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12 Attorneys for Plaintiff

13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

15 MERIDIAN TEXTILES, INC., a
 16 California Corporation,

17 Plaintiff,

18 v.

19 ERIN FETHERSTON, LLC, a New York
 20 Limited Liability Company;
 21 FETHERSTON DESIGN GROUP, LLC,
 22 a New York Limited Liability Company;
 23 ANTHROPOLOGIE, INC., a
 24 Pennsylvania Corporation; DILLARD’S,
 25 INC., an Arkansas Corporation;
 26 THEORY, LLC, a New York Limited
 27 Liability Company; AMAZON.COM,
 28 LLC, a Washington Limited Liability
 Company; NEIMAN MARCUS GROUP,
 INC., a Texas Corporation; BOP, LLC, a
 Wisconsin Limited Liability Company
 d/b/a “Shopbop”; and DOES 1-10,
 inclusive,

Defendants.

Case No.:

PLAINTIFF’S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

1 Plaintiff MERIDIAN TEXTILES, INC., by and through its undersigned
2 attorneys, hereby prays to this honorable Court for relief based on the following:

3 **JURISDICTION AND VENUE**

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

6 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
7 1338 (a) and (b).

8 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
9 1400(a) in that this is the judicial district in which a substantial part of the acts and
10 omissions giving rise to the claims occurred.

11 **PARTIES**

12 4. Plaintiff MERIDIAN TEXTILES, INC. (“Meridian” or “Plaintiff”) is a
13 corporation organized and existing under the laws of the state of California with its
14 principal place of business located in the City of Commerce, State of California.

15 5. Plaintiff is informed and believes and thereon alleges that Defendant ERIN
16 FETHERSTON, LLC (“ERIN”) is a limited liability company organized and
17 existing under the laws of the state of New York, with its principal place of business
18 located at 225 West Broadway New York, New York 10013, and doing business in
19 and with the state of California.

20 6. Plaintiff is informed and believes and thereon alleges that Defendant
21 FETHERSTON DESIGN GROUP, LLC (“FETHERSTON”) is a limited liability
22 company organized and existing under the laws of the state of New York, with its
23 principal place of business located at 252 West 37th Street, New York, New York
24 10018, and doing business in and with the state of California.

25 7. Plaintiff is informed and believes and thereon alleges that Defendant
26 ANTHROPOLOGIE, INC. (“ANTHROPOLOGIE”) is a corporation organized and
27 existing under the laws of the state of Pennsylvania, with its principal place of

1 business located at 5000 S. Broad Street, Building 10, Philadelphia, Pennsylvania
2 19112, and doing business in and with the state of California.

3 8. Plaintiff is informed and believes and thereon alleges that Defendant
4 DILLARD’S, INC. (“DILLARDS”) is a corporation organized and existing under
5 the laws of the state of Arkansas, with its principal place of business at 1600 Cantrell
6 Road, Little Rock, AR 72201, and doing business in and with the state of California.

7 9. Plaintiff is informed and believes and thereon alleges that Defendant
8 THEORY, LLC (“THEORY”) is a limited liability company organized and existing
9 under the laws of the state of New York, with its principal place of business located
10 at 38 Gansevoort Street, New York, New York 10014, and doing business in and
11 with the state of California.

12 10. Plaintiff is informed and believes and thereon alleges that Defendant
13 AMAZON.COM, LLC (“AMAZON”) is a limited liability company organized and
14 existing under the laws of the state of Washington, with its principal place of
15 business located at 410 Terry Avenue, Seattle, Washington 98109, and doing
16 business in and with the state of California.

17 11. Plaintiff is informed and believes and thereon alleges that Defendant
18 NEIMAN MARCUS GROUP, INC. (“NEIMAN MARCUS”) is a corporation
19 organized and existing under the laws of the state of Texas, with its principal place
20 of business located at 1618 Main Street, Dallas, Texas 75201, and doing business in
21 and with the state of California.

22 12. Plaintiff is informed and believes and thereon alleges that Defendant BOP,
23 LLC doing business as SHOPBOP (“SHOPBOP”) is a limited liability company
24 organized and existing under the laws of the state of Wisconsin, with its principal
25 place of business located at 320 Holtzman Road, Madison, Wisconsin 53713, and
26 doing business in and with the state of California.

1 13. Plaintiff is informed and believes and thereon alleges that some of
2 Defendants DOES 1 through 10, inclusive, are manufacturers and/or vendors who
3 have contributed to the infringement alleged herein. The true names, whether
4 corporate, individual or otherwise of Defendants DOES 1-10, inclusive, are presently
5 unknown to Plaintiff, which therefore sues said Defendants by such fictitious names
6 and will seek leave to amend this complaint to show their true names and capacities
7 when same have been ascertained.

8 14. Plaintiff is informed and believes and thereon alleges that at all times
9 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
10 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
11 at all times acting within the scope of such agency, affiliation, alter-ego relationship
12 and/or employment; and actively participated in or subsequently ratified and
13 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
14 all the facts and circumstances, including, but not limited to, full knowledge of each
15 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
16 caused thereby.

