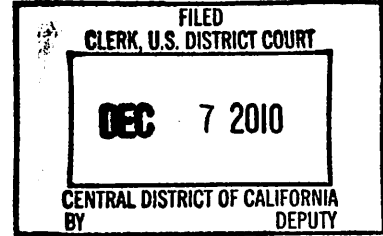


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10 Attorneys for Plaintiff

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

13 **ADVANCED VISUAL IMAGE**
14 **DESIGN, LLC, dba AVID INK, a**
15 **California Limited Liability Company,**

16 **Plaintiff,**

17 **vs.**

18 **EXIST, INC., a Florida Corporation;**
19 **ROSS STORES, INC., a California**
20 **Corporation; and DOES 1-10,**

21 **Defendants.**

Case No. **CV10 9383**

DMG

AJWx

PLAINTIFF'S COMPLAINT FOR:

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

Jury Trial Demanded

22 **Plaintiff, ADVANCED VISUAL IMAGE DESIGN, LLC, dba AVID INK**
23 **(hereinafter "AVID" or "Plaintiff"), by and through its undersigned attorneys, hereby**
24 **prays to this honorable Court for relief based on the following:**

25 **JURISDICTION AND VENUE**

- 26 **1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., §**
27 **101 et seq.**

1 Defendants by such fictitious names and will seek leave to amend this complaint to
2 show their true names and capacities when same have been ascertained.

3 8. Defendants DOES 1 through 10, inclusive, are other parties not yet
4 identified who have infringed Plaintiff's copyrights, have contributed to the
5 infringement of Plaintiff's copyrights, or have engaged in one or more of the
6 wrongful practices alleged herein. The true names, whether corporate, individual or
7 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
8 which therefore sues said Defendants by such fictitious names, and will seek leave to
9 amend this Complaint to show their true names and capacities when same have been
10 ascertained.

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

20 **CLAIMS RELATED TO DESIGN A113018**

21 10. At least as early as July of 2009, Plaintiff was publishing and offering
22 for sale a two-dimensional artistic rendering of roses and varying vine intricacies
23 which it had allocated Internal Design Code A113018 ("Subject Design A"). This
24 artwork is, and at all relevant times was, owned in exclusivity by Plaintiff.

25 11. In early 2010, Plaintiff's investigation into the unlawful use of its
26 proprietary designs revealed that EXIST was purchasing, distributing and selling for
27 profit, garments which infringed Subject Design A (hereinafter "Accused Garments
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1 A”). A true and correct copy of Subject Design A, as well as an exemplar of a
2 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design A, is
3 attached hereto as Exhibit 1.

4 12. In November of 2010 Plaintiff found offending EXIST garments for sale
5 at ROSS, including but not limited to dresses sold under the “Cristinalove” label and
6 ROSS SKU No. 400057291092.

7 **CLAIMS RELATED TO DESIGN A112607**

8 13. At least as early as July 2009, Plaintiff was publishing and offering for
9 sale a two-dimensional artistic rendering of alternating flowers and bird wings of
10 varying intricacies which it had allocated Internal Design Code A112607 (“Subject
11 Design B”). This artwork is, and at all relevant times was, owned in exclusivity by
12 Plaintiff.

13 14. In early 2010, Plaintiff’s investigation into the unlawful use of its
14 proprietary designs revealed that EXIST was purchasing, distributing and selling for
15 profit, garments which infringed Subject Design B (hereinafter “Accused Garments
16 B”). A true and correct copy of Subject Design B, as well as an exemplar of a
17 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design B, is
18 attached hereto as Exhibit 2.

19 **CLAIMS RELATED TO DESIGN A113736**

20 15. At least as early as July 2009, Plaintiff was publishing and offering for
21 sale a two-dimensional artistic rendering of a symmetrical design interspersed with
22 floral arrangements which it had allocated Internal Design Code A113736 (“Subject
23 Design C”). This artwork is, and at all relevant times was, owned in exclusivity by
24 Plaintiff.

25 16. In early 2010, Plaintiff’s investigation into the unlawful use of its
26 proprietary designs revealed that EXIST was purchasing, distributing and selling for
27 profit, garments which infringed Subject Design C (hereinafter “Accused Garments
28

1 C”). A true and correct copy of Subject Design C, as well as an exemplar of a
2 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design C, is
3 attached hereto as Exhibit 3.

