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20 *Attorney for Plaintiff, The Biltmore Company*

21 **UNITED STATES DISTRICT COURT**

22 **DISTRICT OF ARIZONA**

23 The Biltmore Company,

No.

24 Plaintiff,

25 v.

COMPLAINT

26 Sleek Creations of Scottsdale, LLC DBA

27 Biltmore Interiors and Linens, and Dawn

28 Lizanich, Owner and Manager

Defendants.

NOW COMES the Plaintiff The Biltmore Company (“Biltmore”), by and through
counsel, complaining of the Defendant as follows:

PARTIES AND JURISDICTION

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2 1. The Biltmore Company (“Biltmore”) is a North Carolina limited liability company
3 with its headquarters located within Buncombe County at One North Pack Square, Asheville,
4 North Carolina 28801.

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6 2. Sleek Creations of Scottsdale, LLC DBA Biltmore Interiors and Linens (“Sleek”) is
7 an Arizona limited liability company with a principal place of business in Scottsdale, Arizona.

8 3. Dawn Lizanich (“Lizanich”) is the statutory agent and manager of Sleek with an
9 address in Scottsdale, Arizona.

10 4. This Court has original subject matter jurisdiction over this action pursuant to 28
11 U.S.C. §§ 1331 & 1332, 28 U.S.C. §§ 1338(a–b), and 15 U.S.C. § 1121. Upon information and
12 belief, the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs and
13 is between citizens of different states.

14
15 5. This Court has personal jurisdiction over Sleek because Sleek maintains its principal
16 place of business within Arizona.

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18 6. This Court has personal jurisdiction over Lizanich because Lizanich is the statutory
19 agent for Sleek, and because she is a resident of Arizona.

20 7. Venue is proper in this district under 28 U.S.C. §§ 1391(b–c) because Sleek and
21 Lizanich are residents of Arizona, a substantial part of the events or omissions giving rise to the
22 claims alleged in this Complaint occurred in this district, and Sleek’s principal place of business
23 is within this district.
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FACTUAL ALLEGATIONS

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2 8. The Biltmore brand is famous for classic, timeless beauty and elegant hospitality. The
3 Biltmore brand is an invitation to connect with others and savor life’s moments. Biltmore is the
4 destination lifestyle brand that keeps alive the beauty of a gracious time and place.

5
6 9. The Biltmore brand is built upon Biltmore Estate, an historic multi-purpose tourist
7 destination covering 8,000 acres in Buncombe County, North Carolina. Biltmore House, which
8 George Vanderbilt built from 1889-1895, is the focal point of the Estate. This inspiring and
9 iconic structure is the largest privately-owned house in the United States. Then as now, the
10 Estate provides an oasis from the hustle and bustle of city living. Through the Estate, the
11 legendary hospitality of the Vanderbilts survives to this day.

12
13 10. Biltmore House has been meticulously restored to maintain historical accuracy
14 wherever possible. Today, Biltmore Estate is considered among the best examples of homes
15 from America’s Gilded Age.

16
17 11. Biltmore Estate encompasses Biltmore House and Biltmore Gardens (available for
18 touring and special events); more than 7000 acres of productive managed forest, commercial
19 vegetable and viticulture production, and crop and livestock production (some of which is open
20 for hiking, mountain biking and horseback riding); Biltmore Winery (a fully functional wine-
21 making facility); Antler Hill Village (which includes a farm and outdoor adventure center open
22 for public touring); The Inn on Biltmore Estate (a large upscale hotel with dining and conference
23 amenities); Village Hotel on Biltmore Estate (Biltmore’s more casual hotel option providing
24 comprehensive lodging amenities); Cottages on Biltmore Estate (Biltmore’s newest lodging
25 offering private, exclusive stays in historical buildings), numerous dining facilities (including
26 Bistro, Cedric’s Tavern, Deerpark Restaurant, Smokehouse Food Truck, Stable Café, The Bake
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1 Shop, The Conservatory Café, and The Courtyard Market); as well as multiple retail facilities
2 that sell Biltmore branded merchandise, apparel, and jewelry. Biltmore also maintains a
3 significant online presence through its websites, www.biltmore.com and www.biltmoreshop.com
4 which provides a portal for ticket purchases, wedding planning, hotel room and dining
5 reservations as well as online retail purchases. Biltmore Estate as it exists today is shown below:
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15 12. The BILTMORE mark itself is a fanciful term and inherently strong, derived from the
16 words “Bildt,” the place Mr. Vanderbilt’s ancestors lived in Holland, and “moor,” the Anglo-
17 Saxon word for “open, rolling land.” Mr. Vanderbilt himself coined the term during construction
18 of Biltmore House.
19

20 13. The BILTMORE mark has acquired tremendous commercial strength.

21 14. Since 2005, there have been over billions of dollars in branded consumer transactions
22 under Plaintiff’s BILTMORE mark and approximately \$200 million dollars spent on marketing
23 and advertising the BILTMORE mark over the same period.
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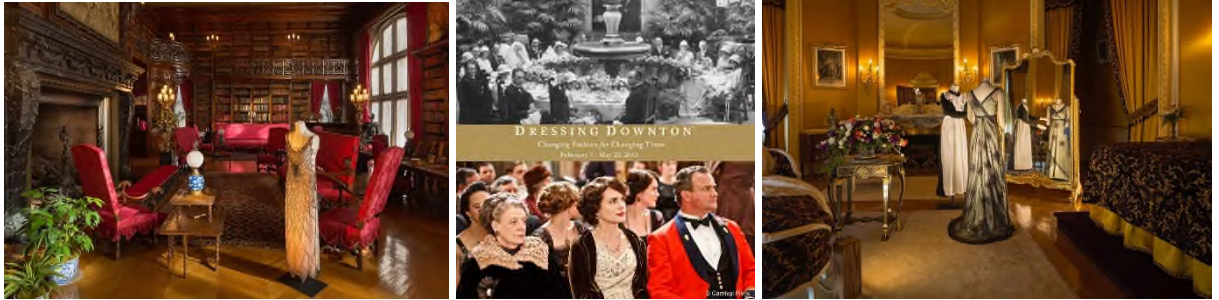
25 15. Biltmore Estate first opened to the public in 1930. Since visitor record-keeping began
26 after World War II, approximately thirty million paying guests have visited Biltmore Estate.
27 Today, Biltmore Estate hosts over 1.2 million paying guests each year from around the world.
28

