From: Carlson, Kristin

Sent: 12/15/2015 7:33:03 PM

To: TTAB EFiling

CC:

Subject: U.S. TRADEMARK APPLICATION NO. 86358586 - PROJECT 7 - JAGW6632TUS - Request for Reconsideration Denied - Return to TTAB - Message 1 of 3

****

Attachment Information:

Count: 34

Files: Ann Taylor - Coat 1.jpg, Ann Taylor - Coat 2.jpg, Ann Taylor - Coat 3.jpg, Ann Taylor - Coat 4.jpg, Ann Taylor - Dress 1.jpg, Ann Taylor - Dress 2.jpg, Ann Taylor - Dress 3.jpg, Ann Taylor - Gloves 1.jpg, Ann Taylor - Gloves 2.jpg, Ann Taylor - Gloves 3.jpg, Ann Taylor - Shoes 1.jpg, Ann Taylor - Shoes 2.jpg, Ann Taylor - Shoes 3.jpg, Ann Taylor - Shoes 4.jpg, Ann Taylor - Shirt 1.jpg, Ann Taylor - Shirt 2.jpg, Ann Taylor - Shirt 3.jpg, Ann Taylor - Shirt 4.jpg, Brooks Brothers - Coat 1.jpg, Brooks Brothers - Coat 2.jpg, Brooks Brothers - Dress 1.jpg, Brooks Brothers - Dress 2.jpg, Brooks Brothers - Hat 1.jpg, Brooks Brothers - Hat 2.jpg, Brooks Brothers - Shoes 1.jpg, Brooks Brothers - Shoes 2.jpg, Brooks Brothers - Shirt 1.jpg, Brooks Brothers - Shirt 2.jpg, Brooks Brothers - Shirt 3.jpg, Forever 21 - Coat 1.jpg, Forever 21 - Coat 2.jpg, Forever 21- Dress 1.jpg, Forever 21- Dress 2.jpg, 86358586.doc

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86358586

MARK: PROJECT 7

CORRESPONDENT ADDRESS:

ROBYN S LEDERMAN

BROOKS KUSHMAN PC

1000 TOWN CTR 22ND FLOOR

SOUTHFIELD, MI 48075-1183

GENERAL TRADEMARK INFORMATION:

http://www.uspto.gov/trademarks/index.jsp

VIEW YOUR APPLICATION FILE

APPLICANT: Jaguar Land Rover Limited

CORRESPONDENT'S REFERENCE/DOCKET NO:

JAGW6632TUS

CORRESPONDENT E-MAIL ADDRESS:

rlederman@brookskushman.com

REQUEST FOR RECONSIDERATION DENIED

ISSUE/MAILING DATE: 12/15/2015

INTRODUCTION:

Applicant's request to divide submitted on 09/29/2015 has been granted. The instant application, Serial No. 86358586, which is the "parent" application, now includes International Class 25 only.

In the final Office action dated 05/20/2015, the following refusal and requirements were issued:

(1) Registration of the applied-for mark was refused under Section 2(d) as to Class 25 only,

(2) Applicant was required to submit a copy of the foreign registration, and

(3) Applicant was required to submit an acceptable identification of goods.

Based on applicant's response filed in the Request for Reconsideration after Final Action dated 11/16/2015, the requirements for a copy of the foreign registration and an acceptable identification of goods have been satisfied. *See* TMEP §§715.03(a)(ii)(B), 715.04(a). In addition, the amended identification of goods submitted in applicant's Voluntary Amendment filed on 11/19/2015, in which applicant voluntarily deleted certain items from the identification of goods, is accepted and made of record.

For the reasons set forth below, the Trademark Act Section 2(d) refusal made final in the Office action dated 05/20/2015 is maintained and continued. *See* TMEP §§715.03(a)(ii)(B), 715.04(a).

FINAL REFUSAL UNDER SECTION 2(d) MAINTAINED AND CONTINUED – LIKELIHOOD OF CONFUSION:

Registration of the applied-for mark **PROJECT 7** has been finally refused because of a likelihood of confusion with the mark **PROJECT7.COM** in U.S. Registration No. 4072066. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* The cited registration was attached at Exhibit 1 of the Office action dated 10/29/2014.

Applicant's evidence, arguments and amendments presented in the Request for Reconsideration after Final Action dated 11/16/2015 and the Voluntary Amendment filed on 11/19/2015 have been considered and found unpersuasive for the reasons set forth below.

Specifically, applicant argues in the request filed on 11/16/2015 that there are a number of third-party owned registrations in International Class 25 that contain the term PROJECT. However, none of the registrations to which applicant refers contain the relevant word and numeral combination of PROJECT 7/PROJECT7. Thus, there is no evidence that the relevant wording of PROJECT 7 and/or PROJECT7 is weak or diluted. Moreover, prior decisions and actions of other trademark examining attorneys in registering other marks have little evidentiary value and are not binding upon the USPTO or the Trademark Trial and Appeal Board. TMEP §1207.01(d)(vi); *see In re Midwest Gaming & Entm't LLC*, 106 USPQ2d 1163, 1165 n.3 (TTAB 2013) (citing *In re Nett Designs, Inc.*, 236 F.3d 1339, 1342, 57 USPQ2d 1564, 1566 (Fed. Cir. 2001)). Each case is decided on its own facts, and each mark stands on its own merits. *See AMF Inc. v. Am. Leisure Prods., Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973); *In re Binion*, 93 USPQ2d 1531, 1536 (TTAB 2009).

Applicant also filed a Voluntary Amendment on 11/19/2015 in which applicant deleted various types of shirts and tops from its identification of goods, evidently in an effort to differentiate the applicant's goods from the registrant's goods, which are "Shirts and t-shirts."

However, as discussed with applicant's attorney in a telephone conference on 11/16/2015, the deletion of shirts, t-shirts and the like from the applicant's identification of goods does not obviate the likelihood of confusion in this case because the remaining clothing goods in applicant's identification of goods are still highly related to registrant's goods. Specifically, decisions regarding likelihood of confusion in the clothing field have found many different types of more-diverse apparel to be related goods. *Cambridge Rubber Co. v. Cluett, Peabody & Co.*, 286 F.2d 623, 624, 128 USPQ 549, 550 (C.C.P.A. 1961) (women's boots related to men's and boys' underwear); *Jockey Int'l, Inc. v. Mallory & Church Corp.*, 25 USPQ2d 1233, 1236 (TTAB 1992) (underwear related to neckties); *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991) (women's pants, blouses, shorts and jackets related to women's shoes); *In re Pix of Am., Inc.*, 225 USPQ 691, 691-92 (TTAB 1985) (women's shoes related to outer shirts); *In re Mercedes Slacks, Ltd.*, 213 USPQ 397, 398-99 (TTAB 1982) (hosiery related to trousers); *In re Cook United, Inc.*, 185 USPQ 444, 445 (TTAB 1975) (men's suits, coats, and trousers related to ladies' pantyhose and hosiery); *Esquire Sportswear Mfg. Co. v. Genesco Inc.*, 141 USPQ 400, 404 (TTAB 1964) (brassieres and girdles related to slacks for men and young men).

In this case, the attached evidence from the following sources establishes that the same entity commonly provides applicant's goods of coats, dresses, scarves, gloves, hats, and shoes, in addition to the shirts identified in the cited registration:

- **Ann Taylor:** http://www.anntaylor.com/

- **Forever 21:** http://www.forever21.com/

- **Brook Brothers:** http://www.brooksbrothers.com/

- **Madewell:** https://www.madewell.com/

- **Talbots:** https://www.talbots.com/

- **White House Black Market:** http://www.whitehouseblackmarket.com/

The referenced evidence demonstrates that the goods identified in the application and the cited registration are commonly sold or provided through the same trade channels, marketed under the same mark, used by the same classes of consumers in the same fields of use, and are similar or complementary in terms of purpose or function. Evidence obtained from the Internet may be used to support a determination under Trademark Act Section 2(d) that goods and/or services are related. *See, e.g., In re G.B.I. Tile & Stone, Inc*., 92 USPQ2d 1366, 1371 (TTAB 2009); *In re Paper Doll Promotions, Inc*., 84 USPQ2d 1660, 1668 (TTAB 2007).

Therefore, the remaining goods in the application are still considered highly related to the goods in the registration for purposes of determining likelihood of confusion under Section 2(d). *See, e.g., In re Davey Prods. Pty Ltd*., 92 USPQ2d 1198, 1202-04 (TTAB 2009); *In re Toshiba Med. Sys. Corp*., 91 USPQ2d 1266, 1268-69, 1271-72 (TTAB 2009).

Accordingly, the request for reconsideration is denied and the final refusal under Trademark Act Section 2(d) is maintained and continued.

As applicant has filed a notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. *See* TMEP §715.04(a).

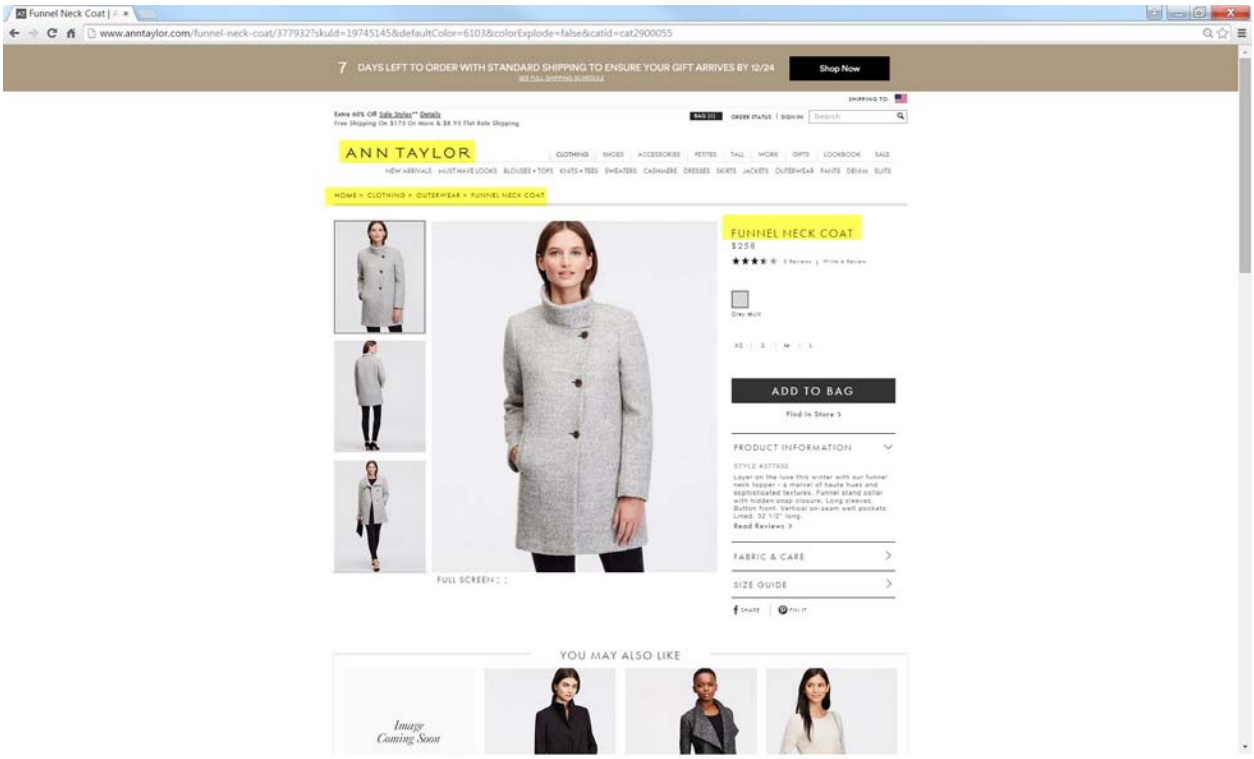
/Kristin Carlson/

Trademark Examiner: LO 105

800-786-9199 (trademark helpline)