17 **CLAIMS RELATED TO DESIGN S1078**

18 15. Plaintiff is the owner of an original two-dimensional artwork for purposes
19 of textile printing entitled Design S1078 ("Subject Design").

20 16. Plaintiff owns a United States Copyright Registration for Subject Design.

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

23 18. Following this distribution of product bearing Subject Design, Plaintiff's
24 investigation revealed that ERIN, ANTHROPOLOGIE, DILLARDS, THEORY,
25 AMAZON, NEIMAN MARCUS, SHOPBOP, FETHERSTON, and DOE
26 Defendants sold, created, manufactured, caused to be manufactured, imported,
27 and/or distributed fabric and/or garments bearing unauthorized reproductions of

1 Subject Design (“Subject Product”), including but not limited to garments sold under
2 FETHERSTON’s Style No. C30650013040 and bearing RN 122451.

3 19. An image of Subject Design and an exemplar of Subject Product are set
4 forth hereinbelow:

5 **Subject Design**



6 **Subject Product**



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18 **FIRST CLAIM FOR RELIEF**

19 (For Copyright Infringement - Against All Defendants)

20 20. Plaintiff repeats, re-alleges and incorporates herein by reference as though
21 fully set forth the allegations contained in the foregoing paragraphs.

22 21. Plaintiff is informed and believes and thereon alleges that Defendants, and
23 each of them, had access to Subject Design, including and without limitation,
24 through (a) access to Plaintiff’s showroom and/or design library; (b) access to
25 illegally distributed copies of the Subject Design by third-party vendors and/or DOE
26 Defendants, including without limitation international and/or overseas converters
27 and printing mills; (c) access to Plaintiff’s strike-offs and samples, and (d) access to

1 garments being sold in the marketplace bearing fabric lawfully printed through
2 Plaintiff.

3 22. Plaintiff is informed and believes and thereon alleges that one or more of
4 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
5 further informed and believes and thereon alleges that said Defendant(s) has an
6 ongoing business relationship with Defendant retailer, and each of them, and
7 supplied garments to said retailer, which garments infringed the Subject Design in
8 that said garments were composed of fabric which featured an unauthorized print
9 design that was identical or substantially similar to the Subject Design.

10 23. Plaintiff is informed and believes and thereon alleges that Defendants, and
11 each of them, infringed Plaintiff's copyright by creating, making and/or developing
12 directly infringing and/or derivative works from Subject Design and by producing,
13 distributing and/or selling garments which infringe Subject Design through a
14 nationwide network of retail stores and on-line outlets.

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

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

22 26. Plaintiff is further informed and believes, and thereon alleges, that
23 Defendants, and each of them, violated Plaintiff's copyright with knowledge of
24 and/or reckless disregard for Plaintiff's copyrights such that their infringement
25 qualifies as willful.

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1 **SECOND CLAIM FOR RELIEF**

2 (For Vicarious and/or Contributory Copyright Infringement - Against All
3 Defendants)

4 27.Plaintiff repeats, realleges and incorporates herein by reference as though
5 fully set forth the allegations contained in the foregoing paragraphs.

6 28.Plaintiff is informed and believes and thereon alleges that Defendants
7 knowingly induced, participated in, aided and abetted in and profited from the illegal
8 reproduction and/or subsequent sales of product featuring Subject Design as alleged
9 hereinabove.

10 29.Plaintiff is informed and believes and thereon alleges that Defendants, and
11 each of them, are vicariously liable for the infringement alleged herein because they
12 had the right and ability to supervise the infringing conduct and because they had a
13 direct financial interest in the infringing conduct.

14 30.By reason of the Defendants', and each of their, acts of contributory and
15 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
16 suffer damages in an amount to be established at trial.

17 31.Due to Defendants', and each of their, acts of copyright infringement as
18 alleged herein, Defendants, and each of them, have obtained profits they would not
19 otherwise have realized but for their infringement of Subject Design. As such,
20 Plaintiff is entitled to disgorgement of Defendants' profits attributable to
21 Defendants' infringement of Subject Design.

22 32.Plaintiff is further informed and believes and thereon alleges that
23 Defendants, and each of them, violated Plaintiff's copyright with knowledge of
24 and/or reckless disregard for Plaintiff's copyrights such that their infringement
25 qualifies as willful.

26 **PRAYER FOR RELIEF**

27 Wherefore, Plaintiff prays for judgment as follows:

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- a. That Defendants as well as their agents and employees be enjoined from infringing Plaintiff’s copyrights in any manner, specifically those for Subject Design;
- b. That Plaintiff be awarded all profits of Defendants plus all losses of Plaintiff, plus any other monetary advantage gained by Defendants through their infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys’ fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the
- g. Court deems proper.

A TRIAL BY JURY PURSUANT TO FED. R. CIV. P. 38 AND
CONSTITUTIONAL AMENDMENT SEVEN IS HEREBY DEMANDED.

DONIGER / BURROUGHS

Dated: April 23, 2014

By: /s/ Stephen M. Doniger
Stephen M. Doniger, Esq.
Attorneys for Plaintiff
MERIDIAN TEXTILES, INC.,