1 16. Since Biltmore Estate opened to the public in 1930, Biltmore has gone to great
2 expense to ensure that Biltmore House and the entire Estate is as elegant, pristine, historically
3 authentic, and visitor friendly as possible. As a result, the architecture, interior design, and decor
4 of Biltmore House and Biltmore Estate, have received widespread international acclaim for their
5 historical importance and well-preserved beauty.
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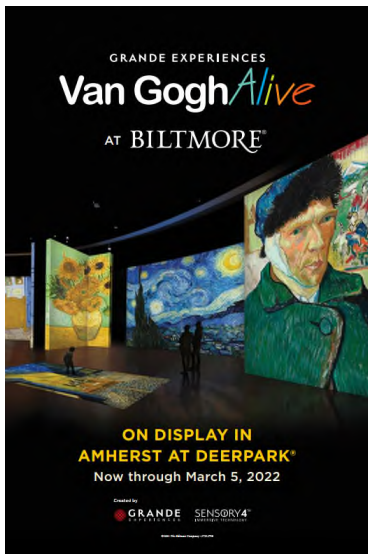
7 17. Biltmore is ranked among the top destinations in North Carolina by numerous travel
8 publications. According to top travel company Fodor’s Travel, Biltmore is “the number one
9 attraction of its kind in North Carolina.” Over ten thousand visitors to Biltmore ranked it
10 “excellent” and “very good” on popular travel review site “Trip Advisor,” where Biltmore also
11 won the Trip Advisor Certificate of Excellence.
12

13 18. Major motion pictures, television shows, and documentaries have been filmed at
14 Biltmore Estate, to include *Forrest Gump*, *The Last of the Mohicans*, *My Fellow Americans*,
15 *Richie Rich*, *Patch Adams*, *America’s Castles: Biltmore Estate*, and *One Tree Hill*.
16

17 19. Biltmore hosts exhibits of interest to its guests. In 2015, Biltmore hosted a popular
18 “Downton Abbey” exhibition, “Dressing Downton: Changing Fashion for Changing Times” and
19 “Upstairs-Downstairs Tour.” The exhibition showcased costumes from the very popular
20 television series, “Downton Abbey,” and provided guests with both a way to learn more about
21 their favorite television show and a way to learn about the hospitality offered at Biltmore during
22 the early 1900s. The “Downton Abbey” exhibition at Biltmore was covered by major news
23 outlets, to include USA Today, the New York Post, PBS, the Seattle Times, and the Los Angeles
24 Times. Images from the “Downton Abbey” exhibition at Biltmore are shown below:
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20. In 2019, Biltmore hosted the hugely successful art exhibition entitled “Chihuly at Biltmore”, where internationally renowned artist Dale Chihuly installed his famous art pieces in Biltmore House and around Biltmore Estate, drawing guests from across the United States and abroad. 2021 featured the interactive art exhibition “VanGogh Alive” at Biltmore, with further exhibitions entitled “Monet & Friends” and “Leonardo DiVinci, 500 Years of Genius” later in 2022. Images from “Chihuly at Biltmore” and “VanGogh Alive” are shown below:





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8 20. Following in the Vanderbilt tradition of philanthropy, Biltmore supports numerous
9 charitable causes. In particular, Biltmore supports charitable organizations that focus on
10 supporting people in need, working with food and farming, and preserving natural and cultural
11 resources. Organizations Biltmore supported recently include Asheville Area Habitat for
12 Humanity, Eblen Charities, Homeward Bound, MANNA Foodbank, Mountain Housing
13 Opportunities, OnTrack Financial Services, Working Wheels, Appalachian Sustainable
14 Agriculture Project, Asheville-Buncombe Technical Community College Foundation, Western
15 Carolina University Foundation, Friends of the Smokies and WNC Friends of the Nature Center.
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17 21. In addition to its financial support of charitable work, Biltmore provides over 500
18 complimentary tickets to over 200 local community organizations for use at fundraising events
19 or as gifts to those organizations' employees.
20

21 22. In addition to connecting with guests at Biltmore Estate, Biltmore connects with its
22 guests through the Internet. Biltmore maintains a website at www.biltmore.com, which discusses
23 the events occurring at Biltmore. Millions of people visit Biltmore's website every year. Billions
24 of people have visited Biltmore's websites.
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26 23. Biltmore is also active on social media. Biltmore's social media sites include:

- 27 a. Biltmore's Facebook page - www.facebook.com/Biltmore - which has
28 more than 1,164,465 likes and 867,014 people identifying they visited

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the Biltmore Estate. More than 34,172 people have reviewed their trip to the Biltmore Estate, with the average review being a high 4.9 out of 5 stars.

- b. Biltmore’s Instagram page - www.instagram.com/biltmoreestate/ - which has 315,029 thousand followers.
- c. Biltmore’s Wine Instagram - <https://www.instagram.com/biltmorewines/> - which has 15,550 thousand followers
- d. Biltmore Weddings Instagram - <https://www.instagram.com/biltmoreweddingsnc/> - which has 14,683 thousand followers
- e. Biltmore’s Twitter page - twitter.com/BiltmoreEstate - which has 53.4 thousand followers
- f. Biltmore’s Pinterest page - www.pinterest.com/Biltmore/ - which has more than 15.3 thousand followers.
- g. Biltmore’s YouTube page - www.youtube.com/c/biltmore - which has more than 11.3 thousand subscribers.
- h. Biltmore’s LinkedIn page - <https://www.linkedin.com/company/biltmore/> - which has 15,322 thousand followers

24. Biltmore devotes substantial resources to promoting the BILTMORE mark. Biltmore engages in online, television and video, radio, print (such as magazine and newspaper), and outdoor advertising. Each year, Biltmore spends millions of dollars to promote and market the

1 BILTMORE mark. From June 2016 through June 2021, Biltmore has spent over \$60 million
2 dollars on traditional and online advertising.

3 25. The BILTMORE brand is closely identified with the art of hospitality. Biltmore
4 believes hospitality is not formality; it is a lifestyle. To that end, Biltmore works hard to ensure
5 the BILTMORE mark is representative of elegance, high class, timelessness, and authenticity.
6 Biltmore is successful in these endeavors. Consumers recognize the BILTMORE brand as
7 elegant, expensive, beautiful, relating to hospitality, classic, quality, and extraordinary.
8

9 26. In line with its brand reputation, Biltmore sells numerous understatedly elegant goods
10 on the estate through its retail establishments and through its online store.
11

12 27. Since at least as early as 2001, Biltmore offered and continues to offer a wide variety
13 of women's fashion apparel. Today, this apparel is available through Biltmore's online retail
14 store BiltmoreShop.com and through retail stores operated on the Biltmore Estate.

