

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

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U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

RUDOLPH AND ME, INC.,  
A Florida Corporation,

Plaintiff,

vs.

Timmy Woods Beverly Hills, Ltd.  
A California Limited Liability Company;

and

Timmy S. Woods, an individual, d/b/a.,  
Timmy Woods Beverly Hills Ltd.,

Defendants.

JUDGE \_\_\_\_\_

Case No. 8:09cv 796-TM-TBM

**COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF SOUGHT,**

**AND DEMAND FOR JURY TRIAL**

1. Plaintiff, RUDOLPH AND ME, INC., a Florida corporation (hereinafter "RMI"), hereby sues Defendants, Timmy Woods Beverly Hills, Ltd., a California Limited Liability Company; Timmy S. Woods, an individual, d/b/a., Timmy Woods Beverly Hills Ltd., and alleges:

**INTRODUCTION**

2. Plaintiff, RUDOLPH AND ME, INC., is a corporation incorporated under the laws of the State of Florida and has its principal place of business in Sarasota, Florida.

*TX 50133*  
*\$350-*

RMI is engaged in the principal business of designing, manufacturing and distributing decorative Christmas ornaments and Christmas decorations.

3. Upon information and belief, Defendant, TIMMY WOODS BEVERLY HILLS, LTD., is a limited liability company formed under the laws of the State of California, and has its principal place of business in Los Angeles, California. Upon information and believe, TIMMY WOODS BEVERLY HILLS, LTD.'s entity status has been suspended by the California Secretary of State. Upon information and belief, TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD., continues to operate. Upon information and belief, TIMMY WOODS BEVERLY HILLS, LTD. is engaged in the principal business of manufacture (either directly or indirectly), distribution (directly or through its customers) and sale of handbags.

4. Upon information and belief, Defendant, TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD, an individual, is a designer, manufacturer and/or seller of handbags. On further information and belief, Ms. Woods is an officer and/or the alter ego of TIMMY WOODS BEVERLY HILLS, LTD. Upon information and belief, TIMMY S. WOODS is a resident of the State of California.

5. This is an action by RMI against TIMMY WOODS BEVERLY HILLS, LTD. and TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. for copyright infringement and other claims based upon federal and state law.

#### JURISDICTION AND VENUE

6. The jurisdiction of this Court is based upon diversity of citizenship pursuant to 28 U.S.C. § 1332. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331 and 28

U.S.C. §1338 as this dispute involves federal questions arising under the Copyright Laws of the United States, 17 U.S.C. §§ 101, et seq. and the Lanham Act, 15 U.S.C. §§1051, et seq.

7. This is a civil action in which the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

8. Pursuant to section 48.193(2), Florida Statutes, this Court has general jurisdiction over Defendants as they are, on information and belief, engaged in substantial and not isolated activity within the State of Florida.

9. Pursuant to section 48.193(1)(b) and (f), Florida Statutes, the Court has specific jurisdiction over Defendants because, on information and belief, Defendants have committed tortious acts in the State of Florida and Defendants have further caused injury to RMI in the State of Florida.

10. This Court has jurisdiction over TIMMY WOODS BEVERLY HILLS, LTD. in that, upon information and belief, infringing goods are being offered for sale and/or have been sold in Florida, including this District, and TIMMY WOODS BEVERLY HILLS, LTD has sufficient contacts with the State of Florida and this District to subject it to the jurisdiction of this Court. Upon information and belief, the contacts of TIMMY WOODS BEVERLY HILLS, LTD include directing goods into the stream of commerce and to consumers in the State of Florida, including this District. Upon information and belief, TIMMY WOODS BEVERLY HILLS, LTD derives revenues from the sale of its products in the State of Florida, including this District. Upon information and belief, the injury and

damages caused by TIMMY WOODS BEVERLY HILLS, LTD ' infringement is occurring or has occurred in the State of Florida and this District.

11. This Court has jurisdiction over TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. in that, upon information and belief, infringing goods are being offered for sale and have been sold in the State of Florida and this District, and TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. has sufficient contacts with the State of Florida and this District to subject her to the jurisdiction of this Court. The contacts of TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. include directing goods into the stream of commerce and to consumers in the State of Florida, including this District. Upon information and belief, TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. derives revenues and profits from the sale of her products in the State of Florida, including this District. The injury and damages caused by TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. infringement is occurring or has occurred in the State of Florida and this District.

