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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91223280
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

Kaveh Harounian and Vice Clothing, Inc.

Plaintiffs,

v.

Myvice LLC,

Defendant.

In the Matter of Application Serial No.
86/445,916

Published in the Official Gazette April 14, 2015

Opposition No.: 91,223,280

**NOTICE OF MOTION AND MOTION FOR
SUMMARY JUDGMENT OF PLAINTIFFS
KAVEH HAROUNIAN AND VICE
CLOTHING INC.**

Opposers Kaveh Harounian and Vice Clothing, Inc. (collectively, “Vice Clothing”), hereby moves for summary judgment, pursuant to Fed. R. Civ. P. 56, on its Opposition to United States Trademark Application Serial No. 86/445,916 for “MY VICE” (the “Proposed Mark”).

The motion is made on the ground that the MY VICE designation so resembles Vice Clothing’s VICE® mark as to be likely, when applied to goods of Applicant Myvice LLC (“Applicant”), to cause confusion, or to cause mistake, or to deceive. Thus, Applicant is not entitled to registration of the Proposed Mark, and registration of the mark should be refused pursuant to 15 U.S.C. § 1052(d).

Vice Clothing’s motion is supported by Vice Clothing’s Memorandum of Points and Authorities in Support of Motion for Summary Judgment, the Declaration of Sarah Silbert in Support of Vice Clothing’s Motion for Summary Judgment and the Declaration of Kaveh

Harounian in Support of Vice Clothing's Motion for Summary Judgment, filed concurrently herewith and the pleadings herein.

DATED: June 1, 2016

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2016, I have served the foregoing **NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT OF PLAINTIFFS KAVEH HAROUNIAN AND VICE CLOTHING INC.** on Defendant in this matter by emailing a true and correct copy thereof to the following attorney of record for Defendant per the parties' agreement of October 29, 2015:

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I have also served this document on Defendant by emailing a true and correct copy to:

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**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT OF
PLAINTIFFS KAVEH HAROUNIAN AND
VICE CLOTHING INC.**

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MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Opposers Kaveh Harounian and Vice Clothing, Inc. (collectively, “Vice Clothing”), hereby move for summary judgment pursuant to Fed. R. Civ. P. 56 on their Opposition to United States Trademark Application Serial No. 86/445,916 for “MY VICE” (the “MY VICE Application”). Applicant’s MY VICE designation so resembles Vice Clothing’s registered VICE® mark as to be likely, when applied to goods of Applicant, to cause confusion, or to cause mistake, or to deceive. Thus, Applicant is not entitled to registration of the mark set forth in the MY VICE Application, and registration of the mark should be refused pursuant to Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

I. BACKGROUND

Vice Clothing brought this proceeding to prevent registration of the MY VICE Application, filed on November 5, 2014, as a use-based application under Section 1(a) of the Lanham Act, 15 U.S.C. § 1051(a), for “Dress shirts; Footwear; Hats; Headwear; Pants; Sweat pants; Sweat shirts; T-shirts; Underwear.” Vice Clothing moves for summary judgment that registration of “MY VICE” shall be refused because use of MY VICE in the manner specified in the My VICE Application is likely to cause confusion, mistake, or deception of consumers of Vice Clothing’s goods and services. The record supporting Vice Clothing’s position is substantial; more importantly for purposes of this motion, it is uncontroverted.

A. Vice Clothing and the VICE® Mark

Plaintiff Kaveh Harounian is the owner of Registration No. 3,053,079 for the word mark VICE® for “[c]lothing for men, women, and children, namely, shirts, T-shirts, sport shirts, polo shirts, sweatshirts, sweaters, jerseys, sport coats, pants, jeans, jogging suits, hats, and caps.”¹ *See* Declaration of Kaveh Harounian in Support of Plaintiffs’ Motion for Summary Judgment (“Harounian Dec.”), ¶ 1. The VICE® registration is valid and subsisting and is incontestable

¹ A true and correct copy of a certified status and title copy of Vice Clothing’s U.S. Trademark Registration No. 3,053,079 for VICE® is attached as Exhibit A to the Declaration of Sarah Silbert in Support of Plaintiffs’ Motion for Summary Judgment (“Silbert Dec.”), filed concurrently herewith.

pursuant to 15 U.S.C. § 1065. Mr. Harounian is the principal of plaintiff Vice Clothing, Inc., the exclusive licensee of the VICE® mark. Harounian Dec., ¶¶ 1, 5. Since at least as early as September 1, 1994—over 20 years prior to Applicant’s filing of the MY VICE Application—either Vice Clothing, Inc. or its predecessor, Union Outlet, has made continuous use of the VICE® mark in connection with the goods described in the VICE® registration. *Id.*, ¶¶ 2, 3, 5; Silbert Dec., ¶ 3 and Ex. B. As a result, the mark has acquired substantial goodwill and is an extremely important asset of Vice Clothing. Harounian Dec., ¶ 5.