15 28. Biltmore offers an array of jewelry under its BILTMORE mark. Biltmore jewelry is
16 available through Biltmore's retail establishments and Biltmore's online store at
17 www.biltmoreshop.com. Examples of Biltmore's jewelry products are shown below:
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29. Biltmore sells lotions and soaps under its BILTMORE mark. Examples of these products from Biltmore's retail establishments and product literature are shown below:



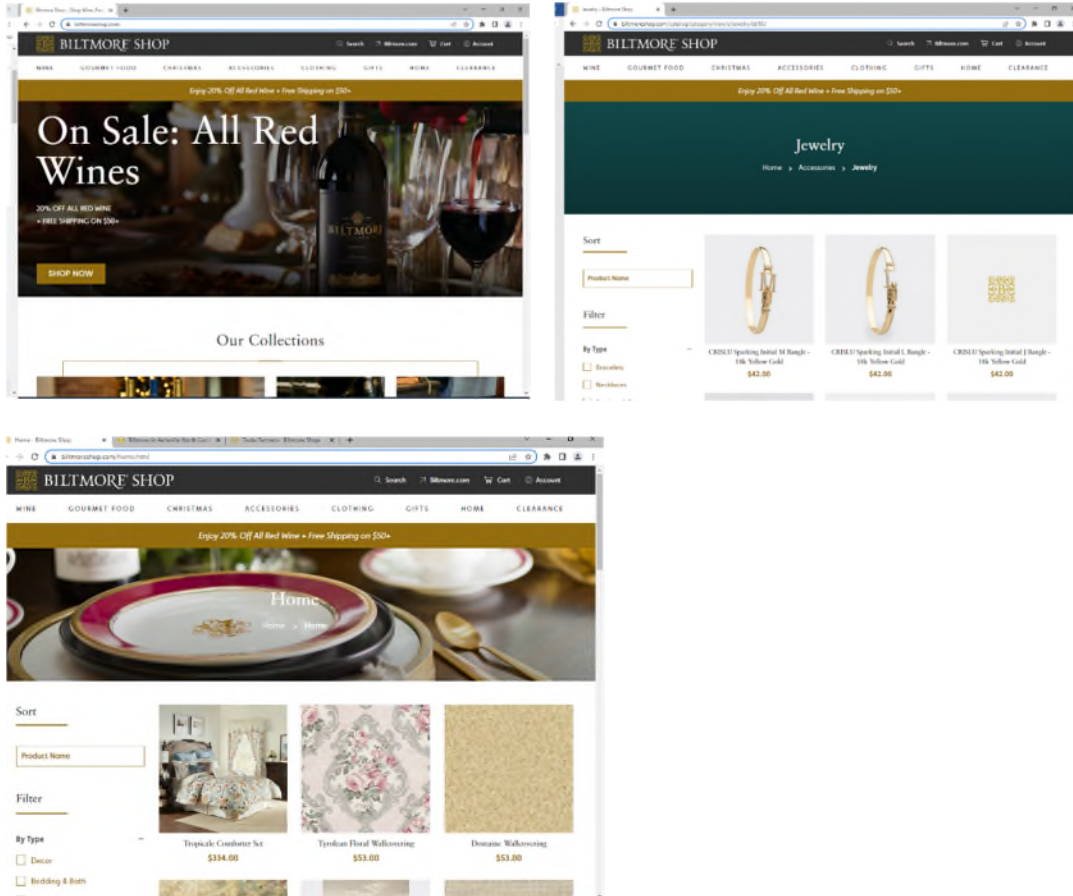
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2 30. Biltmore's retail establishments use the BILTMORE brand. The BILTMORE mark is
3 included on retail establishment signs, on signs used throughout the stores, and as part of
4 displays. Clothing purchases at Biltmore's retail establishments are wrapped in tissue paper that
5 is held closed with a BILTMORE sticker. Jewelry purchases are placed in BILTMORE boxes.
6 Purchases are placed in a BILTMORE branded bag. The receipts are emblazoned with the
7 BILTMORE mark. An example of such jewelry point of sale branding is shown below:
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19 31. Examples of some of Biltmore's use of the BILTMORE name in Biltmore's retail
20 establishments are shown below:

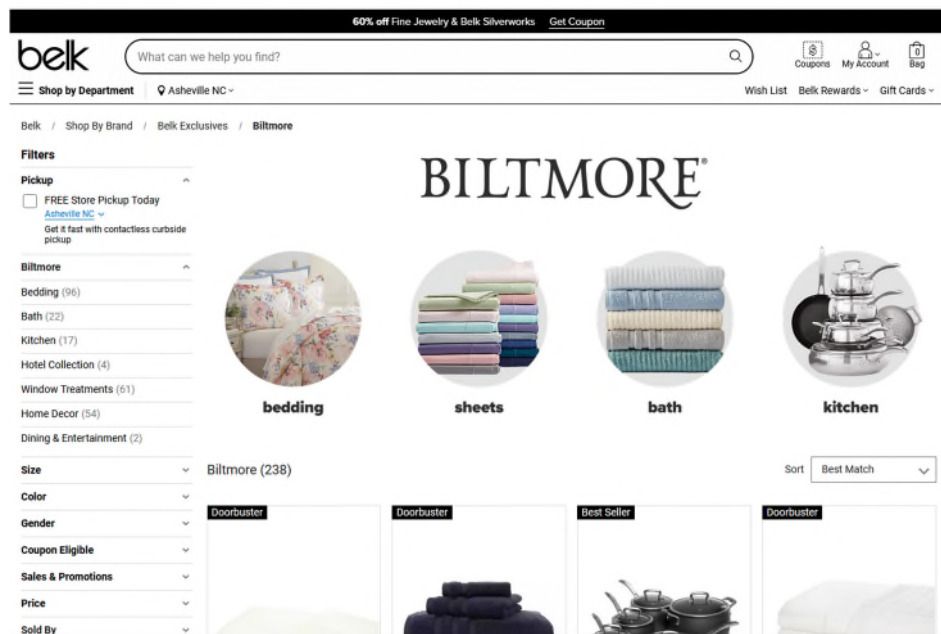


1 32. Biltmore's retail stores are not the only place Biltmore guests and fans purchase
 2 Biltmore's products. As part of its website, Biltmore maintains an online store that includes
 3 many of its numerous retail offerings. Biltmore's online store includes apparel, bath and body
 4 products such as soaps, lotions, jewelry, wine, books, and home décor, and is located at
 5 Biltmorehop.com and is shown below:
 6



22 33. Biltmore also licenses the BILTMORE mark to licensees to produce high quality
 23 items worthy of the BILTMORE mark across a wide variety of consumer products to include
 24 outdoor furniture, lighting, bedding and bath, cookware, tabletop, ladies wear and menswear,
 25 gourmet foods, holiday décor, decorative accessories and textiles. Biltmore has generated tens of
 26 millions of dollars from licensing its BILTMORE mark.
 27
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1 34. Biltmore entered into a license agreement with Belk, an upscale department store
 2 headquartered in Charlotte, North Carolina. Through its approximately 300 retail and its online
 3 stores Belk offers fashion apparel, cosmetics, accessories, shoes, home furnishings, and gift
 4 registry services. As part of its offerings, Belk offers a range of bedding, sheets, bath and kitchen
 5 products under the BILTMORE name pursuant to a license agreement with Biltmore. The
 6 BILTMORE goods at Belk reflect “Biltmore’s craftsmanship, beauty, and legacy of gracious
 7 hospitality.” An image of Belk’s webpage featuring BILTMORE items, and Biltmore’s webpage
 8 introducing Belk as its licensee, are shown below:
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35. Biltmore’s direct retail sales and licensed retail sales are substantial. From 2010
 through 2020, there has been over 2 billion dollars at retail spending on Biltmore goods and
 services, including a significant amount of consumer spending on BILTMORE branded home
 textiles sold exclusively through Belk Department Stores and their online distribution.