571-272-2240 (direct dial)

kristin.carlson@uspto.gov



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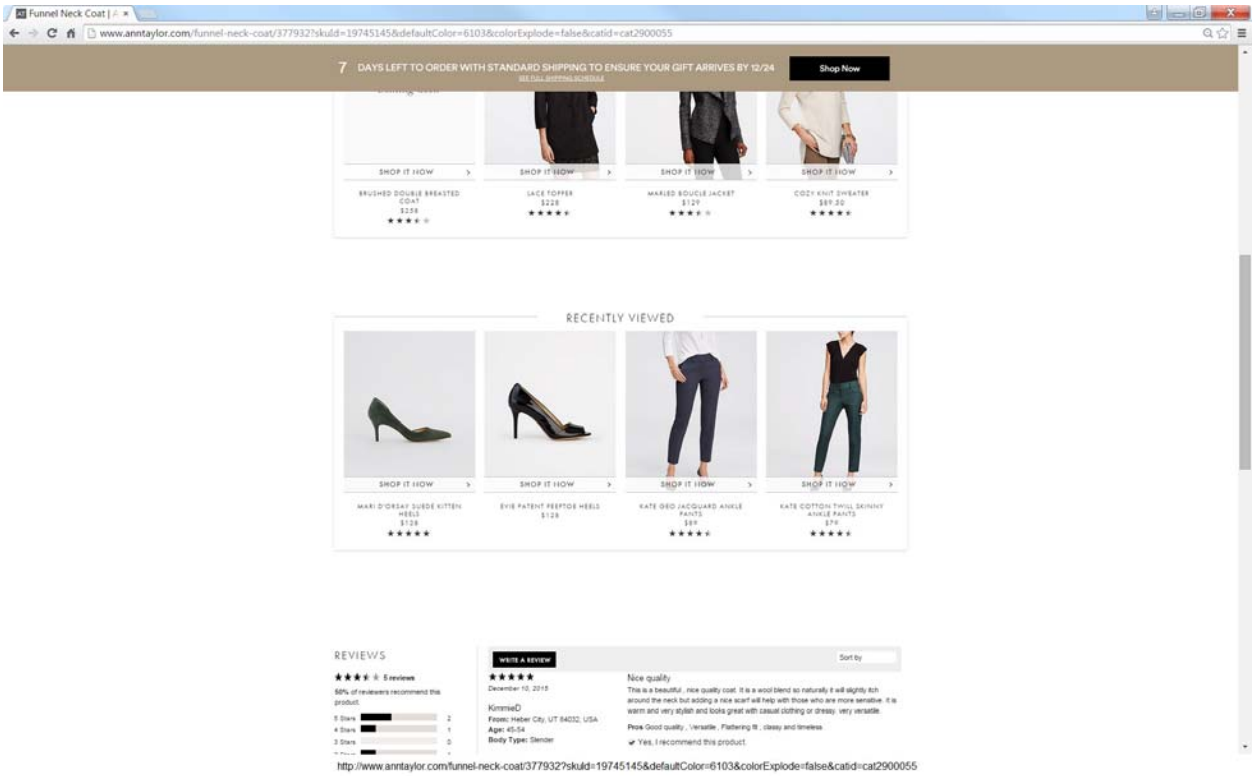

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Funnel Neck Coat | A

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Fit
Age
Style
Body Type

Click on keywords to narrow reviews:

classy and timeless
flattering fit
good quality no way
versatile yikes

Fit
Fits Small True to Size Fits Large

Was this helpful? + Yes 0 | - No 0
Report inappropriate content

★★★★★
December 4, 2015

BEADMB
From: valencia, CA
Age: 55-64
Style: Classic: timeless & tailored
Body Type: Straight

Beautiful

This is a timeless coat. This is my second coat I purchased from Ann Taylor. I love this one and the one I purchased years back. I received many compliments the first day I wore it to work. Thanks again for another winner.

✔ Yes, I recommend this product.

Was this helpful? + Yes 1 | - No 0
Report inappropriate content

★☆☆☆☆
November 29, 2015

wordflux
From: CA
Age: 35-44
Style: Classic: timeless & tailored
Body Type: Petite

Scratchy Rough Coat

Very disappointed when open my box with this coat. So rough feeling and material. Not expecting nothing like this at all from Ann Taylor. The quality is definitely going down. Please offer some warm soft-like-cashmere coats and I'll be a costumer again.

Pros: yikes , no way

Fit
Fits Small True to Size Fits Large

Was this helpful? + Yes 2 | - No 5
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★★★★☆
November 28, 2015

Elen99
TOP 500 CONTRIBUTOR
From: New York, NY
Age: 45-54
Style:
Fashion-forward: trendy & cutting-edge
Body Type: Hourglass

Great Car Coat

Although I like the style and fit of this jacket, I have to agree with the last reviewer as far as workmanship. There is a slight peaking of the gray lining on the left sleeve of this coat. I still wear it often.

Fit
Fits Small True to Size Fits Large

Was this helpful? + Yes 4 | - No 0
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★★☆☆☆
November 20, 2015

splisa11
From: Madison, WI
Age: 35-44
Style: Modern: clean & streamlined
Body Type: Full-figured

Quality issues

The style of this coat was flattering; however, one of the sleeve linings in this jacket was not properly sewn, and it hung out of the end of this sleeve while I am tried it on. Disappointing.

Fit
Fits Small True to Size Fits Large

Was this helpful? + Yes 12 | - No 16
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Funnel Neck Coat |

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classy and timeless
flattering fit
good quality no way
versatile yikes

Style: Classic: timeless & tailored
Body Type: Petite

Fit: Fits Small | True to Size | Fits Large

Was this helpful? + Yes 2 | - No 5

Report inappropriate content

★★★★☆

November 28, 2015

Great Car Coat

Although I like the style and fit of this jacket, I have to agree with the last reviewer as far as workmanship. There is a slight peaking of the gray lining on the left sleeve of this coat. I still wear it often.

Elen99

TOP 500 CONTRIBUTOR

From: New York, NY
Age: 45-54
Style:
Fashion-forward: trendy & cutting-edge
Body Type: Hourglass

Fit: Fits Small | True to Size | Fits Large

Was this helpful? + Yes 4 | - No 0

Report inappropriate content

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November 20, 2015

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From: Madison, WI
Age: 35-44
Style: Modern: clean & streamlined
Body Type: Full-figured

Fit: Fits Small | True to Size | Fits Large

Was this helpful? + Yes 12 | - No 16

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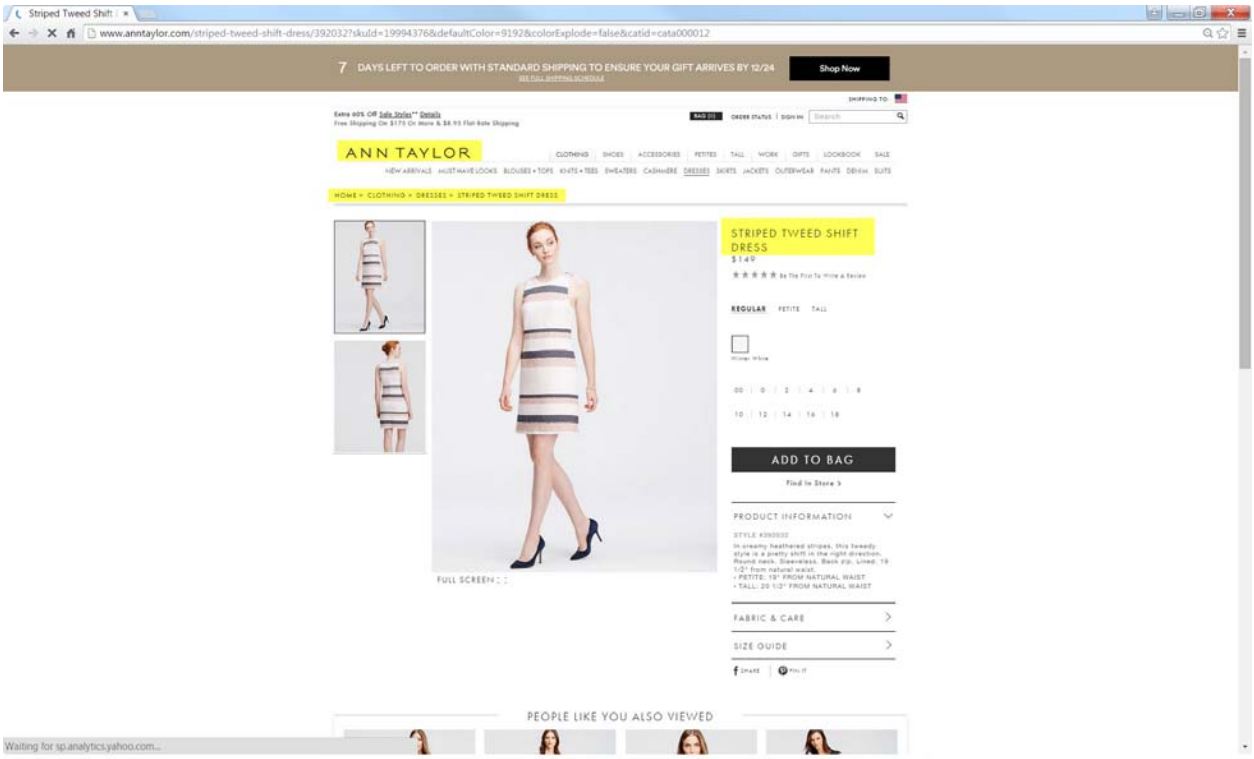

