

1 Plaintiff, Givenchy S.A., through its attorneys, complaining of Defendant,
2 BCBG Max Azria Group, Inc., alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§
5 1116(a) and 1121; 28 U.S.C. §§ 1331, 1332(a), and 1338(a) and (b); and 28 U.S.C. §
6 1367. Venue in this district is proper pursuant to 28 U.S.C. §§ 1391 (b) and (c).

7 **NATURE OF THE ACTION**

8 2. This is an exceptional case of trade dress infringement and unfair
9 competition arising out of Defendant's intentional copying of the distinctive non-
10 functional elements of Plaintiff's well-known trade dress embodied in its popular
11 Nightingale handbag. As a result of Defendant's importing, advertising, marketing,
12 promoting, offering for sale, distributing and selling of Defendant's knock-off
13 "Rembrandt" and other handbags into this judicial district, Plaintiff is entitled to its
14 damages, Defendant's profits, an injunction, and Plaintiff's attorneys' fees and costs
15 incurred in this suit.

16 **THE PARTIES**

17 3. Plaintiff, Givenchy S.A. ("Givenchy"), is a *société anonyme* duly
18 organized and existing under the laws of France, having an office and principal place
19 of business in Paris, France.

20 4. Plaintiff is informed and believes and thereupon alleges that at all times
21 relevant hereto defendant, BCBG Max Azria Group, Inc. ("BCBG"), is an active
22 California corporation with a local headquarters located at 2761 Fruitland Avenue,
23 Vernon, California 90058, an online place of business at <http://www.bcbg.com>, and is
24 and has been doing business in this judicial district and the State of California and is
25 and has imported, advertised, marketed, promoted, offered for sale, distributed and
26 sold handbags wrongfully bearing infringements of Givenchy's Nightingale Trade
27 Dress in this judicial district and the State of California.

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FACTUAL ALLEGATIONS

Givenchy's History, Rights and Products

5. Having worked as a stylist with some of the most influential couturiers of his time, Hubert De Givenchy opened his own couture house in 1952. Today, Givenchy is an international luxury brand, known worldwide for its haute couture, ready-to-wear collections for men and women, fashion accessories, fragrance, skin care, and jewelry.

6. Among other things, Givenchy is engaged in the manufacture, sale and distribution in interstate commerce of prestigious luxury merchandise, including handbags and related fashion accessory items.

7. In particular, with respect to this action, Givenchy is the creator and exclusive owner of the Nightingale handbag, launched in 2006.

8. The design and ornamentation of the Nightingale handbag including without limitation the total image and overall appearance reflected in such features as the size, shape, color or color combinations, product design, texture, and selection and arrangement of materials and accessories, as further set forth in Paragraph 31 hereof, are distinctive and non-functional (these features are collectively referred to herein as the "Givenchy Nightingale Trade Dress"). True and correct copies of photographs of authentic Givenchy Nightingale handbags bearing the Givenchy Nightingale Trade Dress are attached hereto as **Exhibit 1**.

9. Givenchy and its distributors have earned in excess of fifty (50) million dollars in revenue from their sale of authentic Givenchy Nightingale handbags bearing the Givenchy Nightingale Trade Dress and have extensively advertised and marketed such products worldwide.

10. The Givenchy Nightingale Trade Dress, and the goodwill of Plaintiff's business in connection thereto, are in full force and effect and have never been abandoned.

1 11. Givenchy's Nightingale handbags bearing the Givenchy Nightingale
2 Trade Dress, by reason of their style, distinctive designs and craftsmanship have come
3 to be known by the purchasing public throughout the United States as being of the
4 highest quality. As a result thereof, the Givenchy Nightingale Trade Dress, and the
5 goodwill associated therewith, are of inestimable value to Plaintiff.

6 12. Through Givenchy's efforts, Givenchy succeeded in producing a product
7 that placed its distinctive handbags among the trendiest and most sought-after
8 handbags in the United States market, owned by celebrities such as Heidi Klum,
9 Rhianna, Nicole Richie and Ashley Tisdale, among others.

10 13. The major media coverage that Givenchy's Nightingale handbags have
11 received, and continue to receive, has firmly established the Givenchy Nightingale
12 Trade Dress as a unique indicator of Plaintiff as the source of origin of its distinctive
13 Nightingale handbags.

14 14. For example, Givenchy's Nightingale handbags have been reviewed or
15 featured in such high-profile magazines as Vogue, Allure, Harper's Bazaar, Marie
16 Claire, Elle and W. In addition, Givenchy's Nightingale handbags have been featured
17 in such popular publications as US Weekly, OK!, and In Touch, to name a few.

18 15. Based on the extensive sales of Plaintiff's handbags and their wide
19 popularity, the Givenchy Nightingale Trade Dress has developed a secondary meaning
20 and significance in the minds of the purchasing public, and Givenchy's Nightingale
21 handbags bearing such trade dress are immediately identified by the public
22 exclusively with Plaintiff.

23 16. As the owner of Givenchy's Nightingale Trade Dress, Givenchy has the
24 exclusive right to use said trade dress in commerce.

25 17. Plaintiff's Givenchy Nightingale Trade Dress is vital to Plaintiff and
26 Plaintiff will suffer irreparable harm if any third parties, including Defendant herein,
27 are allowed to manufacture and sell infringing handbags bearing trade dress that
28 unlawfully copies and imitates Plaintiff's Givenchy Nightingale Trade Dress.

Defendant's Infringing Activities

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2 18. After Givenchy's adoption and use of its Nightingale Trade Dress on its
3 handbags in 2006, on information and belief, Defendant, in or about 2009, began
4 importing, promoting, marketing, advertising, displaying, offering for sale,
5 distributing and selling its knock-off "Rembrandt" and other handbags that
6 deliberately copy, line-by-line and stitch-by-stitch distinctive, non-functional elements
7 of Givenchy's Nightingale Trade Dress ("Infringing Handbags"). Copies of
8 photographs of exemplars of Defendant's Infringing Handbags are attached hereto as
9 **Exhibit 2.**

10 19. Givenchy has never authorized or consented in any way to the use by
11 Defendant of Givenchy's Nightingale Trade Dress, or given Defendant permission to
12 make copies or imitations thereof.

13 20. The use by Defendant of Givenchy's Nightingale Trade Dress and copies
14 or infringements thereof on Defendant's Infringing Handbags is likely to cause
15 consumers, the public and the trade to erroneously believe that the handbags
16 Defendant has imported, promoted, marketed, advertised, displayed, offered for sale,
17 distributed and sold are authorized, sponsored, and/or approved by Givenchy when, in
18 fact, they are not.

19 21. Defendant has acted with reckless disregard for Givenchy's rights in
20 connection with its unlawful activities. Alternatively, Defendant intentionally engaged
21 in illegal copying of Givenchy's popular handbags with the specific intent to profit
22 therefrom. As a result, this case is an exceptional case under 15 U.S.C. § 1117(a).

23 22. By using infringements of Givenchy's Nightingale Trade Dress,
24 Defendant has traded on the goodwill and reputation of Givenchy and has created the
25 false impression that its handbags are Givenchy's legitimate products.

26 23. Among other things, the distribution, sale, offers of sale, display,
27 promotion, marketing and advertisement of handbags bearing infringements of
28 Givenchy's Nightingale Trade Dress has and will reflect adversely on Givenchy as the