1 36. Over the past ten years, there have been tens of millions of consumer transactions
2 related to Plaintiff's BILTMORE branded goods and services. BILTMORE products are
3 distributed to consumers in all fifty states and the District of Columbia.

4 37. Biltmore owns trademark registrations in the United States and around the world for
5 BILTMORE and BILTMORE ESTATE. In particular, Biltmore owns:

- 6
- 7 a. Incontestable U.S. Trademark Registration Nos. 3,210,613; 3,690,732;
8 3,703,686 and 3,855,102 for BILTMORE. These registrations are valid,
9 enforceable and subsisting. True and accurate copies of these registrations
10 are attached hereto as Exhibits A—D.
- 11
- 12 b. U.S. Trademark Registration Nos. 4,029,560 and 4,769,396 for
13 BILTMORE. These registrations are valid, enforceable and subsisting.
14 True and accurate copies of these registrations are attached hereto as
15 Exhibits E and F.
- 16
- 17 c. Incontestable U.S. Trademark Registration Nos. 1,616,971 and 1,618,044,
18 for BILTMORE ESTATE; U.S. Trademark Registration No. 4,542,205
19 for BILTMORE CENTER FOR PROFESSIONAL DEVELOPMENT;
20 and U.S. Trademark Registration No. 3,846,281 for BILTMORE
21 BREWING COMPANY. These registrations are valid, enforceable and
22 subsisting. True and accurate copies of these registrations are attached
23 hereto as Exhibits G—J.
- 24
- 25 d. Numerous foreign registrations for BILTMORE, to include Registration
26 Nos. [1278032](#) , [1969982](#)(Canada); 10,726,062, 10,560,366, 10,726,061,
27 10,726,060, 10,726,059, and 10,726,058 (China); 292,755 (Egypt);
28

121,242 (Kuwait); 529,123 (Russia); 1,435,000,405 (Saudi Arabia); and 2013 76849 (Turkey).

Defendant Sleek’s Use of BILTMORE

38. Upon information and belief, Dawn Lizanich owns or is an owner of Sleek, is involved with and responsible for the day-to-day operations of Sleek and was involved with and directed the actions of Sleek complained of herein, and personally profited from the same.

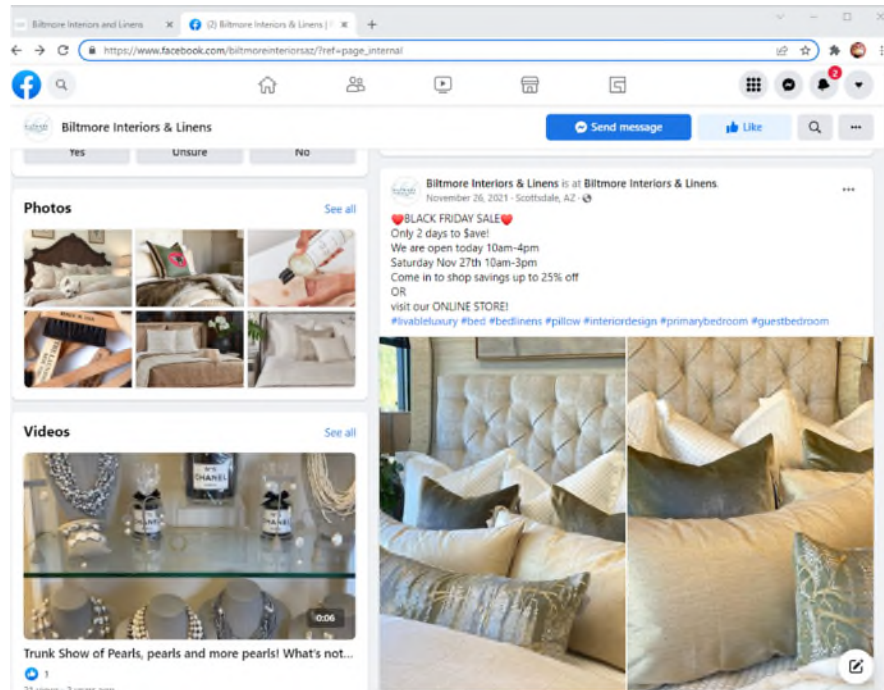
39. On or about July 2006, Dawn Lizanich formed Sleek to offer interior design services. Upon further information and belief, sometime on or about 2010, Ms. Lizanich launched a website at sleekcreations.com where she promoted her design services as well as products related to her design services that she offered for sale from a retail store location. A copy of Sleek’s website from 2010 is shown below:

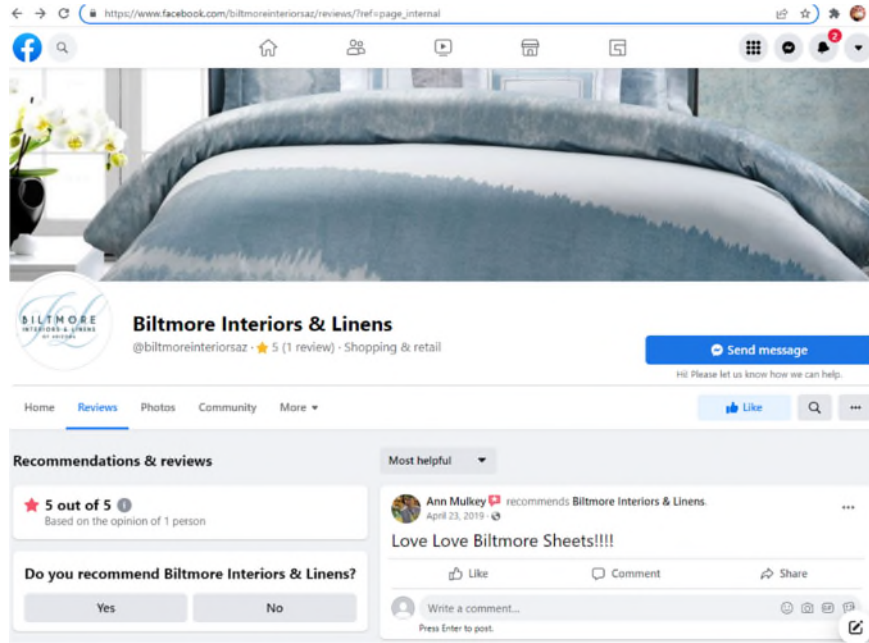


40. Upon information and belief, in or about January 2018, Sleek rolled out a new identity: Biltmore Interiors and Linens. Upon further information and belief, by 2019, Sleek

1 abandoned its website at sleekcreations.com and launched a new website at
 2 Biltmoreinteriors.com, which Sleek operates to this day.