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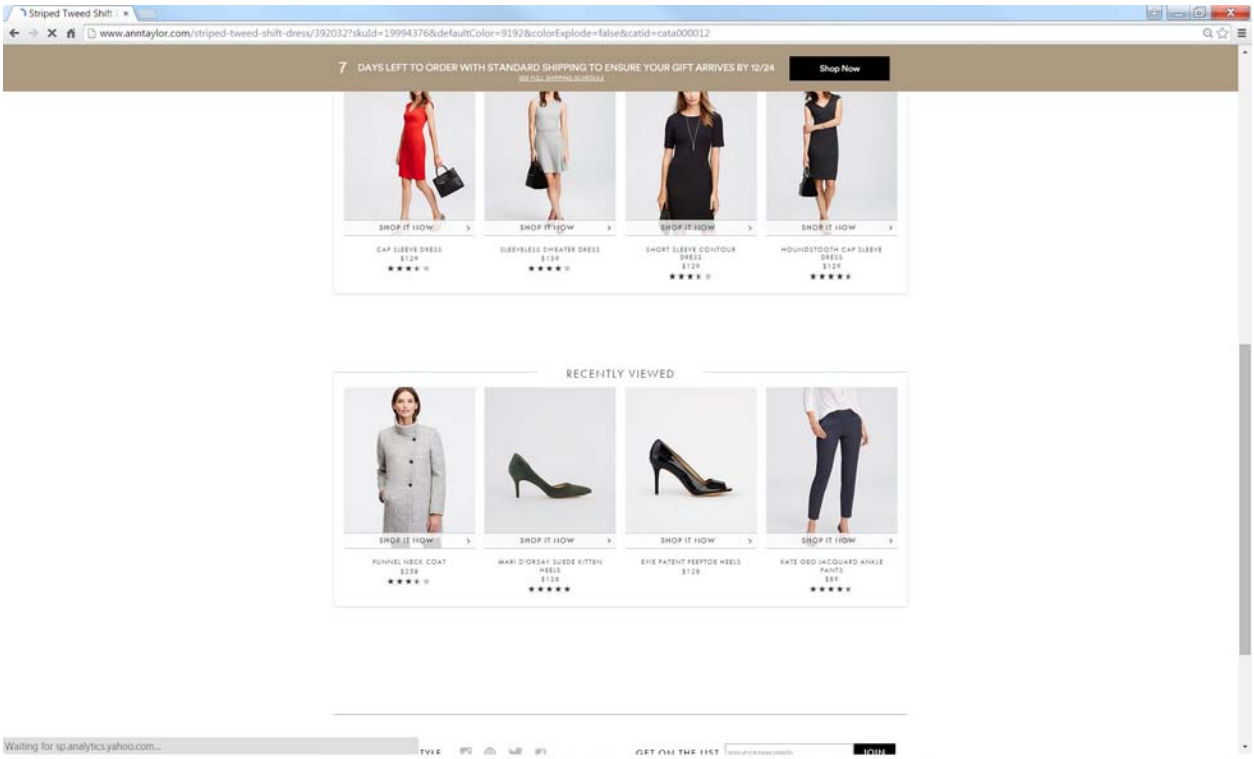

http://www.anntaylor.com/striped-tweed-shift-dress/392032?skuId=19994376&defaultColor=9192&colorExplode=false&catid=cata000012

12/14/2015 11:08 AM

Striped Tweed Shift

www.anntaylor.com/striped-tweed-shift-dress/392032?skuId=19994376&defaultColor=9192&colorExplode=false&catid=cata000012

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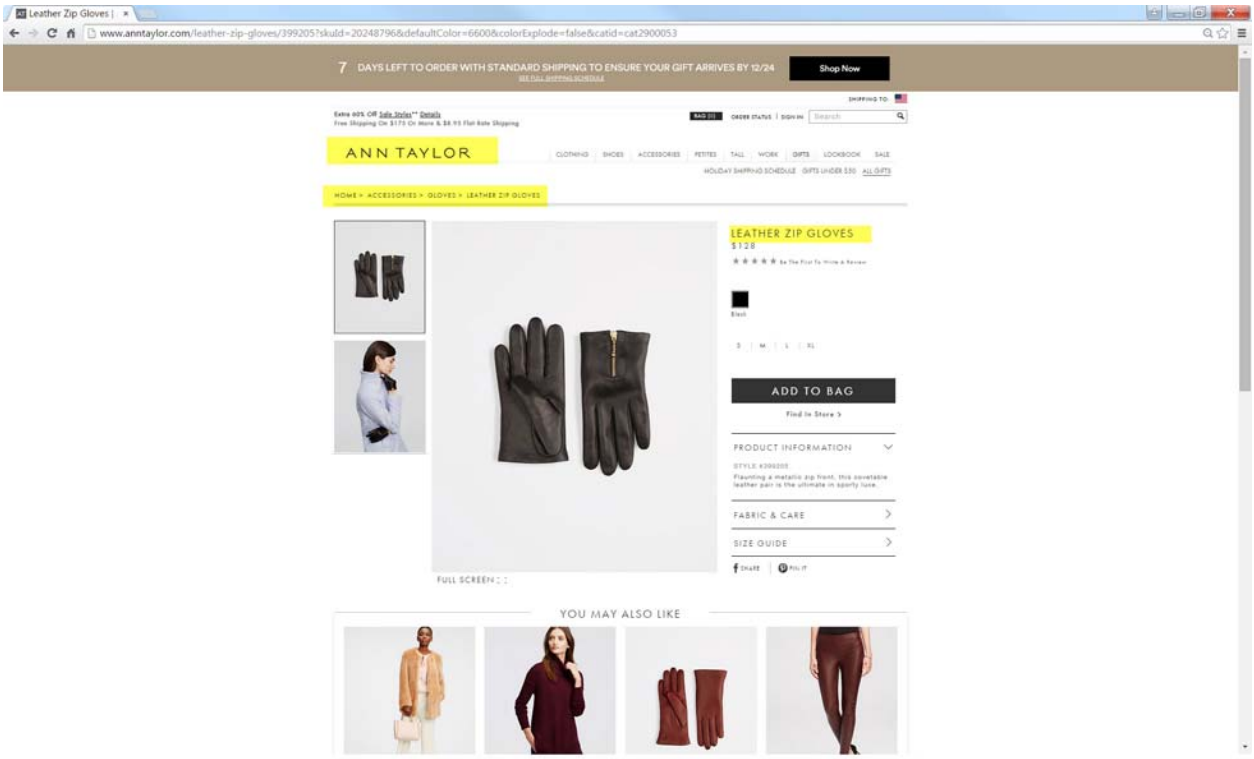

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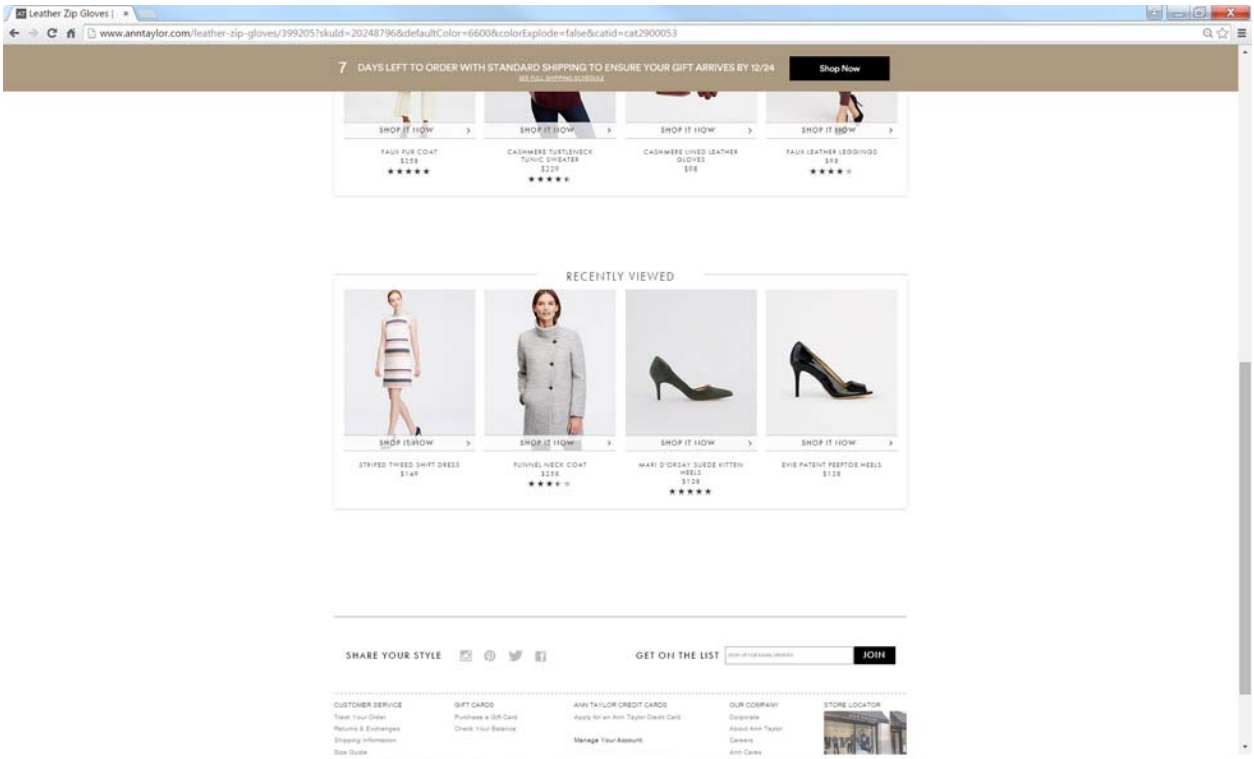

http://www.anntaylor.com/leather-zip-gloves/399205?skuId=20248796&defaultColor=6600&colorExplode=false&catid=cat2900053