Vice Clothing sells VICE®-branded apparel to customers who visit its Los Angeles storefront, to retail stores across the country, and on its website at the URL <<https://www.vice.net>>. Harounian Dec., ¶ 6; Silbert Dec., ¶ 12 and Ex. K. Vice Clothing also sells its goods online on the popular websites Amazon.com and Ebay. Harounian Dec., ¶ 6. Vice Clothing promotes its products on the Vice Clothing Facebook page at the URL <<https://www.facebook.com/officialviceclothing/>> and regularly attends major industry tradeshows, increasing the visibility of the VICE® brand among wholesale buyers. *Id.*, ¶¶ 7 – 8; Silbert Dec., ¶¶ 12 – 13 and Exs. K & L.

B. Applicant and its Alleged Mark “MY VICE”

On November 5, 2014—nearly 20 years after Vice Clothing began doing business—Applicant filed application Serial Number 86/445,916 to register “MY VICE” as a use-based trademark for “Dress shirts; Footwear; Hats; Headwear; Pants; Sweat pants; Sweat shirts; T-shirts; Underwear.”² The goods and services described in the MY VICE Application are virtually identical the VICE®-branded goods sold by Vice Clothing and described in Vice Clothing’s trademark registration for VICE®. Silbert Dec., ¶ 5 and Ex. D, pp. 4 – 6 (Applicant’s responses to Vice Clothing’s Request for Admission Nos. 16-20). Notably, at the time Applicant filed the MY VICE Application, Applicant operated a retail storefront just a few blocks away from Vice

² Despite having filed the MY VICE Application under Section 1(a), Applicant admits that, as of January 2016, it was only using the MY VICE designation on a fraction of the goods described in its application, namely, “Sweatpants, sweatshirts, pants, shirts.” Silbert Dec., ¶ 4 and Ex. C, p. 2 (Applicant’s response to Vice Clothing’s Interrogatory No. 5).

Clothing’s downtown Los Angeles location. Harounian Dec., ¶ 4; Silbert Dec., ¶ 6 and Ex. E. Thus, it is not surprising that Applicant admits that its principals were aware of Vice Clothing—and of the VICE® mark and registration—at the time they filed the MY VICE Application. Silbert Dec., ¶ 5 and Ex. D, pp. 2 – 3 (Applicant’s responses to Vice Clothing’s Request for Admission Nos. 5, 7, 9). In fact, Applicant’s principals were aware of the VICE® mark a full *two years* before Applicant filed the MY VICE Application. *Id.*, ¶ 4 and Ex. C, p. 4 (Applicant’s response to Vice Clothing’s Interrogatory No. 11).³

Applicant purportedly uses MY VICE on apparel “[d]esigned for ages 12 and up for all sexes” and sold “[w]holesale to retailers and online direct to consumers.” *Id.*, ¶ 4 and Ex. C, pp. 4 – 5 (Applicant’s response to Vice Clothing’s Interrogatory Nos. 12 & 13). Vice Clothing serves identical classes of consumers—specifically, men, women, and children—and uses identical channels of trade—specifically, wholesale and online retail. *Id.*, ¶¶ 2, 12 – 13 and Exs. A, K & L; Harounian Dec., ¶ 6. Moreover, the MY VICE designation incorporates the VICE® mark in its entirety, adding only the descriptive term “MY.” Silbert Dec., ¶ 5 and Ex. D, p. 3 (Applicant’s response to Vice Clothing’s Request for Admission No. 10). The record demonstrates that every relevant *DuPont* factor favors Vice Clothing. Even a cursory analysis of the facts and law supporting Vice Clothing’s claim that a likelihood of confusion will arise from the registration of MY VICE confirm that summary judgment is appropriate.