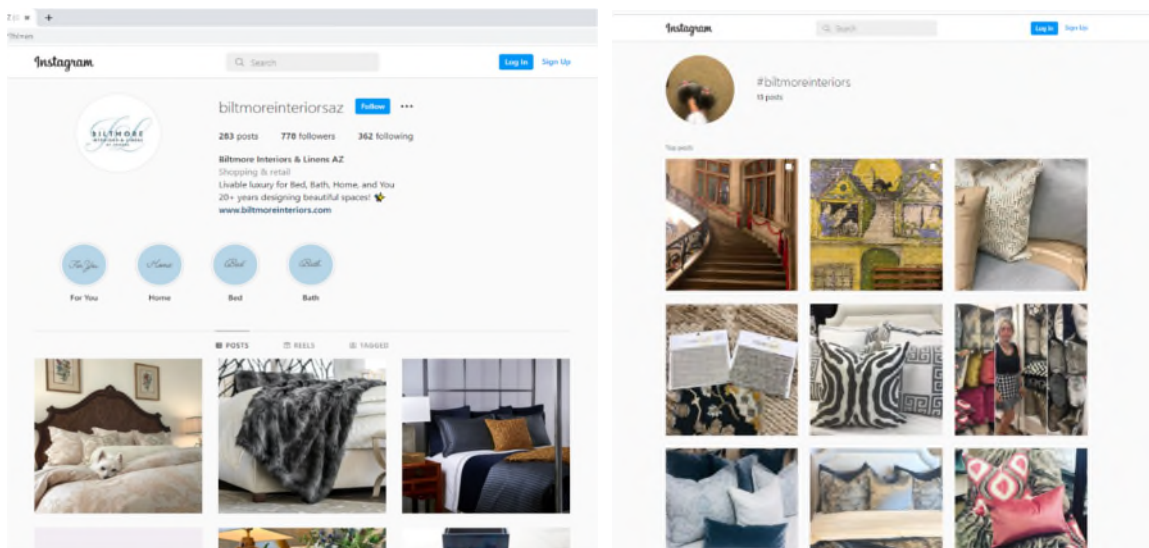
3 41. Upon information and belief, in February 2018, Sleek created a Facebook page with
 4 the website Facebook.com/biltmoreinteriorsaz. Sleek’s Facebook page describes Biltmore
 5 Interiors and Linens as “Livable luxury for bed, bath, home and you. Fine linens, bedding, bath,
 6 designer pillows, rugs, furniture and décor.” Sleek advertises its retail services on Facebook On
 7 or around November 26, 2021 Sleek advertised its Black Friday sale and encouraged followers to
 8 visit their “online store.” A Facebook user reviewed Biltmore Interiors and Linens with a
 9 glowing review, “Love Love Biltmore Sheets!!!” There is no mention of interior design services
 10 in the review. Pictures of Sleek’s Facebook marketing and review are shown below.
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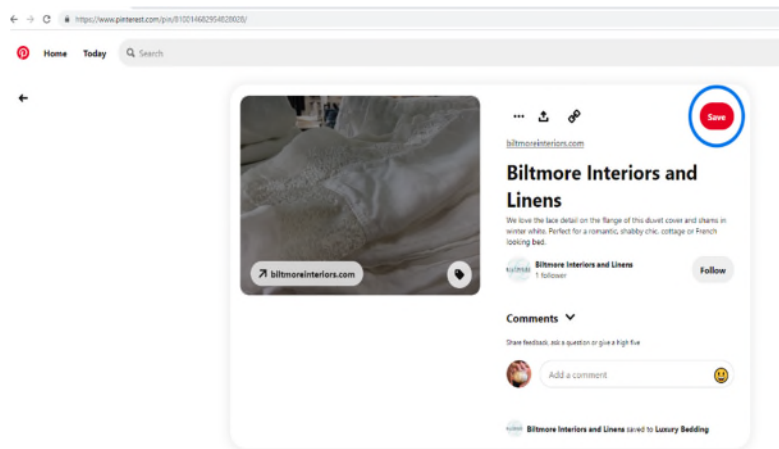
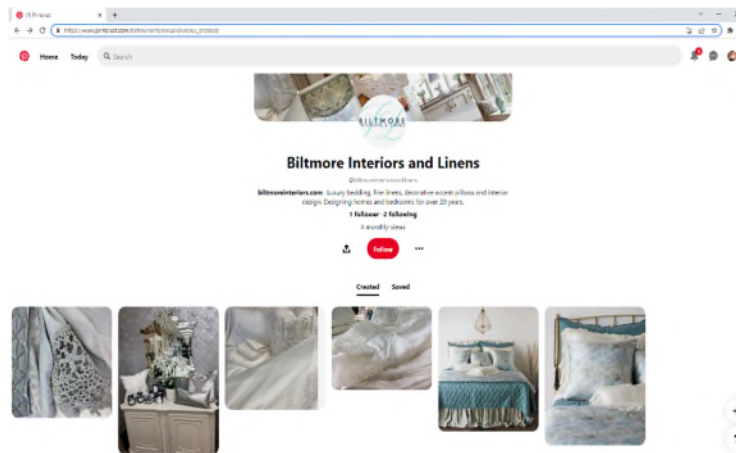


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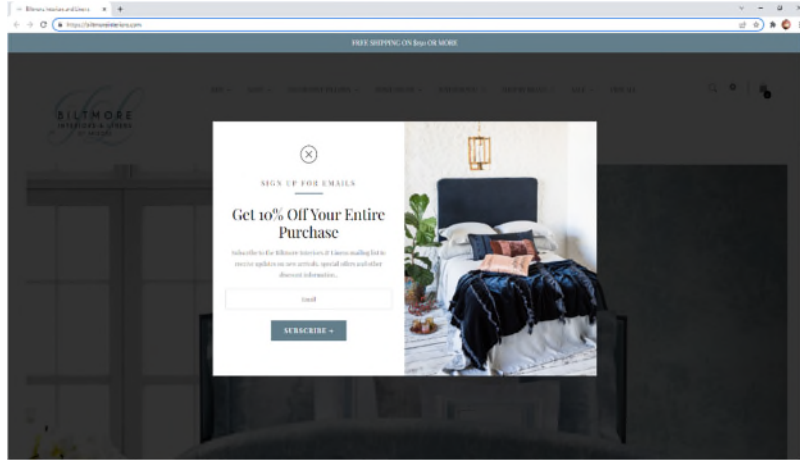
42. In or around March 2018, Sleek began using the handle “biltmoreinteriorsaz” on Instagram and publishing photographs of bedding, pillows, and home décor. Sleek advertises its retail services on Instagram. Sleek frequently uses the hashtag #biltmoreinteriors on Instagram. This hashtag retrieves post of both Sleek’s Instagram handle and interiors of the Biltmore Estate in Asheville, North Carolina. Pictures of Sleeks Instagram page and the results of the hashtag #biltmoreinteriors are shown below.



