of attorneys' fees under 15 U.S.C. § 1117.
28

29
30
31 **SEVENTH CAUSE OF ACTION**
32 **[Dilution of the Neiman Marcus Marks Under 15 U.S.C. § 1125(c)]**
33

34 176. Plaintiffs reallege and incorporate by reference each of the allegations contained
35 in Paragraphs 1 through 175 of this Complaint as though fully set forth here.
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1 177. The Neiman Marcus Marks are famous marks and were famous before Dotster's
2 commercial use in commerce of the Neiman Marcus Marks and the Neiman Marcus Related
3 Domain Names.
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7 178. Dotster's commercial use in commerce of the Neiman Marcus Marks and the
8 Neiman Marcus Related Domain Names causes dilution of the distinctive quality of the Neiman
9 Marcus Marks.
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13 179. Neiman Marcus and NM Nevada Trust are informed and believe and on that basis
14 allege that Dotster knowingly failed to provide contact information for each of the Neiman
15 Marcus Related Domain Names.
16

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19 180. The above-described acts of Dotster constitute trademark dilution in violation of
20 15 U.S.C. §1125(c), entitling Neiman Marcus and NM Nevada Trust to relief.
21

22
23 181. Dotster has unfairly profited from the actions alleged.
24

25 182. By reason of Dotster's acts Neiman Marcus and NM Nevada Trust have suffered
26 damage to the goodwill associated with the Neiman Marcus Marks and have suffered irreparable
27 harm.
28

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30
31 183. By reason of Dotster's acts Neiman Marcus and NM Nevada Trust's remedy at
32 law is not adequate to compensate them for the injuries inflicted by Dotster. Accordingly,
33 Neiman Marcus and NM Nevada Trust are entitled to preliminary and permanent injunctive
34 relief pursuant to 15 U.S.C. § 1116.
35

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38 184. By reason of Dotster's willful acts conducted in conscious disregard for Neiman
39 Marcus and NM Nevada Trust's rights, Neiman Marcus and NM Nevada Trust are entitled to
40 damages, and that those damages be trebled, under 15 U.S.C. § 1117.
41

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43
44 185. This is an exceptional case making Neiman Marcus and NM Nevada Trust
45 eligible for an award of attorneys' fees under 15 U.S.C. § 1117.
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EIGHTH CAUSE OF ACTION
[Dilution of the Bergdorf Goodman Marks Under 15 U.S.C. § 1125(c)]

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4 186. Plaintiffs reallege and incorporate by reference each of the allegations contained
5
6 in Paragraphs 1 through 185 of this Complaint as though fully set forth.
7

8 187. The Bergdorf Goodman Marks are famous marks and were famous before
9
10 Dotster's commercial use in commerce of the Bergdorf Goodman Marks and the Bergdorf
11
12 Goodman Related Domain Names.
13

14 188. Dotster's commercial use in commerce of the Bergdorf Goodman Marks and the
15
16 Bergdorf Goodman Related Domain Names causes dilution of the distinctive quality of the
17
18 Bergdorf Goodman Marks.
19

20 189. Bergdorf Goodman and NM Nevada Trust are informed and believe and on that
21
22 basis allege that Dotster knowingly failed to provide contact information for each of the Bergdorf
23
24 Goodman Related Domain Names.
25

26 190. The above-described acts of Dotster constitute trademark dilution in violation of
27
28 15 U.S.C. § 1125(c), entitling Bergdorf Goodman and NM Nevada Trust to relief.
29

30 191. Dotster has unfairly profited from the actions alleged.
31

32 192. By reason of Dotster's acts Bergdorf Goodman and NM Nevada Trust have
33
34 suffered damage to the goodwill associated with the Bergdorf Goodman Marks and have
35
36 suffered irreparable harm.
37

38 193. By reason of Dotster's acts Bergdorf Goodman and NM Nevada Trust's remedy
39
40 at law is not adequate to compensate them for the injuries inflicted by Dotster. Accordingly,
41
42 Bergdorf Goodman, Inc. and NM Nevada Trust are entitled to preliminary and permanent
43
44 injunctive relief pursuant to 15 U.S.C. § 1116.
45

46 194. By reason of Dotster's willful acts conducted in conscious disregard for Bergdorf
47
48 Goodman and NM Nevada's rights, Bergdorf Goodman and NM Nevada Trust are entitled to
49
50 damages, and that those damages be trebled, under 15 U.S.C. § 1117.
51

1 195. This is an exceptional case making Bergdorf Goodman and NM Nevada Trust
2 eligible for an award of attorneys' fees under 15 U.S.C. § 1117.
3
4