II. ARGUMENT

A. Vice Clothing Has Standing to Bring the Present Opposition Proceeding.

Vice Clothing will be damaged by registration of MY VICE on Applicant’s goods. The MY VICE designation, when applied to Applicant’s apparel and is likely to cause confusion, mistake, or deception when used contemporaneously with the VICE® mark. Vice Clothing thus has standing to bring this Opposition proceeding. *See Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1101, 192 U.S.P.Q. 24 (C.C.P.A. 1976).

³ Applicant erroneously identified its response to Interrogatory 11 as “Response to Interrogatory No. 12.” *See id.*

B. Legal Standard for Motion for Summary Judgment

Disposing of cases on the basis of summary judgment is economically and judicially efficient, and is thus strongly encouraged in *inter partes* cases before the TTAB. *Pure Gold, Inc. v. Syntex*, 739 F.2d 624, 627 n.2 (Fed. Cir. 1984); *Blue Cross and Blue Shield Assoc. v. Harvard Community Health Plan Inc.*, 17 U.S.P.Q.2d 1075, 1990 WL 354563, *1 (T.T.A.B. 1990) (“The resolution of Board proceedings by means of summary judgment is to be encouraged”).

Accordingly, this motion seeks summary judgment pursuant to Fed. R. Civ. P. 56. A court (or an agency like the T.T.A.B., which has adopted rules parallel to the Federal Rules of Civil Procedure) may grant summary judgment when the submissions in the record “show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). “The inquiry performed is the threshold inquiry of determining whether there is the need of a trial—whether, in other words, there are any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250, 106 S.Ct. 1348 (1986).

The party opposing summary judgment must “do more than simply show that there is some metaphysical doubt as to material facts.” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586, 106 S.Ct. 1348 (1986). If the responding party’s “evidence is merely colorable or is not significantly probative, summary judgment may be granted.” *Anderson*, 477 U.S. at 249-50.

C. Concurrent Use of Applicant’s “MY VICE” Mark and Plaintiff’s VICE® Mark Is Likely to Cause Confusion, Mistake or Deception.

Applicant’s mark should be refused registration under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052, because “MY VICE,” when applied to the goods and services described in the MY VICE Application, so resembles the VICE® mark previously registered in the United States as to be likely to cause confusion, or to cause mistake, or to deceive.

When the likelihood of confusion analysis is closely balanced, the question should be resolved in favor of the senior user. *See* 4 J. Thomas McCarthy, MCCARTHY ON TRADEMARKS

AND UNFAIR COMPETITION (4th ed.) (hereinafter, “MCCARTHY”) § 23:64; *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1265, 62 U.S.P.Q.2d 1001 (Fed. Cir. 2002) (“This court resolves doubts about the likelihood of confusion against the newcomer because the newcomer has the opportunity and obligation to avoid confusion with existing marks”); *In re Mighty Leaf Tea*, 601 F.3d 1342, 1346, 94 U.S.P.Q.2d 1257 (Fed. Cir. 2010) (reasonable doubt is resolved against the newcomer); *Interstate Brands Corp. v. McKee Foods Corporation*, 53 U.S.P.Q.2d 1910, 1915, 2000 WL 187204, *6 (T.T.A.B. 2000) (“[O]ne who adopts a mark similar to the mark of another for the same or closely related goods or services does so at his own peril and any doubt as to the similarity of the marks must be resolved against him.” Opposition sustained.); *In re H.D. Vest, Inc.*, 2011 WL 481330, *5 (T.T.A.B. 2011) (“To the extent there are any doubts, we resolve them, as we must, in registrant's favor”).

The Federal Circuit’s predecessor court has identified thirteen factors which, when of record, are to be considered in determining whether a likelihood of confusion exists such that registration of an applicant’s proposed mark should be refused under Section 2(d).⁴ However, the court has stated that “[t]he fundamental inquiry mandated by § 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.” *Federated Foods*, 544 F.2d at 1103, 192 U.S.P.Q. at 29; *see also Boucheron Holding v. Second Wind Consulting, Inc.*, 2009 WL 4075378, *5 (T.T.A.B. Nov. 9, 2009) (“In any likelihood of confusion analysis, however, two key considerations are the similarities between the marks and the