4 **CLAIMS RELATED TO DESIGN A113883**

5 17. At least as early as July 2009, Plaintiff was publishing and offering for
6 sale a two-dimensional artistic rendering of symmetrical, kaleidoscope-like medallion
7 arrangements which it had allocated Internal Design Code A113883 (“Subject Design
8 D”).

9 18. In early 2010, Plaintiff’s investigation into the unlawful use of its
10 proprietary designs revealed that EXIST was purchasing, distributing and selling for
11 profit, garments which infringed Subject Design D (hereinafter “Accused Garments
12 D”). A true and correct copy of Subject Design D, as well as an exemplar of a
13 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design D, is
14 attached hereto as Exhibit 4.

15 **CLAIMS RELATED TO DESIGN A110352**

16 19. At least as early as July 2009, Plaintiff was publishing and offering for
17 sale a two-dimensional artistic rendering of leaves and medallion patterns which it
18 had allocated Internal Design Code A110352 (“Subject Design E”).

19 20. In early 2010, Plaintiff’s investigation into the unlawful use of its
20 proprietary designs revealed that EXIST was purchasing, distributing and selling for
21 profit, garments which infringed Subject Design E (hereinafter “Accused Garments
22 E”). A true and correct copy of Subject Design E, as well as an exemplar of a
23 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design E, is
24 attached hereto as Exhibit 5.

25 **CLAIMS RELATED TO DESIGN M111486**

1 garment sold by EXIST in violation of Plaintiff's copyright in Subject Design H, is
2 attached hereto as Exhibit 8.

3 **CLAIMS RELATED TO DESIGN A109573**

4 27. At least as early as July 2009, Plaintiff was publishing and offering for
5 sale a two-dimensional artistic rendering of paisley patterns of various sizes which it
6 had allocated Internal Design Code A109573 ("Subject Design I").

7 28. In early 2010, Plaintiff's investigation into the unlawful use of its
8 proprietary designs revealed that EXIST was purchasing, distributing and selling for
9 profit, garments which infringed Subject Design I (hereinafter "Accused Garments
10 I"). A true and correct copy of Subject Design I, as well as an exemplar of a garment
11 sold by EXIST in violation of Plaintiff's copyright in Subject Design I, is attached
12 hereto as Exhibit 9.

13 **CLAIMS RELATED TO DESIGN M113443**

14 29. At least as early as July 2009, Plaintiff was publishing and offering for
15 sale a two-dimensional artistic rendering of paisley patterns of various sizes which it
16 had allocated Internal Design Code M113443 ("Subject Design J").

17 30. In early 2010, Plaintiff's investigation into the unlawful use of its
18 proprietary designs revealed that EXIST was purchasing, distributing and selling for
19 profit, garments which infringed Subject Design J (hereinafter "Accused Garments
20 J"). A true and correct copy of Subject Design J, as well as an exemplar of a garment
21 sold by EXIST in violation of Plaintiff's copyright in Subject Design J, is attached
22 hereto as Exhibit 10.

23 **CLAIMS RELATED TO DESIGN M117896**

24 31. At least as early as July 2009, Plaintiff was publishing and offering for
25 sale a two-dimensional artistic rendering of tribal designs of various sizes which it
26 had allocated Internal Design Code M117896 ("Subject Design K").

1 37. At least as early as July 2009, Plaintiff was publishing and offering for
2 sale a two-dimensional artistic rendering of butterflies and flowers which it had
3 allocated Internal Design Code A111971 (“Subject Design N”).

4 38. In early 2010, Plaintiff’s investigation into the unlawful use of its
5 proprietary designs revealed that EXIST was purchasing, distributing and selling for
6 profit, garments which infringed Subject Design N (hereinafter “Accused Garments
7 N”). A true and correct copy of Subject Design N, as well as an exemplar of a
8 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design N, is
9 attached hereto as Exhibit 14.