5 **NINTH CAUSE OF ACTION**
6 **[Trademark Dilution of the Neiman Marcus Marks Under R.C.W. § 19.77.160]**
7

8
9 196. Plaintiffs reallege and incorporate by reference each of the allegations contained
10 in Paragraphs 1 through 195 of this Complaint as though fully set forth here.
11

12
13 197. Dotster has made commercial use of the Neiman Marcus Marks and the
14 Neiman Marcus Related Domain Names in connection with their business.
15

16
17 198. Dotster's use of the Neiman Marcus Marks and the Neiman Marcus Related
18 Domain Names commenced after the Neiman Marcus Marks became famous.
19

20
21 199. Dotster's use of the Neiman Marcus Marks and the Neiman Marcus Related
22 Domain Names causes dilution of the distinctive quality of the Neiman Marcus Marks.
23

24
25 200. The above-described acts of Dotster constitute trademark dilution in violation of
26 R.C.W. § 19.77.160, entitling Neiman Marcus and NM Nevada Trust to relief.
27

28
29 201. Dotster willfully intended to trade on the reputation of the Neiman Marcus Marks.
30

31 202. The above-described acts of Dotster were in bad faith.
32

33 203. By reason of Dotster's acts Neiman Marcus and NM Nevada Trust have suffered
34 damage to the goodwill associated with the Neiman Marcus Marks and have suffered irreparable
35 harm.
36

37
38 204. By reason of Dotster's acts alleged herein, Neiman Marcus and NM Nevada
39 Trust's remedy at law is not adequate to compensate them for the injuries inflicted by Dotster.
40 Accordingly, Neiman Marcus and NM Nevada Trust are entitled to preliminary and permanent
41 injunctive relief pursuant to R.C.W. § 19.77.160.
42
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44

45 205. By reason of Dotster's willful acts conducted in conscious disregard for Neiman
46 Marcus and NM Nevada Trust's rights, Neiman Marcus and NM Nevada Trust are entitled
47 damages, and that those damages be trebled, under R.C.W. § 19.77.150.
48
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51

1 206. By reason of Dotster's willful acts conducted in conscious disregard for Neiman
2 Marcus and NM Nevada Trust's rights, Neiman Marcus and NM Nevada Trust are entitled their
3 reasonable attorneys' fees under R.C.W. § 19.77.150.
4
5

6
7 **TENTH CAUSE OF ACTION**
8 **[Trademark Dilution of the Bergdorf Goodman Marks Under**
9 **R.C.W. § 19.77.160]**
10

11 207. Plaintiffs reallege and incorporate by reference each of the allegations contained
12 in Paragraphs 1 through 206 of this Complaint as though fully set forth here.
13

14 208. Dotster has made commercial use of the Bergdorf Goodman Marks and the
15 Bergdorf Goodman Related Domain Names in connection with their business.
16
17

18 209. Dotster's use of the Bergdorf Goodman Marks and the Bergdorf Goodman
19 Related Domain Names commenced after the Bergdorf Goodman Marks became famous.
20
21

22 210. Dotster's use of the Bergdorf Goodman Marks and the Bergdorf Goodman
23 Related Domain Names causes dilution of the distinctive quality of the Bergdorf Goodman
24 Marks.
25
26

27 211. The above-described acts of Dotster constitute trademark dilution in violation of
28 R.C.W. § 19.77.160, entitling Bergdorf Goodman and NM Nevada Trust to relief.
29
30

31 212. Dotster willfully intended to trade on the reputation of the Bergdorf Goodman
32 Marks.
33
34

35 213. The above-described acts of Dotster were in bad faith.
36
37

38 214. By reason of Dotster's acts Bergdorf Goodman and NM Nevada Trust have
39 suffered damage to the goodwill associated with the Bergdorf Goodman Marks and have
40 suffered irreparable harm.
41
42

43 215. By reason of Dotster's acts Bergdorf Goodman and NM Nevada Trust's remedy
44 at law is not adequate to compensate them for the injuries inflicted by Dotster. Accordingly,
45 Bergdorf Goodman and NM Nevada Trust are entitled to preliminary and permanent injunctive
46 relief pursuant to R.C.W. § 19.77.160.
47
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1 216. By reason of Dotster's willful acts conducted in conscious disregard for Bergdorf
2 Goodman and NM Nevada Trust's rights, Bergdorf Goodman and NM Nevada Trust are entitled
3 damages, and that those damages be trebled, under R.C.W. § 19.77.150.
4

5
6
7 217. By reason of Dotster's willful acts conducted in conscious disregard for Bergdorf
8 Goodman and NM Nevada Trust's rights, Bergdorf Goodman and NM Nevada Trust are entitled
9 their reasonable attorneys' fees under R.C.W. § 19.77.150.
10
11