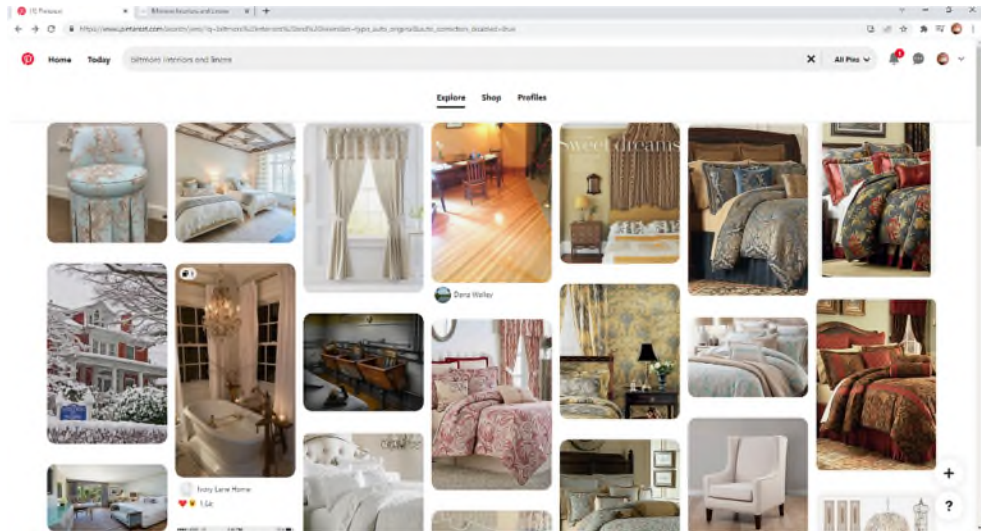
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2 43. Upon information and belief, by May 2019, Sleek created a Pinterest page at
3 pinterest.com/biltmoreinteriorsandlinens. Sleek includes pins of sheets, wallpaper, bed covers, and
4 duvets. These pins have links to Sleek’s online storefront and redirects to
5 <https://biltmoreinteriors.com/#>, with a popup window encouraging visitors to “Subscribe to the
6 Biltmore Interiors & Linens mailing list to receive updates on new arrivals, special offers and
7 other discount information.” The popup also offers “10% off your entire purchase.” Pictures of
8 Sleek’s Pinterest page, a Pinterest pin with purchase information with the redirect website are
9 show below.
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44. Sleek uses BILTMORE INTERIORS AND LINENS to brand its retail services on Pinterest. A Pinterest search of the terms “Biltmore interiors and linens” retrieves two pictures of Sleeks Instagram postings, multiple pictures of Belk’s Biltmore bed linens and window treatments, and pictures of interiors of the Biltmore Estate in Asheville, North Carolina. A picture of the results of that Pinterest search are below.



45. Sleek uses BILTMORE INTERIORS AND LINENS to brand its retail services. For example, Sleek uses BILTMORE INTERIORS AND LINENS to sell services for bed linens, including duvet covers, coverlets, quilts, pillow shams, blankets, throws, sheets and pillowcases, bed skirts, and pillows.

1 46. Sleek uses BILTMORE INTERIORS AND LINENS to brand retail services for
2 jewelry. Sleek sells jewelry in its BILTMORE INTERIORS AND LINES store and online.

3 47. Sleek uses BILTMORE INTERIORS AND LINENS for retail sales of skin care
4 products, to include lotions and soaps. Sleek sells body lotion and luxury French milled soaps in
5 its BILTMORE INTERIORS AND LINENS store and online.
6

7 48. Sleek uses BILTMORE INTERIORS AND LINENS to brand retail services for home
8 décor. Sleek sells decorative pillows, candles, and curtain panels in its BILTMORE INTERIORS
9 AND LINENS store and online.

10 49. Biltmore has not licensed or otherwise granted Sleek rights to make use of the
11 BILTMORE mark.
12

13 50. To the contrary, in Fall 2019, Biltmore discovered Sleek's use of the BILTMORE
14 mark in conjunction with design services and asked Sleek to stop using BILTMORE in Sleek's
15 marks. Because Biltmore is well known both generally and in the home décor industry, Biltmore
16 was concerned that Sleek's use of BILTMORE INTERIORS AND LINENS was likely to cause
17 confusion, mistake, or deceive as to the affiliation, connection, or association of Biltmore and
18 BILTMORE INTERIORS AND LINENS, or that consumers might wrongly believe that
19 Biltmore endorses, sponsors, or approves of Sleek's use of the BILTMORE name. Therefore,
20 Biltmore wrote to Sleek and asked Sleek to stop using Biltmore's name.
21

22 51. By letter dated October 25, 2019, Sleek responded through counsel and refused to
23 stop using BILTMORE INTERIORS AND LINENS. Counsel for Sleek argued that Sleek did
24 not sell physical goods but only offered interior design services inside Arizona.
25

26 52. In the November 2019 letter, Biltmore repeated its request for Sleek to stop the use of
27 the BILTMORE name. Sleek again refused to stop using BILTMORE INTERIORS AND
28

1 LINENS. Sleek claimed, “There are no online sales by Biltmore Interior & Designs [sic], and
2 thus no overlap in sales channels.” Sleek further claimed “there is no ability on the website or in
3 social media (or anywhere else online) to purchase these items.” Sleek’s attorney also claimed
4 that it did not sell any “Biltmore” labeled products at all.

5
6 53. In October 2020, Biltmore discovered that Sleek had expanded its use of social
7 media promotions to goods that Sleek sold without mentioning design services. Once again
8 Biltmore requested Sleek to stop the use of the BILTMORE name. Sleek did not respond.

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10 54. In September 2021, Biltmore discovered Sleek expanded its use of the BILTMORE
11 name to online retail services through its website <https://biltmoreinteriors.com>. Biltmore
12 discovered that Sleek launched online sales of bed, bath, pillows, home décor, bath and body,
13 home fragrances and jewelry through its online store. Biltmore’s subsequent investigation also
14 revealed that Sleek was selling product labeled with the BILTMORE mark from Sleek’s retail
15 location.