10
11 **CLAIMS RELATED TO DESIGN M113797**

12 39. At least as early as July 2009, Plaintiff was publishing and offering for
13 sale a two-dimensional artistic rendering of rose and vine patterns of various sizes
14 which it had allocated Internal Design Code M113797 (“Subject Design O”).

15 40. In early 2010, Plaintiff’s investigation into the unlawful use of its
16 proprietary designs revealed that EXIST was purchasing, distributing and selling for
17 profit, garments which infringed Subject Design O (hereinafter “Accused Garments
18 O”). A true and correct copy of Subject Design O, as well as an exemplar of a
19 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design O, is
20 attached hereto as Exhibit 15.

21 **CLAIMS RELATED TO DESIGN A113287**

22 41. At least as early as July 2009, Plaintiff was publishing and offering for
23 sale a two-dimensional artistic rendering of a butterfly and peacock feathers which it
24 had allocated Internal Design Code A113287 (“Subject Design P”).

25 42. In early 2010, Plaintiff’s investigation into the unlawful use of its
26 proprietary designs revealed that EXIST was purchasing, distributing and selling for
27 profit, garments which infringed Subject Design P (hereinafter “Accused Garments
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1 P”). A true and correct copy of Subject Design P, as well as an exemplar of a garment
2 sold by EXIST in violation of Plaintiff’s copyright in Subject Design P, is attached
3 hereto as Exhibit 16.

4 **CLAIMS RELATED TO DESIGN M111562**

5 43. At least as early as July 2009, Plaintiff was publishing and offering for
6 sale a two-dimensional artistic rendering of symmetrical paisley patterns of various
7 sizes which it had allocated Internal Design Code M111562 (“Subject Design Q”).

8 44. In early 2010, Plaintiff’s investigation into the unlawful use of its
9 proprietary designs revealed that EXIST was purchasing, distributing and selling for
10 profit, garments which infringed Subject Design Q (hereinafter “Accused Garments
11 Q”). A true and correct copy of Subject Design Q, as well as an exemplar of a
12 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design Q, is
13 attached hereto as Exhibit 17.

14 45. In November of 2010 Plaintiff found offending EXIST garments for sale
15 at ROSS, including but not limited to dressed sold under the “Ocean Breeze” label
16 bearing Exist Style No. 29-213 and ROSS SKU No. 400056481684.

17 **CLAIMS RELATED TO DESIGN A110757**

18 46. At least as early as July 2009, Plaintiff was publishing and offering for
19 sale a two-dimensional artistic rendering of gray and white tribal flourishes which it
20 had allocated Internal Design Code A110757 (“Subject Design R”).

21 47. In early 2010, Plaintiff’s investigation into the unlawful use of its
22 proprietary designs revealed that EXIST was purchasing, distributing and selling for
23 profit, garments which infringed Subject Design R (hereinafter “Accused Garments
24 R”). A true and correct copy of Subject Design R, as well as an exemplar of a
25 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design R, is
26 attached hereto as Exhibit 18.

1 48. In November of 2010 Plaintiff found offending EXIST garments for sale
2 at ROSS, including but not limited to dressed sold under the “Cristinalove” label
3 bearing Exist Style No. 29-226 and ROSS SKU No. 400057398936.

4 **CLAIMS RELATED TO DESIGN NOS. A114682/ M117039**

5 49. At least as early as July 2009, Plaintiff was publishing and offering for
6 sale a two-dimensional artistic rendering of flower and bird wing patterns of various
7 sizes which it had allocated Internal Design Codes A114682/ M117039 (Subject
8 Design S”).

9 50. In early 2010, Plaintiff’s investigation into the unlawful use of its
10 proprietary designs revealed that EXIST was purchasing, distributing and selling for
11 profit, garments which infringed Subject Design S (hereinafter “Accused Garments
12 S”). A true and correct copy of Subject Design S, as well as an exemplar of a garment
13 sold by EXIST in violation of Plaintiff’s copyright in Subject Design S, is attached
14 hereto as Exhibit 19.

15 **CLAIMS RELATED TO DESIGN M109830**

16 51. At least as early as July 2009, Plaintiff was publishing and offering for
17 sale a two-dimensional artistic rendering of flowers and tribal branches which it had
18 allocated Internal Design Code M109830 (“Subject Design T”).