12. Upon information and belief, TIMMY WOODS BEVERLY HILLS, LTD. and TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. sell, and actively offer for sale, goods in the State of Florida, including this District, through their website(s) and/or websites that they have authorized their handbags to be distributed through, which include [www.timmywoods.com/catalog](http://www.timmywoods.com/catalog); [www.collectabag.com](http://www.collectabag.com); and [www.go100percentme.com](http://www.go100percentme.com). The active websites [www.timmywoods.com/catalog](http://www.timmywoods.com/catalog), [www.collectabag.com](http://www.collectabag.com), and [www.go100percentme.com](http://www.go100percentme.com) include an online store through which handbags can be purchased by consumers.

13. Upon information and belief, Defendants further sell their products to consumers and retail/dealer locations within the State of Florida and the District, as well as locations designated by TIMMY WOODS BEVERLY HILLS, LTD. and/or TIMMY S. WOODS, d/b/a TIMMY WOODS BEVERLY HILLS, LTD. where Defendants' goods can be purchased.

14. This Court has supplemental or pendent jurisdiction of all state law claims.

15. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and (c), and 28 U.S.C. §1400(a).

#### ALLEGATIONS PERTINENT TO ALL CLAIMS

16. At all times material, RMI has been in the business of designing, manufacturing and distributing Christmas and holiday ornaments and decorations. Two of RMI's ornaments are Snow Friends/2 and Snow Friends/3, RMI's product numbers RM86 and RM87, respectively. A picture of the ornaments (hereinafter referred to as the "RMI's Ornaments") is shown in Exhibit A (left side of Exhibit A) attached hereto. The copyright for these ornaments is registered under U.S. Copyright Registration No. VA 1-703-354.

17. RMI has developed a business reputation for producing distinctive Christmas and holiday ornaments and decorations. RMI has invested enormous amounts of time and resources into creating, producing, promoting, advertising and distributing RMI's Ornaments. RMI's Ornaments represent the principal products of RMI's business.

18. Upon information and belief, Defendants have copied and have made unauthorized derivatives of at least one of RMI's Ornaments in the form of handbags, with such copies and derivatives (hereinafter referred to the "Infringing Products"). The Infringing Products were copied, manufactured and distributed without authority or license from RMI.

19. Attached hereto as Exhibit A is a side-by-side comparison of RMI's Ornaments compared to the Infringing Products.

20. Upon information and belief, Defendants displayed images of the Infringing Products on Defendants' websites or websites that Defendants have authorized their products to be distributed through (including, but not limited to, [www.collectabag.com](http://www.collectabag.com) and [www.get100percentme.com](http://www.get100percentme.com)) without any authority, attribution of authorship or ownership of RMI. Attached hereto as Exhibit B are copies of the [www.timmywoods.com/catalog](http://www.timmywoods.com/catalog), [www.collectabag.com](http://www.collectabag.com) and [www.get100percentme.com](http://www.get100percentme.com) websites showing the images and offering the Infringing Products for sale. Note the advertising on page 12 of Exhibit B where Defendants represent that their designs are original, stating "[e]ach unique design comes complete with a certificate of authenticity and originality."

21. As mentioned, Defendants' website(s) touts that "[e]ach unique design comes complete with a certificate of authenticity and originality." In the case of the Infringing Products, the design was, upon information and belief, conceived by copying RMI's Ornaments or making unauthorized derivatives thereof.

22. Upon information and belief, Defendants have sold the Infringing Products directly or indirectly to the ultimate consumers and/or to Defendants' customers, who then sold the Infringing Products to the ultimate consumers.

23. Upon information and belief, Defendants have marketed and sold the Infringing Products to consumers in the State of Florida and/or to customers in the State of Florida who sold them to the ultimate consumers.

24. On information and belief, RMI's Ornaments were marked with a copyright notice.

25. On or about January 9, 2009, during the annual Atlanta International Gift and Home Furnishings Market Trade Show held in Atlanta, Georgia, an officer of RMI, became aware of the Infringing Products and approached Defendant Woods about it. Defendant Woods was shown RMI's RM86 Ornament, and advised that it was copyrighted and that RMI's Ornaments were labeled with a copyright notice. On information and belief, Defendants knew or should have known that RMI's Ornaments were copyrighted.

26. Upon information and belief, Defendants knew or should have known that their activities, namely, their copying of RMI's Ornaments, as well as their manufacture, importation, sale and promotion of the Infringing Products, infringed upon RMI's copyrights in one or more of the RMI's Ornaments. Further, Defendants were never licensed to manufacture, import, distribute or sell any of RMI's Ornaments or derivatives thereof.

27. Upon information and belief, Defendants are continuing to copy and reproduce unauthorized derivatives of RMI's Ornaments, offer for sale and sell the Infringing Products without authority or license from RMI and Defendants will continue to sell the Infringing Products to their customers and consumers.