12/14/2015 11:10 AM

Leather Zip Gloves |

www.anntaylor.com/leather-zip-gloves/399205?skuId=20248796&defaultColor=6600&colorExplode=false&catid=cat2900053

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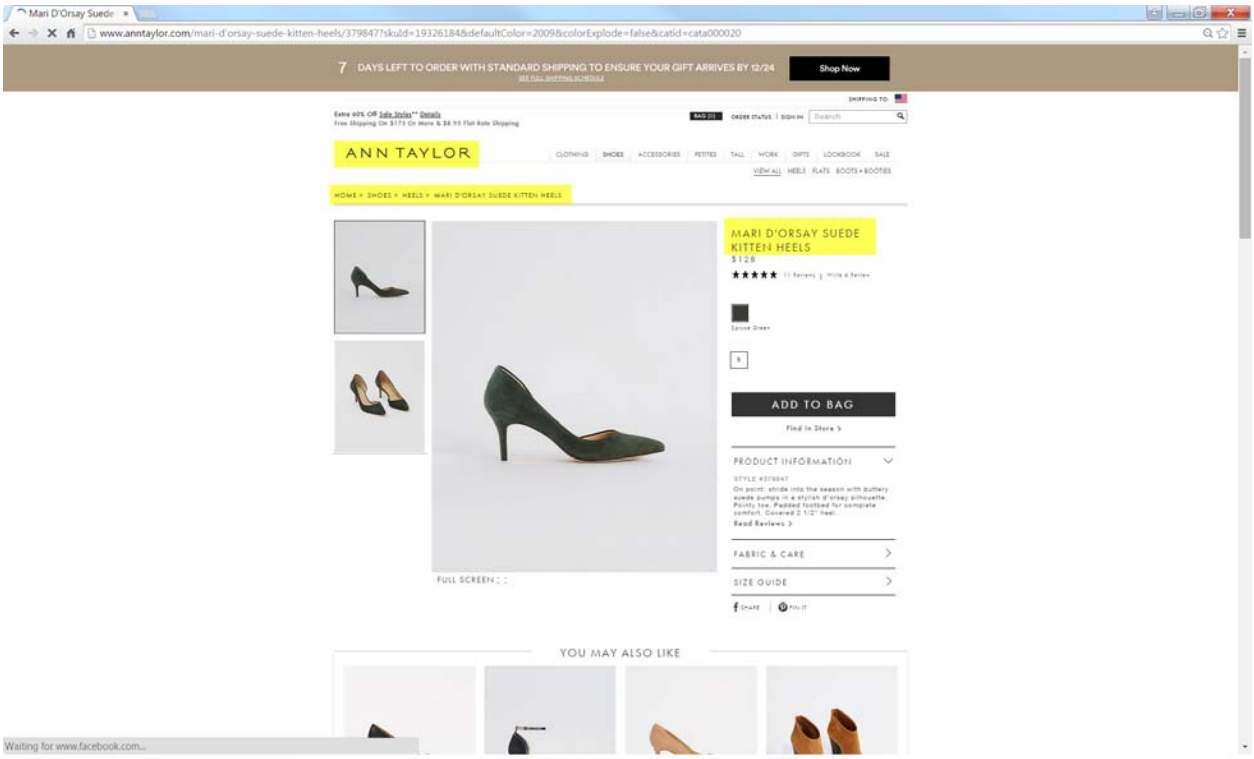

http://www.anntaylor.com/mari-d'orsay-suede-kitten-heels/379847?skuId=19326184&defaultColor=2009&colorExplode=false&catid=cata000020

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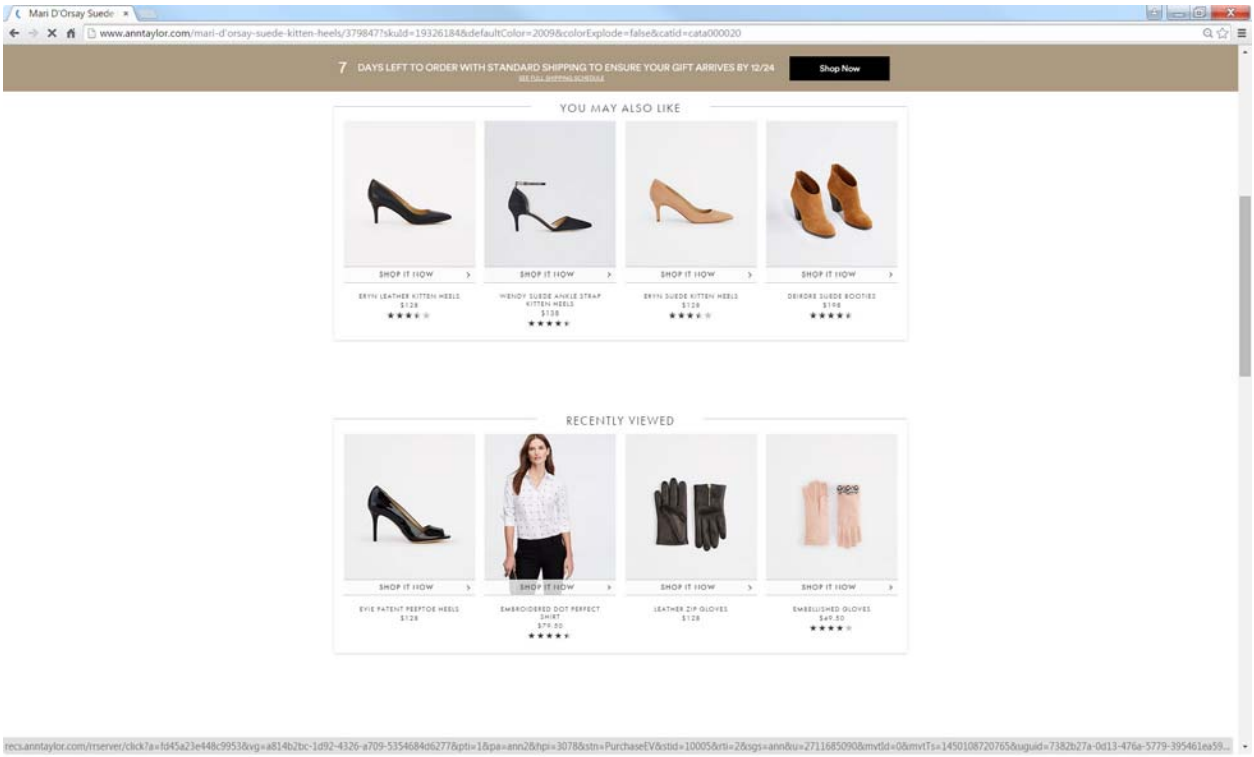
Mari D'Orsay Suede
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Mari D'Orsay Suede

www.anntaylor.com/mari-d'orsay-suede-kitten-heels/379847?skuId=19326184&defaultColor=2009&colorExplode=false&catid=cata000020

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REVIEWS

★★★★★ 11 reviews

100% of reviewers recommend this product.

5 Stars 11
4 Stars 0
3 Stars 0
2 Stars 0
1 Star 0

Width:

Fits Narrow True to Size Fits Wide

Comfort:

Fits Small True to Size Fits Large

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good quality stylish true to size

WRITE A REVIEW

Sort by

★★★★★
October 28, 2015

L231
From: Durango, CO
Age: 25-34
Style: Modern: clean & streamlined
Body Type: Petite

Comfort:

Fits Small True to Size Fits Large

Comfortable and great color

I was looking for a low heel to wear with suits and wanted something in an unexpected color. I love the green (wish the burgundy in the high heel also came in the kitten). It is a great height. Comfortable and easy to walk in, etc. The shoe seems to run slightly large - got my usual 6.5 and there is just slightly too much room in the heel. It is not enough room for me to want to size down - just be aware you may need to add a heel pad.

✔ Yes, I recommend this product.

Was this helpful? + Yes 0 | − No 0

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★★★★★
October 8, 2015

sinful
From: Staten Island
Age: 25-34
Style:
Fashion-forward: trendy & cutting-edge
Body Type: Hourglass

Love them

Beautiful color. Great fit. Love all Ann Taylor shoes!!!

✔ Yes, I recommend this product.

Was this helpful? + Yes 0 | − No 0

Report inappropriate content

★★★★★
October 1, 2015

JJ40
From: Oregon
Age: 55-64
Style: Classic: timeless & tailored
Body Type: Slender

Great Shoe

I am happy with my purchase, the only problem is the shoe does run a little large. I will give five stars for style. I did return the shoe and ordered a half size smaller.

✔ Yes, I recommend this product.

Was this helpful? + Yes 0 | − No 0

Report inappropriate content

★★★★★
October 1, 2015

Bevie48
From: Palm Coast Florida
Age: Over 65
Style: Feminine: romantic & soft
Body Type: Petite

Width:

Fits Narrow True to Size Fits Wide

Comfort:

Fits Small True to Size Fits Large

Beautiful shoes!

These shoes are absolutely gorgeous! I had been looking for the perfect combination of style and heel height in a green color. I finally found it with these shoes. The green is a lovely forest green and the 2 and a half inch heel height is perfect for all day comfort. I love the D'orsay style,sooo current! I highly recommend these shoes.

✔ Yes, I recommend this product.

Was this helpful? + Yes 0 | − No 0

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★★★★★
September 22, 2015

Love the suede kitten heel!

I have been looking for suede 2 1/2" kitten heel pumps for some time. These fit great and are so comfortable! I love the color and I am hoping Ann brings these back in black

Mari D'Orsay Suede

www.anntaylor.com/mari-d'orsay-suede-kitten-heels/379847?skuId=19326184&defaultColor=2009&colorExplode=false&catid=cata000020

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Comfort

Fits Small | True to Size | Fits Large

Was this helpful? Yes 3 | No 0

Report inappropriate content

★★★★★

September 15, 2015

Robertson52
From: LaPlata, MD
Age: 45-54
Style: Classic: timeless & tailored
Body Type: Curvy on bottom

Sexy Comfort

I purchase this particular shoe for the Fall and fell in love with the color and the comfortable fit. The heel height is perfect for me at 5'6" and I cannot wait to pair them up with a blue or dark brown dress. I hope that Ann Taylor will be coming out with more shoe in this heel heights to accommodate those of us that do not wear really high heels. Thanks

Yes, I recommend this product.

