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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SPORTSFRAGRANCE, INC., a New York corporation,

Plaintiff,

v.

THE PERFUMER'S WORKSHOP INTERNATIONAL, LTD, a New York corporation; PERFUMER'S WORKSHOP, LLC, a New York limited liability company; and THE PERFUMER'S WORKSHOP EXPORT, LTD, a New York corporation,

Defendants.

NO.

COMPLAINT FOR TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

JURY DEMAND

Plaintiff alleges:

1. Plaintiff Sportsfragrance, Inc. is a New York corporation with its headquarters in Scottsdale, Arizona. Sportsfragrance is in the cosmetics industry and, since 2002, has sold and marketed throughout the United States perfumes and colognes under the federally registered trademark ROCK 'N ROLL®, registration number 2582649. A true and correct copy of plaintiff's registered trademark is attached as Exhibit A.

2. Plaintiff's right to use the mark ROCK 'N ROLL® in connection with cosmetics is incontestable under 15 U.S.C. §1065 because plaintiff has made continuous use of such mark for more than five years from the date of registration.

1 3. Defendant The Perfumer’s Workshop International, Ltd (“PWI”), is a New York
2 corporation doing business throughout the United States, including Washington State.
3 Defendant, by itself or through the affiliate companies identified below, markets a line of
4 perfumes, colognes, and scented lotions under the brand name Samba. Some of the Samba
5 brand’s perfumes, colognes, and scented lotions are marketed nationally through various
6 retailers under the name “ROCK & ROLL” and sold in Washington State and elsewhere. An
7 example of defendants’ “ROCK & ROLL” perfume products as marketed through Target
8 Stores’ at www.target.com is attached as Exhibit B.

9 4. Defendant Perfumer’s Workshop LLC, is a New York limited liability company
10 and an affiliate of defendant PWI.

11 5. Defendant Perfumer’s Workshop Export, Ltd, is a New York limited liability
12 company and an affiliate of defendant PWI.

13 6. This Court has subject matter jurisdiction of this action pursuant to 15 U.S.C.
14 §1121 and 28 U.S.C. §§1331 and 1338.

15 7. Defendants use of the mark “ROCK & ROLL” to market perfumes, colognes
16 and scented lotions infringes on plaintiff’s identical federally registered mark ROCK ‘N
17 ROLL® in violation of 15 U.S.C. §§1114, 1125.

18 8. Defendants use of the mark “ROCK & ROLL,” which is identical to plaintiff’s
19 federally registered mark and used on identical goods, constitutes the use of a counterfeit mark
20 under 15 U.S.C. 1116(d).

21 WHEREFORE, plaintiff Sportsfragrance demands judgment against Defendants as
22 follows:

23 A. Awarding plaintiff recovery of up to three times defendants’ profits and
24 damages sustained by plaintiff pursuant to 15 U.S.C. §1117;

25 B. Awarding plaintiff an amount up to three times such profits and damages for
26 defendants’ use of a counterfeit mark;

- 1 C. Enjoining defendant from further use of the mark "ROCK & ROLL";
2 D. Awarding plaintiff its costs and attorney fees incurred in this action; and
3 E. For such other and further relief to which it may be entitled.

4 DATED this 10th day of February, 2009.

5 TOUSLEY BRAIN STEPHENS, PLLC

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