28. Upon information and belief, the aforesaid actions of Defendants were and are deliberate, intentional and willful violations of RMI's rights for the purpose of pecuniary and commercial gains, and were done without authorization by RMI.

**COUNT I**  
**FEDERAL COPYRIGHT INFRINGEMENT**

29. RMI re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 28 above.

30. This is an action under 17 U.S.C. § 101, et seq., for infringement of federally protected copyrights.

31. RMI is the sole owner of all rights, title, and interest in and to the copyrights in RMI's Ornaments.

32. Upon information and belief, Defendants are operating their business by reproducing and selling the Infringing Products that are copies and/or unauthorized derivatives of RMI's Ornaments. Defendants are also displaying digital images of their copies and/or unauthorized derivatives of RMI's Ornaments on Defendant's website(s) ([www.timmywoods.com/catalog](http://www.timmywoods.com/catalog); [www.collectabag.com](http://www.collectabag.com); and [www.go100percentme.com](http://www.go100percentme.com)). At no time were Defendants authorized to copy, reproduce, sell and/or display RMI's Ornaments or derivatives thereof.

33. Upon information and belief, Defendants' actions have caused monetary damages to RMI, and Defendants' continuance of such actions will cause irreparable harm to RMI.

**COUNT II**  
**UNFAIR COMPETITION AND FALSE AND MISLEADING ADVERTISING**  
**UNDER 15 U.S.C. § 1125**

34. RMI re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 33 above.

35. This is an action under 15 U.S.C. § 1125 for unfair competition and false and misleading advertising.

36. Upon information and belief, Defendants produced digital images of Infringing Products that are unauthorized copies and/or derivatives of RMI's Ornaments on Defendants' website(s) ([www.timmywoods.com/catalog](http://www.timmywoods.com/catalog), [www.collectabag.com](http://www.collectabag.com);, and [www.go100percentme.com](http://www.go100percentme.com)), without authorization or license by RMI.

37. Upon information and belief, Defendants' website advertises one or more of the Infringing Products that are unauthorized copies and/or derivatives of RMI's Ornaments, under one or more of the Defendants' trade names or family name, without attribution to RMI. The websites also advertises the Infringing Products as being original, stating "[e]ach unique design comes complete with a certificate of authenticity and originality."

38. Upon information and belief, Defendants' advertising is false and misleading because the Infringing Products are not unique and original because they are copies and/or derivatives of RMI's Ornaments. Also, Defendants' marketing on their websites and under their trade names or family name constitutes false and misleading

advertising. Defendants' false and misleading advertising has been made in interstate commerce.

39. Upon information and belief, Defendants' false and misleading advertising is likely to deceive and confuse a significant number of consumers in the trade to which such advertising is directed.

40. Upon information and belief, Defendants' actions have caused monetary damages to RMI and have damaged RMI's business reputation and goodwill, and Defendants' continuation of such activities will cause irreparable harm to the RMI.

**COUNT III**  
**UNFAIR COMPETITION AND FALSE AND MISLEADING ADVERTISING UNDER**  
**FLORIDA COMMON LAW**

41. RMI re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 40 above.

42. This is an action under Florida common law for unfair competition and false and misleading advertising.

43. Upon information and belief, Defendants' produced digital images of Infringing Products that are unauthorized derivatives of RMI's Ornaments on Defendants' websites, without authorization or license by RMI.

44. Upon information and belief, [www.timmywoods.com/catalog](http://www.timmywoods.com/catalog); [www.collectabag.com](http://www.collectabag.com) and [www.go100percentme.com](http://www.go100percentme.com) advertise one or more of the Infringing Works that are unauthorized copies and/or derivatives RMI's Ornaments under Defendants' trade names as originally designed by Defendants, without attribution to

RMI. The websites also advertises the Infringing Products as being original, stating “[e]ach unique design comes complete with a certificate of authenticity and originality.”

45. Upon information and belief, Defendants' advertising is false and misleading because the Infringing Products are not unique and original because they are copies and/or derivatives of RMI's Ornaments. Also, Defendants' marketing on their websites and under their trade names or family name constitutes false and misleading advertising. Defendants' false and misleading advertising has been made in interstate commerce.

46. Upon information and belief, Defendants' false and misleading advertising has or is likely to deceive and confuse a significant number of consumers in the trade to which such advertising is directed.

47. Upon information and belief, Defendants' actions have caused monetary damages to RMI and have damaged RMI's business reputation and goodwill, and Defendants' continuation of such activities will cause irreparable harm to the RMI.

