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9 **UNITED STATES DISTRICT COURT**  
 10 **CENTRAL DISTRICT OF CALIFORNIA**

11 CARIBBEAN BLUES, INC., doing business  
 12 as "EKB TEXTILES," a California  
 13 Corporation,  
 14 Plaintiff,  
 15 v.  
 16 ZULILY, LLC, a Delaware limited liability  
 17 company, and DOES 1-10,  
 18 Defendants.  
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Case No.:

**PLAINTIFF'S COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

1 CARIBBEAN BLUES, INC., doing business as “EKB Textiles” (“Plaintiff” or  
2 “EKB”), by and through its undersigned attorneys, hereby prays to this honorable  
3 Court for relief based on the following:

4 **JURISDICTION AND VENUE**

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

7 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and  
8 1338 (a)

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

12 **PARTIES**

13 4. Plaintiff is a corporation organized and existing under the laws of the  
14 State of California with its principal place of business located at 777 E Washington  
15 Blvd., Los Angeles, CA 90021.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant  
17 ZULILY, LLC, (“ZULILY”), doing business as “ZULILY” is a Delaware limited  
18 liability company with its principal place of business located at 300 Deschutes Way  
19 SW, Suite 304, Tumwater, WA 98501, and is doing business with the State of  
20 California.

21 6. Plaintiff is informed and believes and thereon alleges that Defendant  
22 ZULILY owns and operates <https://www.zulily.com>.

23 7. Plaintiff is informed and believes and thereon alleges that Defendants  
24 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed  
25 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,  
26 or have engaged in one or more of the wrongful practices alleged herein. The true  
27 names, whether corporate, individual or otherwise, of Defendants 1 through 10,  
28 inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants

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

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

11 9. ZULILY and Does 1-10 will collectively be referred to as "Defendants"  
12 herein.

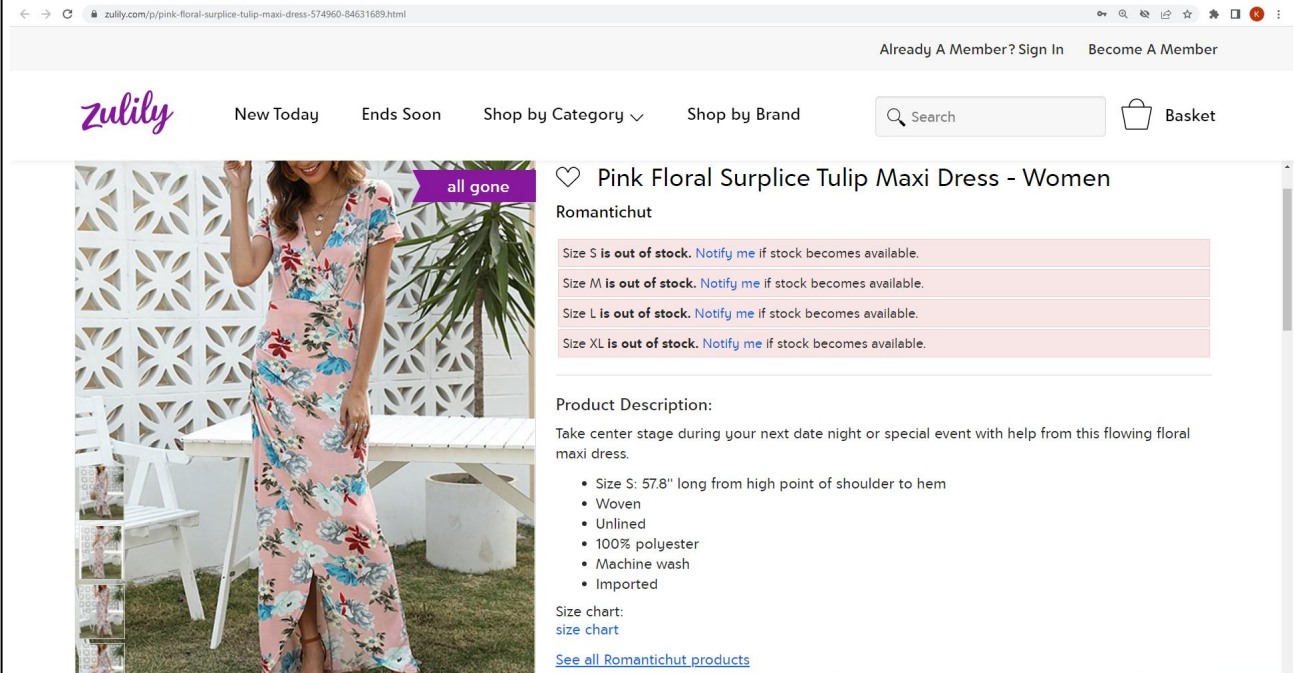
13 **CLAIMS RELATED TO EKB DESIGN # 9383**