⁴ Those factors are: (1) the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression; (2) the similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use; (3) the similarity or dissimilarity of established, likely-to-continue trade channels; (4) the conditions under which and buyers to whom sales are made, i. e. “impulse” vs. careful, sophisticated purchasing; (5) the fame of the prior mark (sales, advertising, length of use); (6) the number and nature of similar marks in use on similar goods; (7) the nature and extent of any actual confusion; (8) the length of time during and conditions under which there has been concurrent use without evidence of actual confusion; (9) the variety of goods on which a mark is or is not used (house mark, “family” mark, product mark); (10) the market interface between applicant and the owner of a prior mark; (11) the extent to which applicant has a right to exclude others from use of its mark on its goods; (12) the extent of potential confusion, i. e., whether *de minimis* or substantial; and (13) any other established fact probative of the effect of use. *In re E. I. DuPont De Nemours & Co.*, 476 F.2d 1357, 1361, 177 U.S.P.Q. 563 (C.C.P.A. 1973).

similarities between the goods and/or services”) (citing *Federated Foods*). Here, the record demonstrates that every relevant *DuPont* factor favors Vice Clothing.

1. MY VICE Is Extremely Similar to the VICE® Mark.

It is not necessary for the marks to be identical in order for the mark of the junior user to create a likelihood of confusion. Indeed, where the marks are otherwise identical, the presence of an additional term in one of the marks “does not necessarily eliminate the likelihood of confusion if some terms are identical.” *In re Mighty Leaf Tea*, 601 F.3d at 1348. The test is not whether the marks can be distinguished when subjected to a side-by-side comparison, but rather whether the marks are sufficiently similar in terms of their overall commercial impressions such that confusion as to the source of the goods offered under the respective marks is likely to result. *See Brown Shoe Company, Inc. v. Molly D. Robbins*, 90 U.S.P.Q.2d 1752, 2009 WL 1360688, *2 (T.T.A.B. 2009). Moreover, where the goods are identical, “the degree of similarity [between the marks] necessary to support a conclusion of likely confusion declines.” *Id.*

On numerous occasions the Board, and the Federal Circuit and its predecessor court, have found a likelihood of confusion where the junior user merely added words to, or omitted words from, the senior user’s mark. *See id.* (affirming Board’s finding that the junior mark “ML” was likely to be perceived as a shortened version of the senior mark “ML MARK LEES” when used on the same or closely related skin care products); *China Healthways Inst., Inc. v. Wang*, 491 F.3d 1337, 1341, 83 U.S.P.Q.2d 1123 (Fed. Cir. 2007) (finding that the common word in CHI and CHI PLUS was likely to cause confusion despite differences in the marks’ designs); *In re West Point–Pepperell, Inc.*, 468 F.2d 200, 201, 175 U.S.P.Q. 558 (C.C.P.A. 1972) (finding that the mark WEST POINT PEPPERELL was likely to cause confusion with WEST POINT for similar goods); *Lilly Pulitzer, Inc. v. Lilli Ann Corp.*, 376 F.2d 324, 325, 153 U.S.P.Q. 406 (C.C.P.A. 1967) (finding that THE LILLY as a mark for women’s dresses was likely to be confused with LILLI ANN for women’s apparel including dresses); *In re United States Shoe Corp.*, 229 USPQ 707, 1985 WL 72046, *3 (T.T.A.B. 1985) (finding that the mark CAREER IMAGE for women’s clothing stores and women’s clothing was likely to cause confusion with the mark CREST

CAREER IMAGES for uniforms including items of women's clothing); *Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565, 1570 (Fed. Cir. 1983) (similarity factor favored finding that GIANT HAMBURGER was confusingly similar to GIANT, G/GIANT, G/GIANT FOOD, SUPER GIANT and G/GIANT PHARMACIES marks); *In re Fiesta Palms LLC*, 85 U.S.P.Q.2d 1360 (T.T.A.B. 2007) (CLUB PALMS MVP for casino services likely to be confused with MVP for casino services offered to preferred customers identified by special identification cards); 3 MCCARTHY § 23:42 ("It is appropriate in determining the question of likelihood of confusion to give greater weight to the 'dominant' parts of a composite mark, for it is that which may make the greatest impression on the ordinary buyer").

MY VICE is without question confusingly similar in sight, sound and appearance to the VICE® mark. Applicant has incorporated the VICE® mark in its entirety, adding only the descriptive term "my" to the mark. Silbert Dec., ¶ 5 and Ex. D, p. 3 (Applicant's response to Vice Clothing's Request for Admission No. 10). Otherwise, the MY VICE designation is identical to the VICE® mark.⁵ The similarity between the names adds to the likelihood that consumers who encounter the MY VICE name will believe that products offered under that designation are in some way connected to Vice Clothing.