Was this helpful? Yes 3 | No 0

Report inappropriate content

★★★★★

September 7, 2015

Gunique
From: Minneapolis, Minnesota
Age: 35-44
Style: Feminine: romantic & soft
Body Type: Slender

This shoe is comfortable and stylish

Fits true to size. Love, love the color and the kitten heel. Was able to wear it most of the day with no discomfort. Got a lot of compliment on the color

Yes, I recommend this product.

Was this helpful? Yes 5 | No 0

Report inappropriate content

★★★★★

September 7, 2015

Mae4
From: Miami
Age: 55-64
Style: Modern: clean & streamlined
Body Type: Full-figured

Perfect classic pump!

The green color is beautiful and the heel height is perfect. They look great with professional style suits and dresses and are very comfortable.

Yes, I recommend this product.

Was this helpful? Yes 3 | No 0

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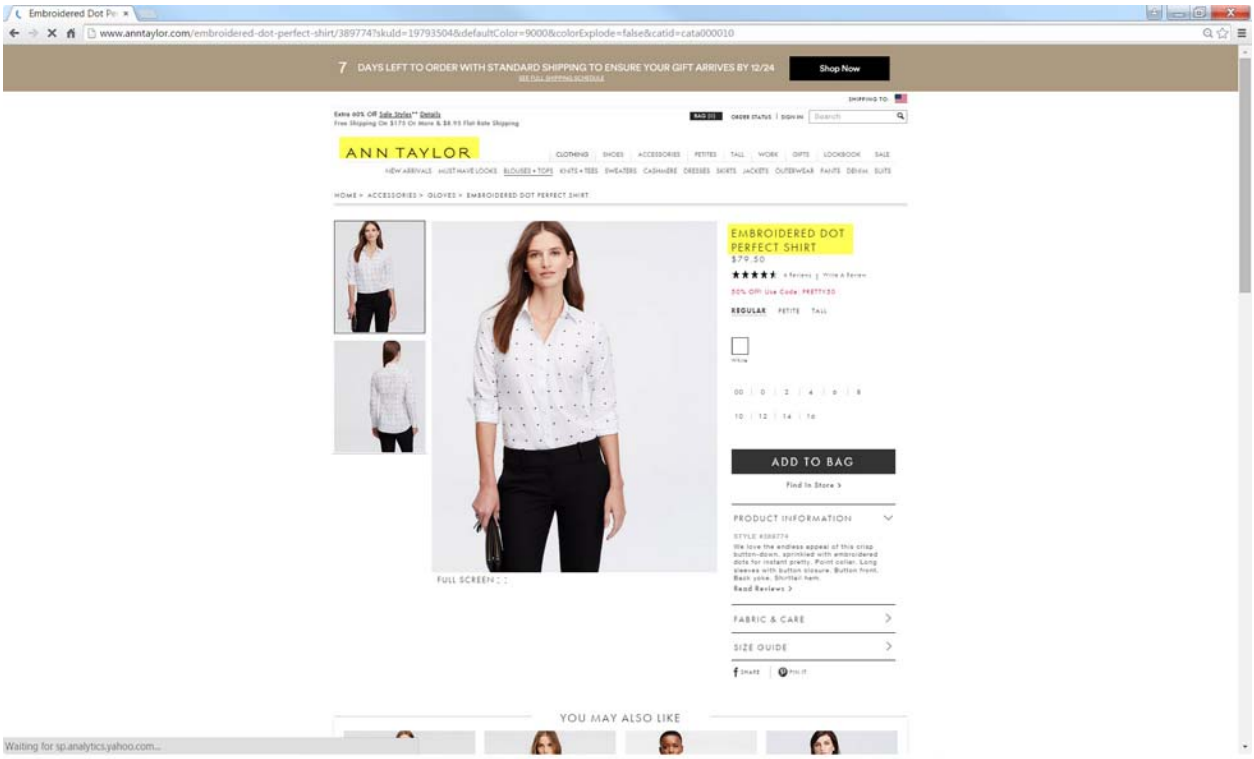

http://www.anntaylor.com/embroidered-dot-perfect-shirt/389774?skuId=19793504&defaultColor=9000&colorExplode=false&catid=cata000010

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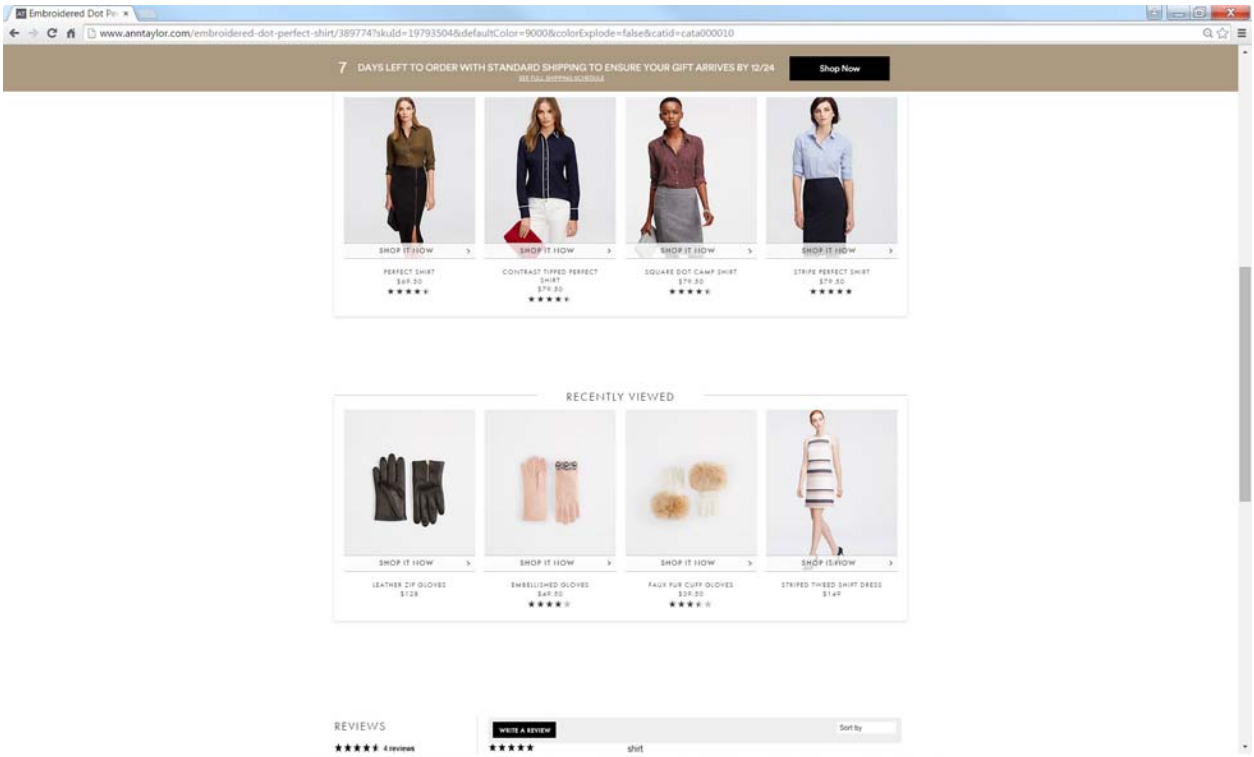

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Embroidered Dot Pe

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100% of reviewers recommend this product.

5 Stars 3
4 Stars 0
3 Stars 1
2 Stars 0
1 Star 0

Fit
Fits Small | True to Size | Fits Large

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Advanced Filters
Click on filters to refine your results.

Star Rating
Fit
Age
Style
Body Type

Click on keywords to narrow reviews:
(no results)

December 10, 2015

lizzard55
From: Tampa, florida
Age: 55-64
Style: Classic timeless & tailored
Body Type: Slender

LOVE THIS Shirt!! work for Chanel and everyone loved it at the Perfume counter! We must wear all Black or Black and White. I wore it with my black leggings cute flats and and beautiful simple leather read belt.
sorry dont have a Pic

Yes, I recommend this product.

Was this helpful? Yes 0 | No 0
Report inappropriate content

★★★★★
December 8, 2015

AEH4
From: KY
Age: 35-44
Style: Modern clean & streamlined
Body Type: Slender

This product has a great fit, modern and elegant.
Beautiful shirt, it can dress up the jeans or dress down a skirt. The polka dots add an accent when it's worn by itself or under a sweater.

Yes, I recommend this product.

Was this helpful? Yes 0 | No 0
Report inappropriate content

★★★★
December 4, 2015

CTanon83
From: CT
Age: 25-34
Style: Modern clean & streamlined
Body Type: Petite

Imperfect dotted shirt
This fits fine as far as shirts go. It's nice that the dots are embroidered rather than printed on. However, a large number of the dots on my shirt had these loose ends sticking out of them, which kind of ruins the cute, clean look of the shirt. Not sure if I'll be able to successfully snip off each little loose end sprouting from the dots. Still trying to decide whether to attempt this or to simply return the shirt.

Fit
Fits Small | True to Size | Fits Large

Was this helpful? Yes 1 | No 0
Report inappropriate content

★★★★★
November 17, 2015

bowler300
From: Oklahoma City
Age: 55-64
Style: Feminine romantic & soft
Body Type: Petite

Stylish and very comfortable.
I love the blouse and the fit, goes great with slacks or a skirt!

Yes, I recommend this product.