COUNT IV  
UNJUST ENRICHMENT UNDER FLORIDA COMMON LAW

48. RMI re-alleges and incorporates by reference the allegations contained in paragraphs 1 through 47 above.

49. This is an action under Florida common law for unjust enrichment.

50. Upon information and belief, the conduct of Defendants as described above, namely, dissemination of the Infringing Products and use of the aforementioned

advertising, has resulted in Defendants being unjustly enriched. It would be inequitable for Defendants to retain the sale proceeds from the sale of the Infringing Products.

51. Upon information and belief, Defendants' actions have caused monetary damages to RMI and have damaged RMI's business reputation and goodwill, and Defendants' continuation of such activities will cause irreparable harm to RMI.

#### PRAYER FOR RELIEF

WHEREFORE, RMI prays:

A. That RMI be awarded the greater of its actual damages, Defendants' profits, statutory damages and attorneys' fees as provided by 17 U.S.C. §§ 502, 503, 504, 505 and any other statute or law as the Court deems appropriate.

B. That RMI be awarded the greater of its actual damages, Defendants' profits or statutory damages as provided by 15 U.S.C. § 1117 in a sum in excess of Seventy-Five Thousand Dollars (\$75,000).

C. That RMI be awarded enhanced, exemplary, or treble damages threefold its actual damages pursuant to 15 U.S.C. § 1117 and any other statute or law as the Court deems appropriate.

D. That RMI be awarded its actual damages, consequential damages, statutory damages, enhanced damages, and Defendants' profits and its costs and attorney fees and relief based upon the Copyright Act, the Lanham Act, Florida Statute or Common Law or any other applicable statute or law as the Court deems appropriate.

E. Pursuant to 17 U.S.C. § 502, 15 U.S.C. § 1116 and any other statute or law as the Court deems appropriate, that Defendants, jointly and severally, their

employees, agents, officers, directors, servants and all those controlled by or acting on behalf of the Defendants be preliminarily and permanently enjoined from:

- i. infringing each of the RMI's copyrighted works by manufacturing, producing, distributing, circulating, selling, marketing, offering for sale, advertising, promoting, displaying, or otherwise disposing of the Infringing Products or any of RMI's products not authorized by the RMI bearing any simulation, reproduction, copy, or colorable imitation of any of RMI's copyrighted works;
- ii. using any simulation, reproduction, copy or colorable imitation of any of RMI's copyrighted works in connection with the promotion, advertisement, display, sale, offering for sale, manufacture, production, circulation or distribution of the Infringing Products in such fashion as to relate or connect, or tend to relate or connect, such products in any way to the RMI, or to any goods sold, manufactured, sponsored by, approved by, or connected with the RMI;
- iii. making any statement or representation, or using any false designation of origin or false description, or performing any act, which can or is likely to lead the trade or public, or individual members thereof, to believe that any products manufactured, distributed or sold by the Defendants are in any manner associated or connected with the RMI, or are sold, manufactured, licensed, sponsored, approved or authorized by the RMI; and
- iv. engaging in any other activity constituting unfair competition with the RMI, or constituting infringement of any of RMI's copyrighted properties, or

constituting dilution or injury to RMI's business reputation, names, or goodwill.

F. Order Defendants to report to this Court within thirty (30) days after a Permanent Injunction is entered to show their compliance with the above paragraph.

G. Order such other actual damages, contributory damages, exemplary damages, attorneys' fees and costs and other relief as the Court may deem appropriate under any state or Federal law, including but not limited to preventing the trade and public from gaining the erroneous impression that any products manufactured sold or otherwise circulated or promoted by the Defendants are authorized by the RMI, or related in any way to the RMI's products.

H. Order an accounting of the profits derived by Defendants by the acts of infringement and unfair competition, and further ordering that said profits be paid to RMI with interest pursuant to 15 U.S.C. §1117, 17 U.S.C. § 504 and any other statute or law as the Court deems appropriate.

I. That RMI be awarded reasonable attorneys' fees and costs of suit pursuant to 15 U.S.C. § 1117, 17 U.S.C. § 505 as well as any other applicable statute or law.

J. Order of impound pursuant to 17 U.S.C. § 503 of all of the Defendants' Infringing Products, labeling, packaging, advertising, promotions, displays, statements, representations, descriptions or any other simulation, reproduction, copy or colorable imitation of the RMI's copyrighted properties.

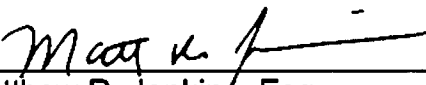
K. Order that Defendants deliver for destruction all Infringing Products pursuant to 17 U.S.C. § 503, 15 U.S.C. § 1118 and any other statute or law as the Court deems appropriate.

L. That RMI be granted or awarded such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

RMI hereby demands trial by jury for all issues so triable.

Plaintiff's Attorney:

  
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