16
17 55. In late Fall 2021 and early 2022, Biltmore again wrote to Sleek, requesting it to stop
18 using BILTMORE in Sleek’s marks and pointing out that Sleek was now competing directly
19 with Biltmore using the BILTMORE mark and competing online. Sleek did not respond and
20 continues to market and use these marks in conjunction with its home décor, bed and bath linens
21 and textiles, jewelry retail sales, soaps and lotions.

22 56. Sleek’s use of the BILTMORE name is likely to cause consumer confusion.

23
24 57. Upon information and belief, customers seeing Sleek’s signage, advertisements,
25 website, Facebook pages, Instagram posts, and other advertising using BILTMORE INTERIORS
26 AND LINENS incorrectly assume that the Sleek’s services are associated with Biltmore. Upon
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1 information and belief, consumers seeing Sleek's use of BILTMORE believe Sleek has been
2 endorsed by or is somehow affiliated with Biltmore.

3 58. Sleek does not have permission from Biltmore to use the BILTMORE name in
4 conjunction with retail sales of home décor, bed and bath linens, pillows, jewelry, lotions,
5 perfumes, and soaps.
6

7 **Count I: Trademark Infringement of the BILTMORE family of marks**
8 **15 U.S.C. § 1114 & § 1125(a)**

9 59. Biltmore realleges the preceding paragraphs.

10 60. Plaintiff's BILTMORE mark includes and benefits from Plaintiff's aforementioned
11 family of marks that include the fanciful term BILTMORE.

12 61. Plaintiff's BILTMORE mark is famous and warranting of broad protection.,.

13 62. The BILTMORE mark is well known to consumers as indicating Biltmore.
14

15 63. Sleek adopted use of the marks BILTMORE INTERIORS AND LINENS with full
16 knowledge of Plaintiff's use of the BILTMORE mark.

17 64. Upon information and belief, Lizanich is a sophisticated businessperson who has been
18 aware of Plaintiff's BILTMORE name and association with Biltmore prior to her commencing
19 use of the BILTMORE INTERIORS AND LINENS mark.
20

21 65. Sleek currently conducts its business under the marks BILTMORE INTERIORS
22 AND LINENS.

23 66. Sleek offers the same and closely related goods and services to those offered by
24 Plaintiff.
25

26 67. Biltmore and Defendants offer their services to the same class of consumers in
27 overlapping geographic areas of trade.
28

1 68. Biltmore, to include its licensed partners, and Sleek both offer online and retail store
2 services for home décor, bed and bath linens, pillows, jewelry, lotions, perfumes, and soaps.

3 69. Sleek offers its BILTMORE INTERIORS AND LINENS goods and services in the
4 same areas where Biltmore offers its goods and services, namely to all 50 states.

5 70. Sleek offers their BILTMORE INTERIORS AND LINENS goods and services
6 through at least some of the same channels of trade as those used by Biltmore to offer
7 BILTMORE branded goods and services, to include a retail store and online store.

8 71. Sleek advertises its BILTMORE INTERIORS AND LINENS goods and services
9 through at least some of the same channels of trade as those used by Biltmore to advertise its
10 BILTMORE goods and services, to include Internet webpages and social media.

11 72. Sleek's use of BILTMORE in its marks, on the store, on the Internet, in social media,
12 and in advertising is likely to cause confusion, or to cause mistake, or to deceive consumers into
13 believing that Sleek is associated with, affiliated with, or endorsed by Biltmore.

14 73. Sleek infringes Biltmore's family of BILTMORE marks.

15 74. Sleek launched its online store with knowledge of Biltmore's registered trademark
16 rights.

17 75. Sleek and Lizanich willfully infringed Biltmore's trademark rights when it launched
18 its online store.

19
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21
22 **Count II: False Designation of Origin for Retail Sales and Retail Sales of Branded**
23 **Merchandise**
24 **15 U.S.C. § 1125(a)**

25 76. Biltmore realleges the preceding paragraphs.

26 77. Biltmore offers a BILTMORE branded retail experience through its numerous
27 BILTMORE retail stores located on Biltmore Estate and through its online store.

1 78. Biltmore has enjoyed substantial revenues from its retail sales under the BILTMORE
2 brand for the past ten years through its numerous BILTMORE retail and online stores and
3 through its licensed sales.

4 79. Biltmore's BILTMORE retail sales are heavily marketed and widely known.

5 80. Biltmore's BILTMORE retail sales include retail sales of home décor, bed and bath
6 linens, pillows, jewelry, lotions, perfumes, and soaps.

7 81. Biltmore's BILTMORE retail sales include retail sales of BILTMORE branded home
8 décor, bed and bath linens through its licensed partner Belk, pillows, jewelry, lotions, and soaps.

9 82. Biltmore has common law trademark rights in BILTMORE for retail services of
10 home décor, bed and bath linens, pillows, jewelry, lotions, perfumes, and soaps.

11 83. Sleek offers retail services for home décor, bed and bath linens, pillows, jewelry,
12 lotions, perfumes, and soaps.

13 84. Sleek offers its retail services under the name BILTMORE INTERIORS AND
14 LINENS.

15 85. Sleek offers its retail services under BILTMORE INTERIORS AND LINENS to at
16 least some of the same consumers Biltmore targets for Biltmore's BILTMORE retail services, to
17 include online consumers across the United States.

18 86. Sleek advertises its retail services under BILTMORE INTERIORS AND LINENS
19 through at least some of the same channels as those used by Biltmore to advertise Biltmore's
20 BILTMORE retail services, namely the Internet and social media.

21 87. Sleek's use of BILTMORE INTERIORS AND LINENS is likely to cause confusion
22 or to cause mistake or to deceive as to the affiliation, connection, or association of Sleek with
23 Biltmore, or as to the origin, sponsorship or approval of Sleek's retail services by Biltmore.
24
25
26
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28

1 88. Sleek is committing common law trademark infringement of Biltmore's BILTMORE
2 mark for retail services

3 **Count III: Infringement of federally registered marks**
4 **15 U.S.C. § 1114**

5 89. Biltmore realleges the preceding paragraphs.

6 90. Biltmore owns U.S. Trademark Registration 5,006,533 for BILTMORE for retail
7 store services, including online retail store services, for inter alia home decorative items, jewelry,
8 perfumes, and lotions. The registration has earned incontestable status.

9
10 91. Biltmore owns U.S. Trademark Registration 3,703,686 for BILTMORE for retail
11 store services for home furnishings and home décor items. The registration has earned
12 incontestable status.

13 92. Biltmore owns U.S. Trademark Registration 3,690,732 for textiles and textile goods,
14 fabrics for the manufacture of furnishings, bed covers, bath linens, bed clothes, bed linen,
15 window treatments made of textiles, candles and scented candles, upholstered furniture, sleep
16 products, and pillows. The registration has earned incontestable status.