Was this helpful? Yes 0 | No 0
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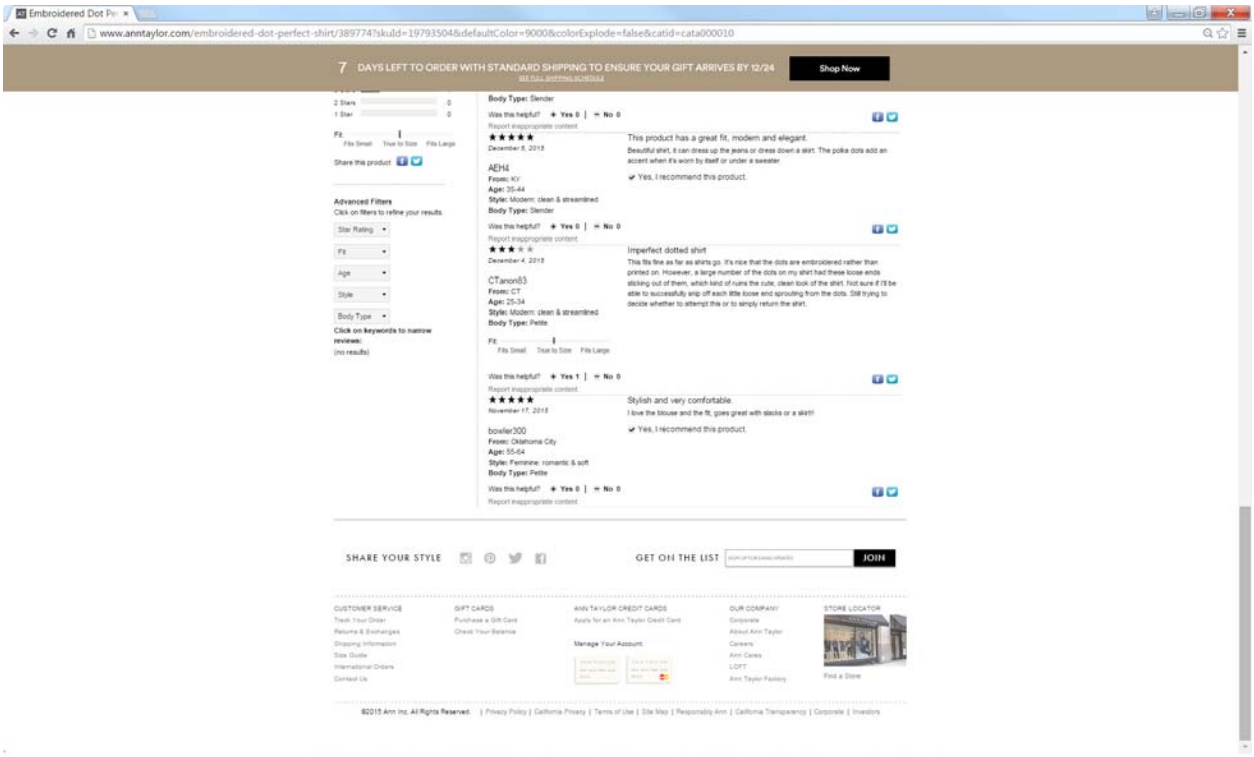

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Women's Light Grey

www.brooksbrothers.com/Angora-Wool-Short-Coat/WW00167,default,pd.html?dwvar_WW00167_Color=GYLT&contentpos=1&cgid=0246

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Women / Outerwear

Angora Wool Short Coat

ITEM# WW00167

$998.00

Write a review

DESCRIPTION

One coat is crafted in angora wool, from Italy. Three center front buttons with a hook-and-eye closure at top center. Removable fox fur collar. Front pockets. Fully lined. 27". Dry clean. Imported.

COLOR: Light Grey

SIZE — Sizing Guide

Select Size

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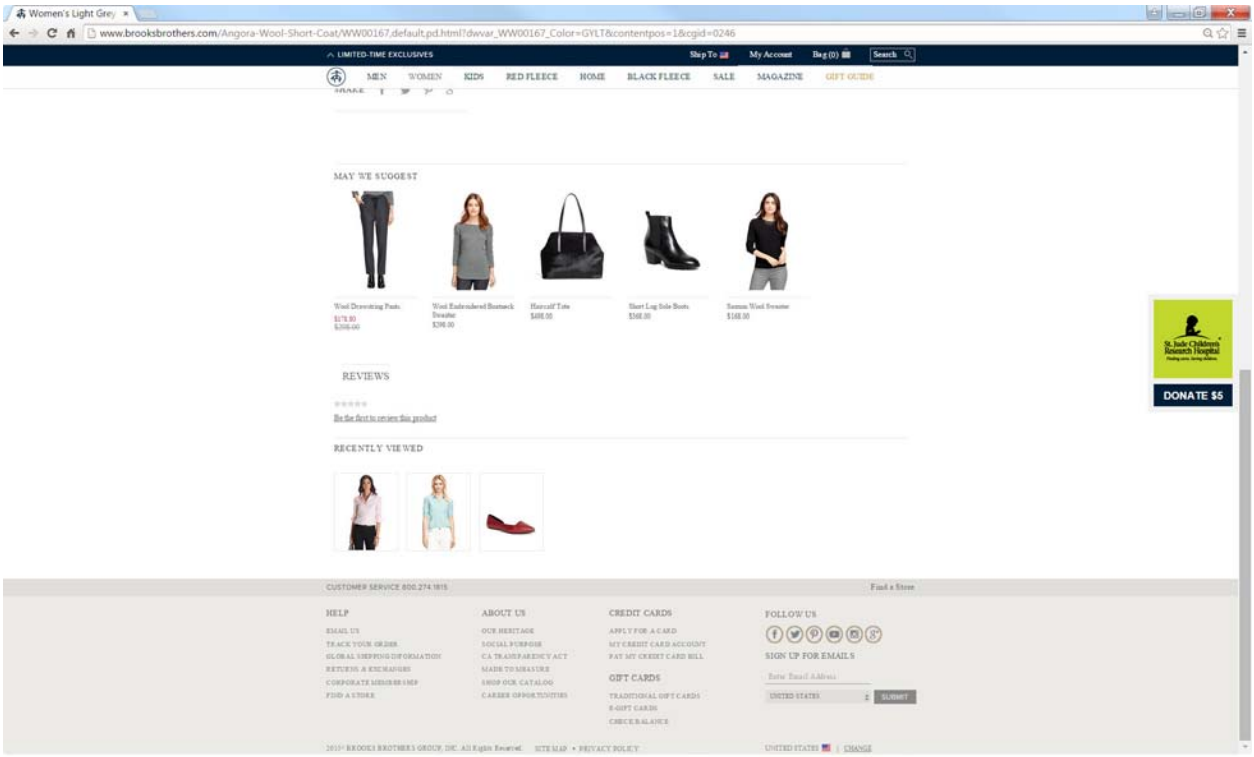

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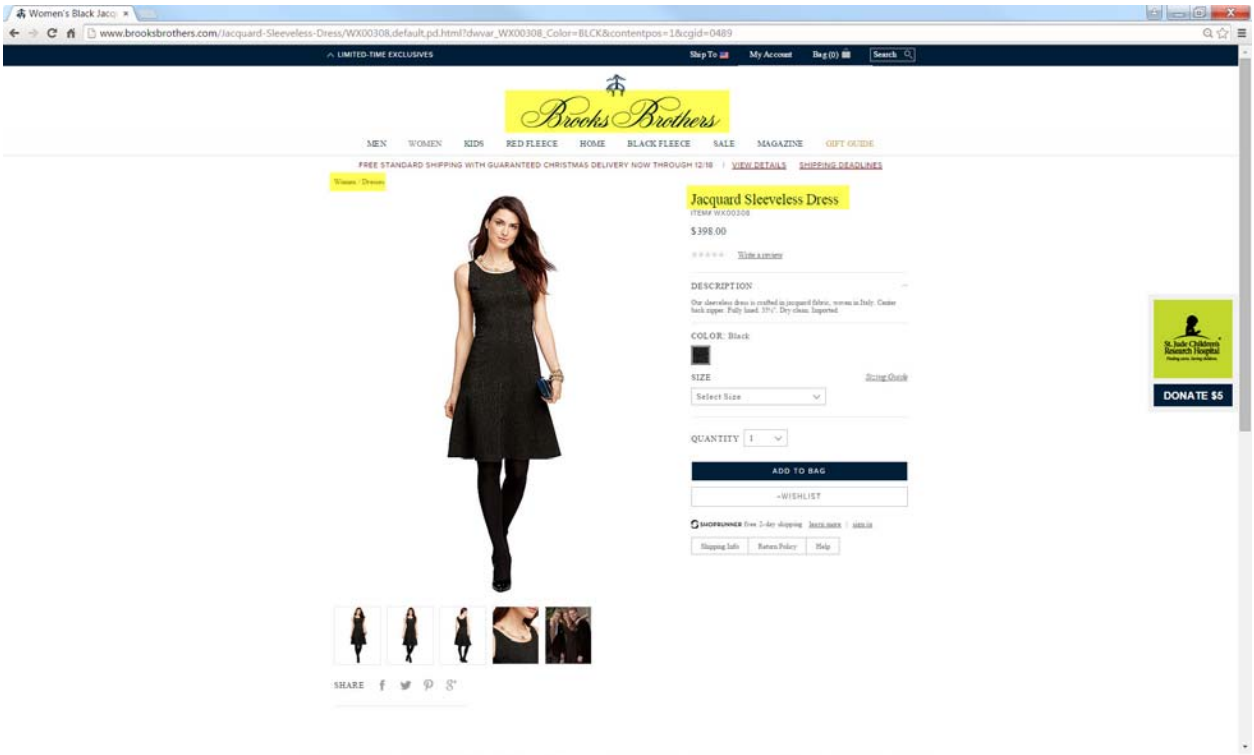

http://www.brooksbrothers.com/Jacquard-Sleeveless-Dress/WX00308,default,pd.html?dwvar_WX00308_Color=BLCK&contentpos=1&cgid=0489

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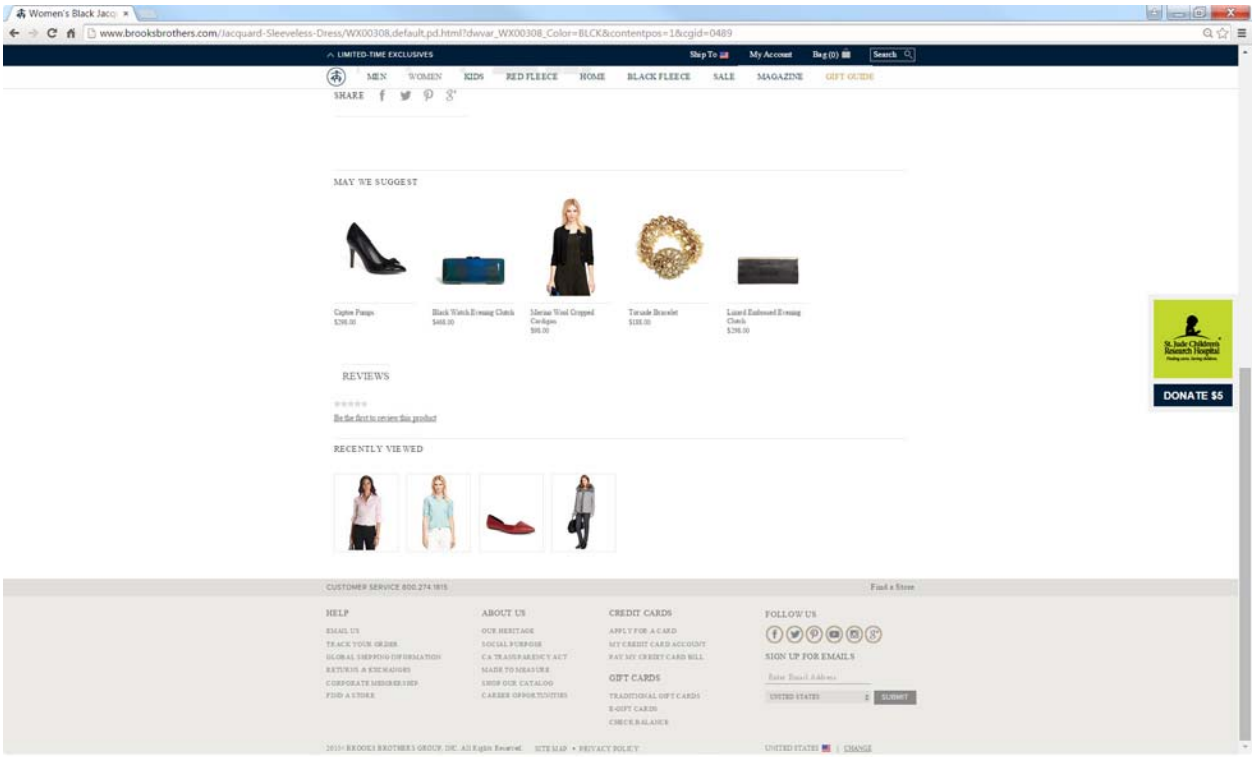