12
13 **ELEVENTH CAUSE OF ACTION**
14 **[Violation of Washington Consumer Protection Act with respect to**
15 **Neiman Marcus—R.C.W. § 19.86.020, et seq.]**
16

17 218. Neiman Marcus and NM Nevada Trust reallege and incorporate by reference each
18 of the allegations contained in Paragraphs 1 through 217 of this Complaint as though fully set
19 forth here.
20
21

22
23 219. The above-described acts and practices of Dotster constitute unfair and deceptive
24 acts and practices in violation of R.C.W. § 19.86.020, entitling Neiman Marcus and NM Nevada
25 Trust to relief.
26
27

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29 220. Dotster's unfair and deceptive acts and practices are intended to, and are likely, to
30 lead to dilution, confusion, mistake, or deception among the public as to the source, sponsorship,
31 affiliation, endorsement, or approval of the Neiman Marcus Mark.
32
33

34
35 221. As a result of Dotster's unfair and deceptive acts and practices, and the resulting
36 consumer confusion, Neiman Marcus and NM Nevada Trust have suffered and will continue to
37 suffer losses and irreparable injury to its business reputation and goodwill in amounts not yet
38 ascertained. Neiman Marcus and NM Nevada Trust's remedy at law is not itself adequate to
39 compensate Neiman Marcus and NM Nevada Trust for injuries inflicted and threatened by
40 Dotster.
41
42

43
44 222. Accordingly, pursuant to R.C.W. § 19.86.090, Neiman Marcus and NM Nevada
45 Trust are entitled to preliminary and permanent injunctive relief, actual and trebled damages,
46 attorneys' fees, and costs of suit.
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1120 NW Couch Street, 10th Floor
Portland, Oregon 97209
Phone: (503) 727-2000
Fax: (503) 727-2222

TWELFTH CAUSE OF ACTION
[Violation of the Washington Consumer Protection Act with respect to
Bergdorf Goodman—R.C.W. § 19.86.020, et seq.]

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5 223. Plaintiffs reallege and incorporate by reference each of the allegations contained
6
7 in Paragraphs 1 through 222 of this Complaint as though fully set forth here.
8

9 224. The above-described acts and practices of Dotster constitute unfair and deceptive
10 acts and practices in violation of R.C.W. § 19.86.020, entitling Bergdorf Goodman and NM
11 Nevada Trust to relief.
12
13

14
15 225. Dotster's unfair and deceptive acts and practices are intended to, and are likely, to
16 lead to dilution, confusion, mistake, or deception among the public as to the source, sponsorship,
17 affiliation, endorsement, or approval of the Bergdorf Goodman Mark.
18
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21 226. As a result of Dotster's unfair and deceptive acts and practices, and the resulting
22 consumer confusion, Bergdorf Goodman and NM Nevada Trust have suffered and will continue
23 to suffer losses and irreparable injury to its business reputation and goodwill in amounts not yet
24 ascertained. Bergdorf Goodman and NM Nevada Trust's remedy at law is not itself adequate to
25 compensate Bergdorf Goodman and NM Nevada Trust for injuries inflicted and threatened by
26 Dotster.
27
28

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30 227. Accordingly, pursuant to R.C.W. § 19.86.090, Bergdorf Goodman and
31 NM Nevada Trust are entitled to preliminary and permanent injunctive relief, actual and trebled
32 damages, attorneys' fees, and costs of suit.
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39 **THIRTEENTH CAUSE OF ACTION**

40
41 **[Unfair Competition with Neiman Marcus**
42 **Under Washington Common Law]**
43

44
45 228. Plaintiffs reallege and incorporate by reference each of the allegations contained
46 in Paragraphs 1 through 227 of this Complaint as though fully set forth here.
47

48
49 229. The acts and conduct of Dotster as alleged above in this Complaint constitute
50 unfair competition with Neiman Marcus and NM Nevada Trust under Washington common law.
51

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1 230. Dotster's acts and conduct as alleged above have damaged and will continue to
2 damage Neiman Marcus and NM Nevada Trust in an amount that is unknown at the present time.
3
4

5 **FOURTEENTH CAUSE OF ACTION**

6
7 **[Unfair Competition with Bergdorf Goodman**
8 **Under Washington Common Law]**
9

10 231. Plaintiffs reallege and incorporate by reference each of the allegations contained
11 in Paragraphs 1 through 230 of this Complaint as though fully set forth here.
12
13