19 52. In early 2010, Plaintiff’s investigation into the unlawful use of its
20 proprietary designs revealed that EXIST was purchasing, distributing and selling for
21 profit, garments which infringed Subject Design T (hereinafter “Accused Garments
22 T”). A true and correct copy of Subject Design T, as well as an exemplar of a
23 garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design T, is
24 attached hereto as Exhibit 20.

25 **CLAIMS RELATED TO DESIGN A111228**

1 garment sold by EXIST in violation of Plaintiff's copyright in Subject Design W, is
2 attached hereto as Exhibit 23.

3 **CLAIMS RELATED TO DESIGN NOS. A113511/ M114409**

4 59. At least as early as July 2009, Plaintiff was publishing and offering for
5 sale a two-dimensional artistic rendering of intensely detailed symmetrical paisley
6 patterns which it had allocated Internal Design Codes A113511/ M114409 ("Subject
7 Design X").

8 60. In early 2010, Plaintiff's investigation into the unlawful use of its
9 proprietary designs revealed that EXIST was purchasing, distributing and selling for
10 profit, garments which infringed Subject Design X (hereinafter "Accused Garments
11 X"). A true and correct copy of Subject Design X, as well as an exemplar of a
12 garment sold by EXIST in violation of Plaintiff's copyright in Subject Design X, is
13 attached hereto as Exhibit 24.

14 **CLAIMS RELATED TO DESIGN A111002**

15 61. At least as early as July 2009, Plaintiff was publishing and offering for
16 sale a two-dimensional artistic rendering of a colorful paisley print which it had
17 allocated Internal Design Code A111002 ("Subject Design Y").

18 62. In early 2010, Plaintiff's investigation into the unlawful use of its
19 proprietary designs revealed that EXIST was purchasing, distributing and selling for
20 profit, garments which infringed Subject Design Y (hereinafter "Accused Garments
21 Y"). A true and correct copy of Subject Design Y, as well as an exemplar of a
22 garment sold by EXIST in violation of Plaintiff's copyright in Subject Design Y, is
23 attached hereto as Exhibit 25.

24 **CLAIMS RELATED TO DESIGN M114751**

25 63. At least as early as July 2009, Plaintiff was publishing and offering for
26 sale a two-dimensional artistic rendering of colorful paisley variations sizes which it
27 had allocated Internal Design Code M114751 ("Subject Design Z").

CLAIMS RELATED TO DESIGN A110455

69. At least as early as July 2009, Plaintiff was publishing and offering for sale a two-dimensional artistic rendering of paisley patterns of various sizes which it had allocated Internal Design Code A110455 (“Subject Design CC”).

70. In November of 2010 Plaintiff found garments manufactured by EXIST which bore an unauthorized reproduction of Subject Design CC for sale at ROSS, including but not limited to dressed sold under the “Cristinalove” label bearing Exist Style No. 29-226 and ROSS SKU No. 400057399124.

71. Plaintiff’s investigation into the unlawful use of its proprietary designs revealed that EXIST was purchasing, distributing and selling for profit, garments which infringed Subject Design CC (hereinafter “Accused Garments CC”). A true and correct copy of Subject Design CC, as well as an exemplar of a garment sold by EXIST in violation of Plaintiff’s copyright in Subject Design CC, is attached hereto as Exhibit 29.

Other Claims Related To The Designs

72. Subject Designs A-CC will hereinafter be referred to collectively as the “Subject Designs.”

73. Prior to the alleged infringement, Plaintiff had formatted the Subject Designs for use on textiles, sampled the Subject Designs to prospective customers and negotiated sales of fabric bearing the Subject Designs.

74. Plaintiff is informed and believes and thereon alleges that, without Plaintiff’s authorization, Defendants, and each of them, purchased, sold, manufactured, caused to be manufactured, imported and/or distributed fabric and/or garments comprised of fabric featuring a design which is identical to, or substantially similar to, the Subject Designs.

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

Dated: December 1, 2010

DONIGER / BURROUGHS APC

By: 

**Stephen M. Doniger, Esq.
Attorneys for Plaintiff**

L.A. PRINTEX INDUSTRIES, INC.

EXHIBIT 1