17
18 93. Biltmore owns U.S. Trademark Registration 3,855,102 for BILTMORE for jewelry.
19 The registration has earned incontestable status.

20 94. Biltmore owns U.S. Trademark Registration 4,029,560 for BILTMORE for soaps,
21 perfumes, cosmetics, and lotions. The registration has earned incontestable status.

22
23 95. Sleek sells textiles and textile goods, fabrics for the manufacture of furnishings, bed
24 covers, bath linens, bed clothes, bed linen, window treatments made of textiles, candles and
25 scented candles, upholstered furniture, sleep products, and pillows in its BILTMORE
26 INTERIORS AND LINENS store and online store.
27
28

1 96. Sleek sells jewelry in its BILTMORE INTERIORS AND LINENS store, online, and
2 at trunk sales.

3 97. Sleek sells soaps, perfumes, and/or lotions in its BILTMORE INTERIORS AND
4 LINENS store and online store.

5 98. Biltmore and Sleek offer their respective home décor, bed and bath linens, pillows,
6 jewelry, lotions, perfumes, and soaps through retail stores in the greater Scottsdale area and
7 online throughout the United States.

8 99. Biltmore and Sleek advertise their respective goods and services through the same
9 channels, such as on the Internet.

10 100. Sleek is offering the highly related services under BILTMORE INTERIORS
11 AND LINENS as compared with the goods offered by Biltmore under Biltmore's federally
12 registered BILTMORE trademarks.

13 101. Sleek is offering its BILTMORE INTERIORS AND LINENS services through
14 the same or highly similar channels of trade as those used by Biltmore to sell its goods under its
15 trademarks.

16 102. Sleek advertises its BILTMORE INTERIORS AND LINENS services through
17 the same channels as those Biltmore uses to advertise its goods under its BILTMORE
18 trademarks.

19 103. Sleek does not have permission from Biltmore to use the BILTMORE name in
20 conjunction with retail sales of home décor, bed and bath linens, pillows, jewelry, lotions,
21 perfumes, and soaps.

22 104. Sleek's use of BILTMORE INTERIORS AND LINENS is likely to cause
23 confusion or to cause mistake or to deceive as to the affiliation, connection, or association of
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1 Sleek with Biltmore, or as to the origin, sponsorship or approval of Sleek's retail services by
2 Biltmore

3 105. Sleek launched its online store with knowledge of Biltmore's federal registrations
4 for the BILTMORE mark.

5 106. Sleek and Lizanich willfully infringe Biltmore's federally registered trademarks.
6

7 **Count IV: Cybersquatting**
8 **15 U.S.C. § 1125(d)**

9 107. Biltmore realleges the preceding paragraphs.

10 108. Biltmore has registered and owns the BILTMORE mark under the Lanham Act.

11 109. Sleek has demonstrated a bad faith intent to profit from the distinctive
12 BILTMORE mark by registering and using the domain names www.biltmoreinteriors.com which
13 contain and is confusingly similar to the BILTMORE mark.
14

15 110. Sleek offers goods and services in direct competition with Biltmore through the
16 www.biltmoreinteriors.com website. For example, Sleek advertises home décor, bed and bath
17 linens, pillows, jewelry, lotions, perfumes, and soaps, and Sleek's retail services for the same
18 through these websites.

19 111. Sleek's use of this URL amounts to cybersquatting under then Lanham Act.
20

21 **Count V: Common Law Trademark Infringement**

22 112. Biltmore realleges the preceding paragraphs.

23 113. Biltmore has senior rights over Sleek in the BILTMORE mark for identifying
24 retail store services, including online retail store services in Arizona, for home furnishings and
25 home décor items.

26 114. Biltmore has senior rights over Sleek in the BILTMORE mark in Arizona for
27 identifying textiles and textile goods, fabrics for the manufacture of furnishings, bed covers, bath
28

1 linens, bed clothes, bed linen, window treatments made of textiles, candles and scented candles,
2 upholstered furniture, sleep products, and pillows.

3 115. Biltmore has senior rights over Sleek in the BILTMORE mark in Arizona for
4 identifying jewelry.

5 116. Biltmore has senior rights over Sleek in the BILTMORE mark in Arizona for
6 identifying perfumes, cosmetics, and lotions.

7 117. Sleek sells textiles and textile goods, fabrics for the manufacture of furnishings,
8 bed covers, bath linens, bed clothes, bed linen, window treatments made of textiles, candles and
9 scented candles, upholstered furniture, sleep products, and pillows in its BILTMORE
10 INTERIORS AND LINENS Scottsdale store and online store.

11 118. Sleek sells jewelry in its BILTMORE INTERIORS AND LINENS Scottsdale
12 store, online, and at Arizona trunk sales.

13 119. Sleek sells soaps, perfumes, and/or lotions in its BILTMORE INTERIORS AND
14 LINENS Scottsdale store and online store.

15 120. Biltmore and Sleek offer their respective home décor, bed and bath linens,
16 pillows, jewelry, lotions, perfumes, and soaps through retail stores in the greater Scottsdale area
17 and online throughout the United States.

18 121. Biltmore and Sleek advertise their respective goods and services through the same
19 channels, such as on the Internet.

20 122. Sleek is offering the highly related services under BILTMORE INTERIORS
21 AND LINENS as compared with the goods offered by Biltmore under BILTMORE trademarks.

1 C. Disgorge all profits from Defendants earned in conjunction with the
2 biltmoreinteriors.com URL;

3 D. Enter judgment against Defendants for three times their profits;

4 E. Permanently enjoin Sleek and all those acting in concert with Sleek from making
5 any use of the marks BILTMORE, BILTMORE INTERIORS AND LINENS, and of any other
6 marks confusingly similar thereto;

7 F. the Court order Sleek to transfer <https://biltmoreinteriors.com>, as well as any
8 other URL that includes the letter string “Biltmore,” to Biltmore;

9 G. the Court award Biltmore its reasonable attorneys’ fees pursuant to 15 U.S.C. §
10 1117(a);

11 H. the costs of this action be taxed against Sleek; and

12 I. the Court grant Biltmore such other and further relief as the Court may deem just
13 and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a trial by jury be held on all issues so triable.

16 DATED this April 11, 2022.

17 **Envisage Law**

18 */s/ Anthony J. Biller*

19 _____
20 Anthony J. Biller (*pro hac vice*)
21 Attorneys for Plaintiff

22 **Rusing Lopez & Lizardi, P.L.L.C.**

23 */s/ Paige E. Scalf*

24 _____
25 Jonathan M. Saffer
26 Paige E. Scalf
27 Attorneys for Plaintiff