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12/14/2015 11:29 AM

Women's Wool Burg

www.brooksbrothers.com/Wool-Bowler-Hat/WG00153,default,pd.html?dwvar_WG00153_Color=DKRD&contentpos=6&cgid=0475

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Women / Hats, Gloves & Scarves

Wool Bowler Hat

ITEM# WG00153

$88.00

Write a review

DESCRIPTION

Our hat is crafted in pure wool with a felt wool sash. 4½" crown and a 3" brim. Professionally clean. Made in the USA.

COLOR: Burgundy

SIZE Sizing Guide

Select Size

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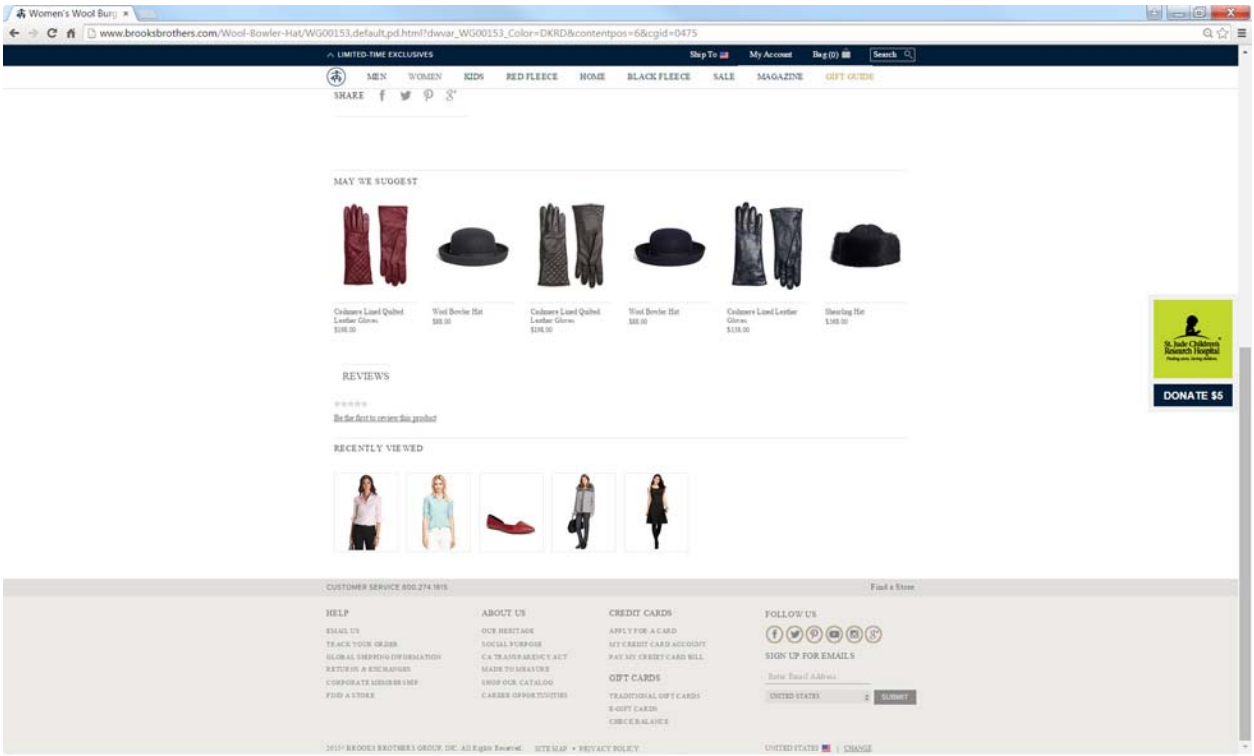

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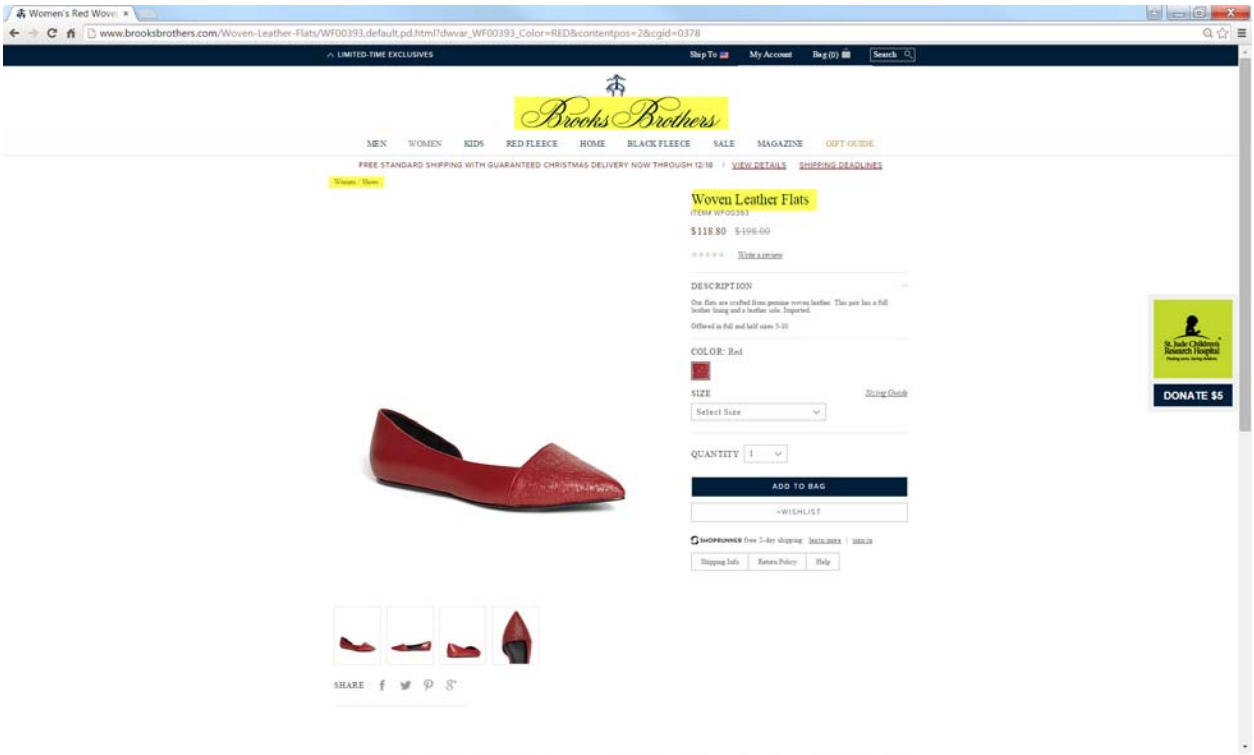

http://www.brooksbrothers.com/Woven-Leather-Flats/WF00393,default,pd.html?dwvar_WF00393_Color=RED&contentpos=2&cgid=0378

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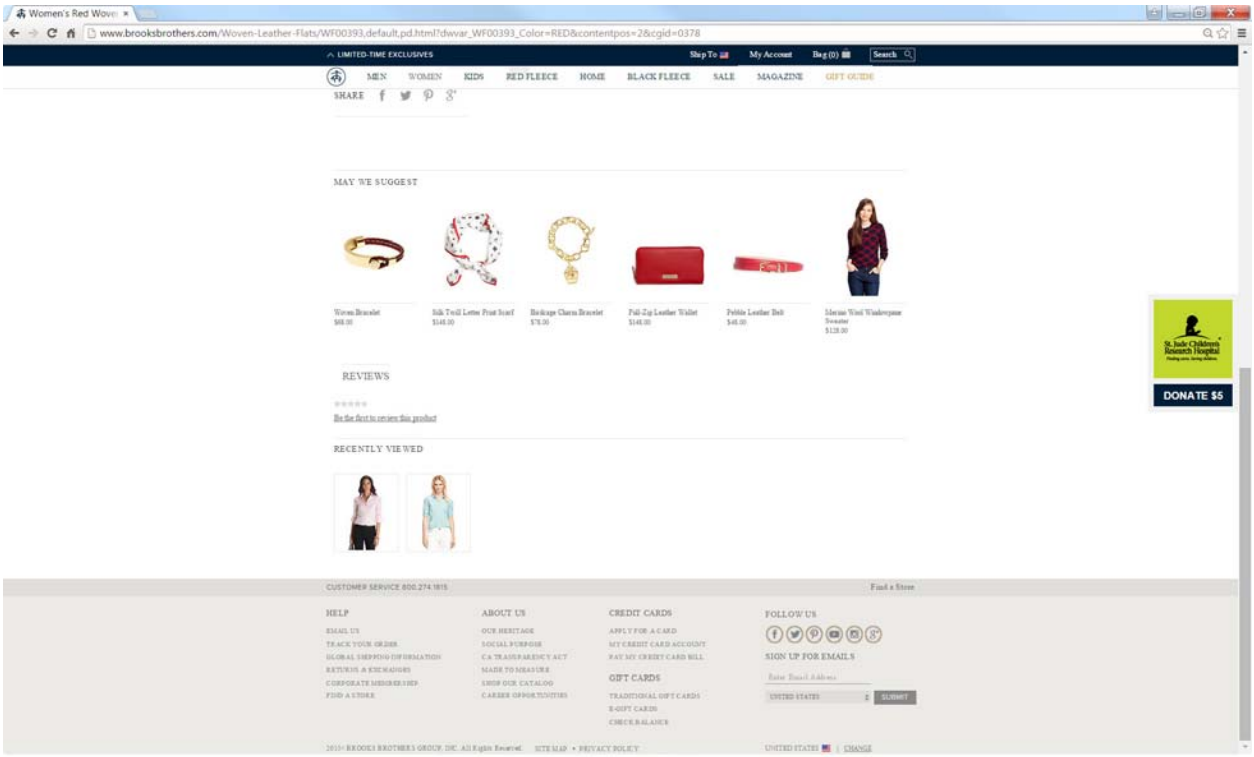

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12/14/2015 11:26 AM

Women's Fitted Cott ×

www.brooksbrothers.com/Fitted-Cotton-Stripe-Dress-Shirt/WV00744,default,pd.html?dwvar_WV00744_Color=PRIN&contentpos=7&cgid=0242

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Women / Shirts & Blouses

Fitted Cotton Stripe Dress Shirt

ITEM# WV00744

$98.00
2 For $165

★★★★★ Write a review

DESCRIPTION

Our dress shirt is crafted from a cotton poplin and spandex blend and is featured in our fitted silhouette. The forward point collar and barrel cuffs complete this look. Machine wash. Imported.