To be sure, **the term "my" has been found to be insufficient to distinguish a junior mark that is otherwise identical to the senior mark.** See *Coca-Cola Co., et al. v. Purdy et al.*, 382 F.3d 774, 784 (8th Cir. 2004) (holding that internet domain names that "differ[ed] from plaintiffs' marks only by the addition of generic terms like 'my'" were confusingly similar to those marks); *Cleary Bldg. Corp. v. David A. Dame, Inc.*, 674 F.Supp.2d 1257, 1263 (D. Colo. 2009) (finding it "plausible that 'www.myclearybuilding.com,' which only adds the modifier 'my,' is confusingly similar to the CLEARY word mark and logo"); *In re Peace Love World, LLC*, 2015

⁵ Marks far more dissimilar have frequently been found to be infringing. See *Original Appalachian Artworks, Inc. v. Topps Chewing Gum*, 642 F. Supp. 1031, 1037, 231 U.S.P.Q. 850 (N.D. Ga 1986) (GARBAGE PAIL KIDS infringed CABBAGE PATCH KIDS® trademark); *Saks & Co. v. Hill*, 843 F. Supp. 620, 623, 29 U.S.P.Q.2d 1941 (S.D. Cal. 1993) (SACKS THRIFT AVENUE infringed SAKS FIFTH AVENUE® mark); *Grey v. Campbell Soup Co.*, 650 F. Supp. 1166, 1175 (C.D. Cal. 1986) (DOGIVA and CATIVA infringed GODIVA® trademark).

WL 4779206, *2 (T.T.A.B. July 22, 2015) (affirming refusal to register LOVE IS MY RELIGION and finding that it and the cited mark LOVE IS RELIGION were “quite similar in how they look and sound, differing only by Applicant's addition of the word “my” to Registrant's mark”); *In re Gi-Go Toys Factory Ltd.*, 2002 WL 1339488, *1 (T.T.A.B. June 18, 2002) (Affirming refusal to register MY LITTLE DREAM GIRL and finding that “the addition of the words ‘My Little’ [to the cited mark DREAM GIRL] does not change the commercial impression of the marks”); *Treasures & Trinkets, Inc. v. Janet Hess and Rod Hess*, 2004 WL 1294391, *4 (T.T.A.B. May 25, 2004) (Sustaining opposition by owner of GUARDIAN ANGEL mark to registration of MY ANGEL GUARDIAN, finding that “[t]he additional word MY and the design in applicant's mark do little to distinguish the marks”). Moreover, the relatively insignificant differences between the marks are outweighed in importance by the identical nature of the parties’ goods. *See In re Viterra, Inc.*, 671 F.3d 1358, 1363, 101 U.S.P.Q.2d 1905 (Fed. Cir. 2012) (Where the goods at issue are identical, “the degree of similarity necessary to support a conclusion of likely confusion declines”) (quoting *Century 21 Real Estate Corp. v. Century Life of Am.*, 970 F.2d 874, 877 (Fed.Cir.1992)).

2. Applicant and Vice Clothing Sell Directly Competitive Goods.

The Federal Circuit has adopted the common-sense rule that the greater the similarity between the goods sold by the parties, the greater the likelihood that the use of similar marks will cause consumer confusion. *See Century 21 Real Estate Corp.*, 970 F.2d at 877 (finding that likelihood of confusion increased where applicant sought registration of a similar mark for identical services); *E& J. Gallo Winery v. Gallo Cattle Co.*, 967 F.2d 1280, 1291 (9th Cir. 1992) (“Where goods are related or complimentary, the danger of consumer confusion is heightened”). The MY VICE Application states that Applicant uses MY VICE on “Dress shirts; Footwear; Hats; Headwear; Pants; Sweat pants; Sweat shirts; T-shirts; Underwear.” With few exceptions, Applicants use the MY VICE designation on goods that are *identical* to the shirts, T-shirts, sweatshirts, jogging suits, hats, and caps described in the VICE® registration and sold by Vice Clothing under the VICE® mark. *See Silbert Dec.*, ¶¶ 2, 3 & 5 and Exs. A, B & D, pp. 4 – 6 (Applicant’s responses to Vice Clothing’s Request for Admission Nos. 16 – 20); *Harounian Dec.*,

¶¶ 1 – 2.