14 232. The acts and conduct of Dotster as alleged above in this Complaint constitute
15 unfair competition with Bergdorf Goodman and NM Nevada Trust under Washington common
16 law.
17
18

19 233. Dotster's acts and conduct as alleged above have damaged and will continue to
20 damage Bergdorf Goodman and NM Nevada Trust in an amount that is unknown at the present
21 time.
22
23
24

25 **JURY DEMAND**

26 234. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by
27 jury as to all issues so triable in this action.
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31

32 **REQUEST FOR RELIEF**

33 Wherefore, Plaintiffs respectfully request judgment against Defendants as follows:
34

35 1. That the Court enter a judgment against Defendants as indicated below:
36

37 (a) that Dotster has infringed the rights of Neiman Marcus and NM Nevada
38 Trust in their Neiman Marcus Marks in violation of 15 U.S.C. § 1125(d), 15 U.S.C. § 1114(1),
39 15 U.S.C. § 1125(a), 15 U.S.C. § 1125(c), R.C.W. § 19.77.160, R.C.W. § 19.86.020, *et seq.*, and
40 the Washington common law;
41
42
43
44

45 (b) that Dotster has infringed the rights of Bergdorf Goodman and NM
46 Nevada Trust in their Bergdorf Goodman Marks in violation of 15 U.S.C. § 1125(d), 15 U.S.C.
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1 § 1114(1), 15 U.S.C. § 1125(a), 15 U.S.C. § 1125(c), R.C.W. § 19.77.160, R.C.W. § 19.86.020,
2
3 and the Washington common law;

4
5 (c) that Scott Fish has infringed the rights of Neiman Marcus and NM Nevada
6
7 Trust in their Neiman Marcus Marks in violation of 15 U.S.C. § 1125(d);

8
9 (b) that Scott Fish has infringed the rights of Bergdorf Goodman and NM
10
11 Nevada Trust in their Bergdorf Goodman Marks in violation of 15 U.S.C. § 1125(d);

12
13 2. That Defendants, their agents, representatives, employees, assigns and suppliers,
14
15 and all persons acting in concert or privity with them be preliminarily and permanently enjoined
16
17 from cybersquatting on, infringing, diluting the Neiman Marcus Marks, or false advertising, or
18
19 unfairly competing with Neiman Marcus or NM Nevada Trust.

20
21 3. That Defendants, their agents, representatives, employees, assigns and suppliers,
22
23 and all persons acting in concert or privity with them be preliminarily and permanently enjoined
24
25 from cybersquatting on, infringing, diluting the Bergdorf Goodman Marks, or false advertising,
26
27 or unfairly competing with Bergdorf Goodman or NM Nevada Trust.

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29 4. That Defendants be preliminarily and permanently enjoined from assisting, aiding
30
31 or abetting any other person or business entity in engaging in or performing any of the activities
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33 referred to in Paragraphs 2 and 3 above.

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35 5. That Dotster be ordered to pay statutory damages under 15 U.S.C. § 1117(d), on
36
37 election by Plaintiffs, in an amount of \$100,000 per domain name.

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39 6. That Scott Fish be ordered to pay statutory damages under 15 U.S.C. § 1117(d),
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41 on election by Plaintiffs, in an amount of \$100,000 per domain name.

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43 7. That Dotster be ordered to engage in corrective advertising to the extent necessary
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45 to correct any consumer confusion or misperceptions resulting from Dotster's unlawful acts
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47 complained of above.

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49 8. That Defendants be ordered to account to Neiman Marcus and NM Nevada Trust
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51 for, and disgorge, all profits it has derived by reason of the unlawful acts complained of above.

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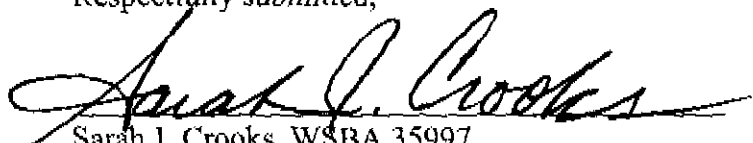
9. That Dotster be ordered to account to Bergdorf Goodman and NM Nevada Trust for, and disgorge, all profits it has derived by reason of the unlawful acts complained of above.

10. That Dotster be ordered to pay compensatory damages, and that those damages be trebled, under 15 U.S.C. § 1117, R.C.W. § 19.77.150, and R.C.W. § 19.86.090.

11. That Defendants be ordered to pay Plaintiffs' reasonable attorney fees, prejudgment interest, and costs of this action under 15 U.S.C. § 1117, R.C.W. § 19.77.150, and R.C.W. § 19.86.090.

DATED: May 30, 2006

Respectfully submitted,



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