COLOR: Green

FIT
Fitted

SIZE — Sizing Guide
Select Size

MONOGRAM (ADD $ 12.00) +

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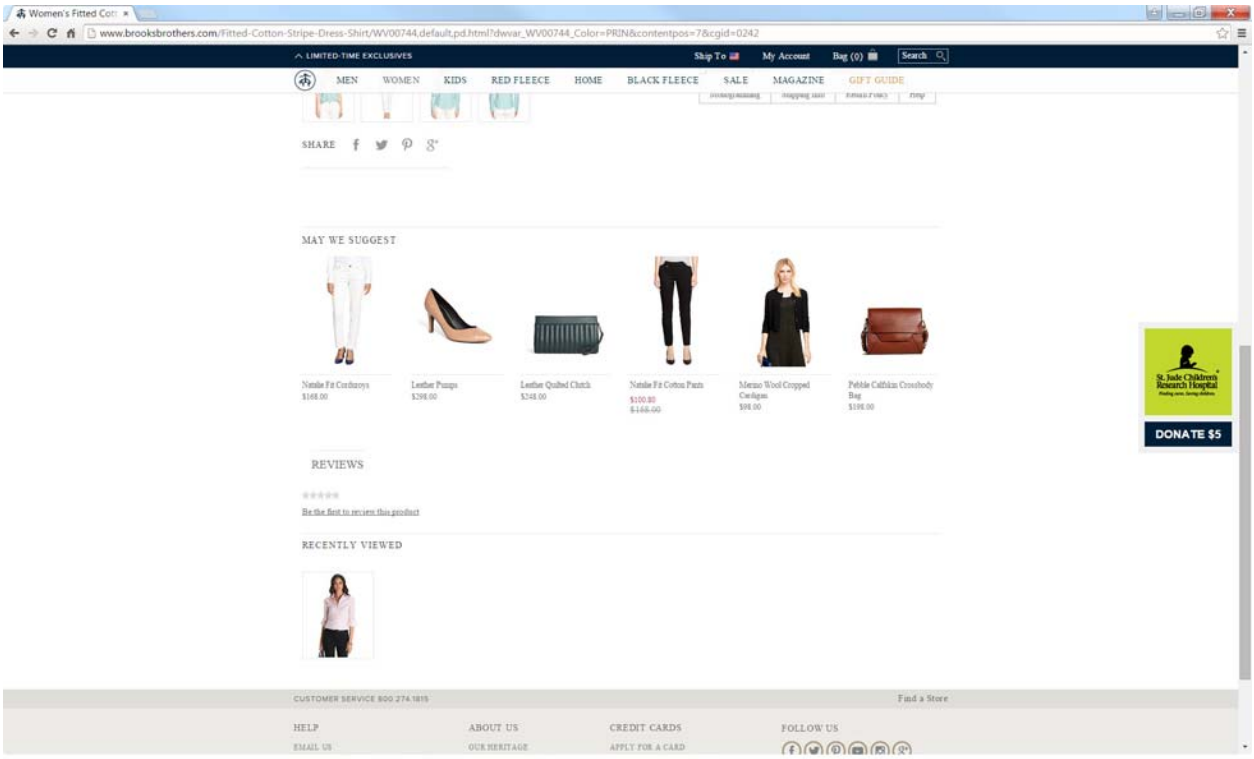

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Women's Fitted Cott ×

www.brooksbrothers.com/Fitted-Cotton-Stripe-Dress-Shirt/WV00744,default,pd.html?dwvar_WV00744_Color=PRIN&contentpos=7&cgid=0242

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Natalie Fit Corduroys
$168.00

Leather Pumps
$398.00

Leather Quilted Clutch
$248.00

Natalie Fit Cotton Pants
$100.80
~~$168.00~~

Merino Wool Cropped Cardigan
$98.00

Pebble Calfskin Crossbody Bag
$198.00

REVIEWS

★★★★★

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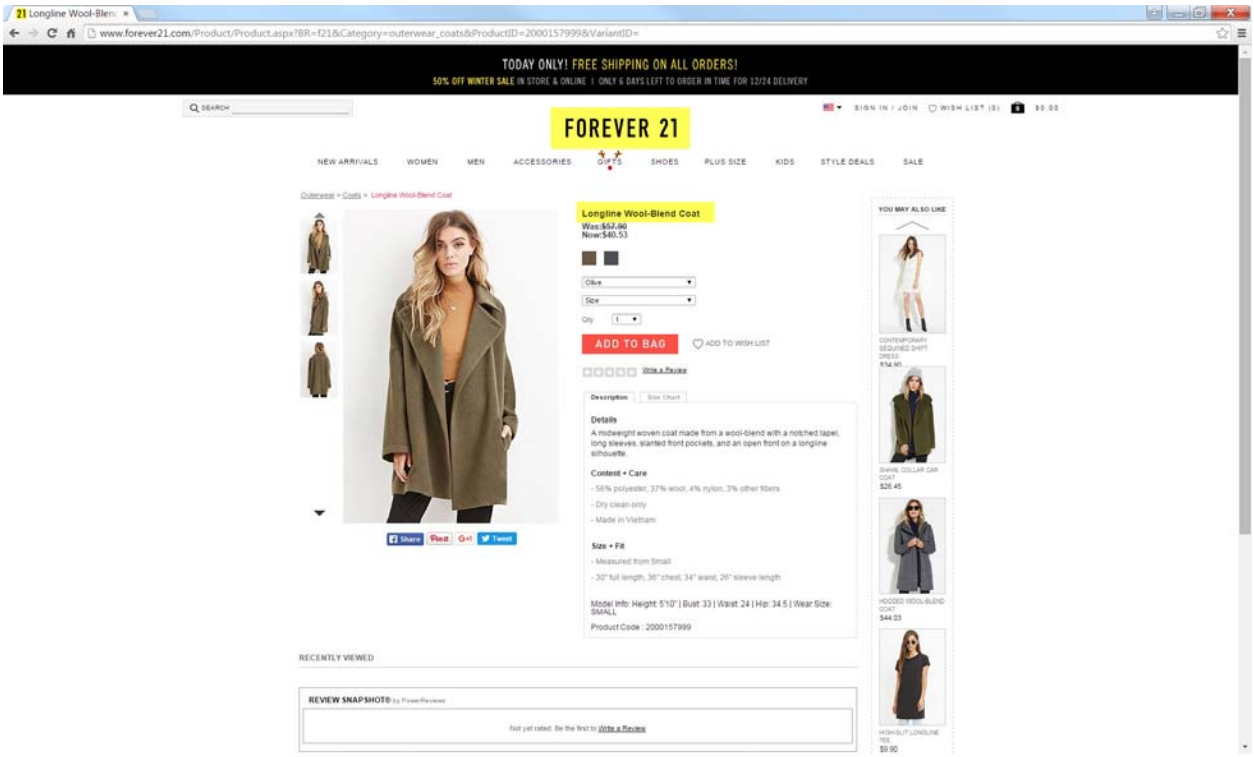

http://www.forever21.com/Product/Product.aspx?BR=f21&Category=outerwear_coats&ProductID=2000157999&VariantID=

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21 Longline Wool-Blen

www.forever21.com/Product/Product.aspx?BR=f21&Category=outerwear_coats&ProductID=2000157999&VariantID=

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A moderate woven coat made from a wool-blend and a matted nylon, long sleeves, slanted front pockets, and an open front on a longline silhouette.

Content + Care

- 56% polyester, 37% wool, 4% nylon, 3% other fibers
- Dry clean only
- Made in Vietnam

Size + Fit

- Measured from Small
- 30" full length, 36" chest, 34" waist, 26" sleeve length

Model Info: Height: 5'10" | Bust: 33 | Waist: 24 | Hip: 34.5 | Wear Size: SMALL

Product Code : 2000157999

SHAWL COLLAR CAR COAT
$26.45

HOODED WOOL-BLEND COAT
$44.03

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$9.90

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21 Contemporary Sequi

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Dresses > Contemporary Sequined Shift Dress

CONTEMPORARY

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Contemporary Sequined Shift Dress

$34.90

Ivory

Size

NOTE: CONTEMPORARY ITEMS RUN APPROXIMATELY A HALF-SIZE LARGER THAN FOREVER 21 ITEMS.
See Size Chart for more information.

Qty 1

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Description Size Chart

Details

Forever 21 Contemporary - This woven shift dress flaunts a sleeveless cut, a racerback, sequins throughout, and a fringe hem.

Content + Care

- Shell: 100% nylon
- Lining: 100% polyester
- Hand wash cold
- Made in India

Size + Fit

- Model is 5'9" and wearing a Small
- Full length: 33"
- Chest: 37"
- Waist: 36"

Model Info: Height: 5'9" | Bust: 32 | Waist: 23 | Hip: 35 | Wear Size: Extra small

Product Code : 2000178929

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REVERSE FAMILED FRENCH TERRY SWEATSHIRT
$19.90

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