To the extent that Applicant uses MY VICE on types of apparel not offered by Vice Clothing, consumers still are likely to believe that there is some relationship between the parties because shoes and underwear, the two categories of goods included in the MY VICE Application but not the VICE® registration, are closely related to the clothing and headwear in connection with which both parties use their respective marks. See, *In re Apparel Ventures, Inc.*, 229 U.S.P.Q. 225, 1986 WL 83658, *3 (T.T.A.B. 1986) (finding that applicant's clothing was related to registrant's shoes, boots and slippers and stating that "[w]e have often stated that it is not necessary for the goods to be identical or even competitive in order for the use of similar marks to be likely to cause confusion, it being sufficient that they are related in some manner so that consumers are likely to ascribe a common source to the products if similar marks are used thereon"); *In re Kangaroos USA*, 223 U.S.P.Q. 1025, 1984 WL 63596, *1 (T.T.A.B. 1984) (finding that BOOMERANG used on athletic shoes was likely to cause confusion with BOOMERANG used on men's shirts and noting that "likelihood of confusion has been found in numerous cases involving the use by different parties of the same or similar marks for shoes, on the one hand, and specific items of clothing on the other"); *The Villager, Inc. v. Dial Shoe Co.*, 256 F.Supp. 694, 701-702 (E.D. Pa. 1966) (finding that it is "common knowledge" that shoes and apparel are related goods and that therefore similar trademarks used upon them would cause confusion, mistake or deception); *Topline Corp. v. 4273371 Canada, Inc.*, 2007 WL 2332471, *7 (W.D. Wash. Aug. 13, 2007) (finding that "proximity of the goods" factor favored plaintiff, which used REPORT on footwear, where defendant used REPORT COLLECTION on apparel); *Esquire Sportswear Mfg. Co. v. Genesco, Inc.*, 141 U.S.P.Q. 400, 1964 WL 7842, *5 (T.T.A.B. 1964) (finding that women's girdles and men's slacks are sufficiently related that the use of the same mark on those goods was likely to cause confusion); *In re Pix of America, Inc.* 225 USPQ 691, 1985 WL 72013, *1 (T.T.A.B. 1985) (finding that applicant's shoes were related to registrant's shirts); *In re Mercedes Slacks, Ltd.*, 213 U.S.P.Q. 397, 1982 WL 52006, *1 (T.T.A.B. 1982) ("There is ample support in the decisions for the conclusion that hosiery and trousers are closely related goods").

Goods have been found to be related when they are sold, advertised, and worn together, or sold under a single mark. *See, The Villager, Inc.*, 256 F.Supp. at 701; *In re International Telephone & Telegraph Corp.*, 197 U.S.P.Q. 910, 1978 WL 21218, *1 (T.T.A.B. 1978) (To support a holding of likelihood of confusion, “[i]t is sufficient . . . that the respective goods of the parties are related in some manner, and/or that the conditions and activities surrounding the marketing of the goods are such that they would or could be encountered by the same persons under circumstances that could because of the similarity of the marks used therewith, give rise to the mistaken belief that they originate from or are in some way associated with the same producer”). Over 8,000 trademarks currently registered with the USPTO include “shirts,” “pants,” “shoes,” “hats” and “underwear” in the description of goods and services. *See Silbert Dec.*, ¶ 7 and Ex. F. Moreover, clothing brands including Adidas, Nike, Calvin Klein and Kenneth Cole sell shirts, pants, shoes, hats and underwear under their respective marks, all of which can be purchased from a single, brand-specific location on the Internet. *Id.*, ¶¶ 8 – 11 and Exs. G – J. Thus, there is no question that Applicant’s shoes and underwear are closely related to the parties’ apparel and headwear.

In any event, it is well-settled that “in order to prevail on a Section 2(d) ground of opposition, an opposer need not prove priority and likelihood of confusion as to all of the goods or services identified in the applicant's application. Rather, if priority and likelihood of confusion are established as to *any* of the goods or services identified in an opposed class of goods or services, the opposition to registration of the mark as to *all* of the goods or services identified in that class will be sustained.” *Baseball America Inc. v. Powerplay Sports Ltd.*, 71 U.S.P.Q.2d 1844, 1847 n.9, 2004 WL 1942057 (T.T.A.B. 2004) (emphasis added).