14 10. Plaintiff owns an original two-dimensional artwork used for purposes of  
15 textile printing entitled EKB Design # 9383 (the "Subject Design") which has been  
16 registered with the United States Copyright Office under Registration No. VA 2-114-  
17 907.

18 11. Prior to the acts complained of herein, Plaintiff widely disseminated  
19 fabric bearing the Subject Design to numerous parties in the fashion and apparel  
20 industries.

21 12. Plaintiff is informed and believes and thereon alleges that following its  
22 distribution of the Subject Design, Plaintiff learned that Defendants created, sold,  
23 manufactured, caused to be manufactured, imported and/or distributed fabric and/or  
24 garments comprised of fabric featuring unauthorized reproductions of the Subject  
25 Design or designs which are substantially similar to the Subject Design (hereinafter  
26 "Offending Products"). Offending Products includes but are not limited to the  
27 garments sold by ZULILY, under SKU ROMANTICHUT\_TOM1025-  
28 P\_PRINTING\_S, bearing the label "Romantichut" as shown in the below screen

capture:



13. Indeed, this is not the first time ZULILY has infringed the Subject Design. On or about November 3, 2020, counsel for EKB sent a cease-and-desist demand to ZULILY after purchasing garments bearing the same illicit reproductions of the Subject Design that are at issue in this case. The parties reached a confidential settlement of that matter with an effective date of January 13, 2021. Importantly, no license or authorization for future sales was here was provided as part of that resolution. Thus, Plaintiff believes and alleges that the infringement at issue was committed with actual knowledge of Plaintiff’s rights such that said acts of copyright infringement were, and are willful.

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14. A representative image of the Subject Design and a detailed exemplar of

Offending Products are set forth below:

<u>Subject Design:</u>	<u>Offending Product:</u>
	

**FIRST CLAIM FOR RELIEF**

(For Copyright Infringement - Against All Defendants, and Each)

15. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to Plaintiff's showroom, strike offs, and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; and/or (c) access to garments in the marketplace manufactured with lawfully printed fabric bearing the Subject Design.

17. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s), and each of them, has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailers, which garments infringed the Subject Design in that said garments were composed of fabric which featured unauthorized print designs that were identical or substantially similar to the Subject Design, or were an illegal modification thereof.

18. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from the Subject Design and by producing, distributing and/or selling Subject Products through a nationwide network of retail stores, catalogues, and through on-line websites.

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



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- d. That Plaintiff be awarded its attorneys’ fees as available under the Copyright Act, 17 U.S.C. § 505 et seq.;
- e. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement;
- f. That Plaintiff be awarded pre-judgment interest as allowed by law;
- g. That Plaintiff be awarded the costs of this action; and
- h. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

Respectfully submitted,

Dated: October 10, 2022

By: /s/ Stephen M Doniger  
Stephen M. Doniger, Esq.  
Kelsey M. Schultz, Esq.  
DONIGER / BURROUGHS  
Attorneys for Plaintiff