These undisputed facts, and the similarity between the MY VICE designation and the VICE® mark, increase the likelihood that consumers will be confused by registration of MY VICE. *Century 21 Real Estate Corp.*, 970 F.2d at 877. Thus, this factor strongly favors Vice Clothing.

3. The Remaining Relevant *DuPont* Factors Also Favor Summary Judgment in Favor of Vice Clothing.

Although *Federated Foods* implies that the remaining *DuPont* factors may weigh less heavily than the similarity of the parties' respective marks and of the goods offered in connection therewith, to the extent that the record reflects evidence bearing on those factors, each favors a finding that registration of applicant's proposed MY VICE mark would create a likelihood of confusion. See *Specialty Brands, Inc. v. Coffee Bean Distributors, Inc.*, 748 F.2d 669, 671 (Fed. Cir. 1984) (court must consider "pertinent" factors and make likelihood of confusion determination from "the probative facts in evidence").

a. The Parties Use Identical Trade Channels and Target the Same Sets of Prospective Purchasers.

Because the parties' goods are, in part, identical, and otherwise closely related, and because there are no limitations in either the VICE® registration or the MY VICE Application, the Board must presume that applicant's and opposer's goods will be sold in the same channels of trade and will be bought by the same classes of purchasers. See *Brown Shoe Company*, 90 U.S.P.Q.2d 1752, 2009 WL 1360688 at *2; *In re Linkvest*, 24 U.S.P.Q.2d 1716, 1716, 1992 WL 340755, *1 (T.T.A.B. 1992).

Applicant's discovery responses reflect overlap in the channels of trade and classes of prospective purchasers. Applicant stated that it distributes goods under the MY VICE designation "[w]holesale to retailers and online direct to consumers." Silbert Dec., ¶ 4 and Ex. C, p. 5 (Applicant's response to Vice Clothing's Interrogatory No. 13). Likewise, Vice Clothing sells VICE®-branded clothing wholesale to retailers throughout the country and directly to customers online and at its brick-and-mortar location. Harounian Dec., ¶¶ 6, 8. Moreover, both parties promote and sell their products on their respective websites and via social media, including on the popular website Facebook.com. *Id.*, ¶ 7; Silbert Dec., ¶¶ 5, 12 – 14 and Exs. D, pp. 2 – 3 (Applicant's response to Vice Clothing's Interrogatory No. 6), K – N. Applicant's use of the MY VICE mark to sell and promote identical goods in a channels of trade identical to that in which Vice Clothing uses the VICE® mark creates a particularly strong likelihood that consumers will

assume that the goods offered under their respective marks are related, though they are not.

As to its prospective customers, Applicant stated that its goods are “[d]esigned for ages 12 and up for all sexes.” Silbert Dec., ¶ 4 and Ex. C, pp. 4 – 5 (Applicant’s response to Vice Clothing’s Interrogatory No. 12). Similarly, Vice Clothing sells VICE®-branded clothing for men, women, and children. *Id.*, ¶ 2 and Ex. A; Harounian Dec., ¶¶ 1 – 2. Clearly, the proximity and overlap of customers and the channels through which the goods at issue are promoted and can be purchased demonstrates that this factor favors a finding of likelihood of confusion.

b. Consumer Care is Low for General Clothing Items sold to Ordinary Customers, Increasing the Likelihood of Confusion.

The Board’s decisions recognize that consumers devote limited attention to the purchase of “general clothing items” such as shirts, pants, clothes and hats. Because the threshold of consumer care is low with respect to these types of goods, the likelihood of confusion caused by the MY VICE designation on those goods is increased. *See Brown Shoe Co., Inc.*, 90 U.S.P.Q.2d 1752, 2009 WL 1360688 at *2 (finding that applicant’s shirts, pants, shoes and hats “include general clothing items that would not be purchased with a great deal of care or require purchaser sophistication, which increases the likelihood of confusion”).

Moreover, where, as here, there are no restrictions or limitations in the description of goods in either the application or opposer's registration, the Board must assume that the products of both parties may be inexpensive and bought by ordinary consumers. *See In re Bercut-Vandervoort & Co.*, 229 U.S.P.Q. 763, 764 (T.T.A.B. 1986) (evidence that relevant goods are expensive wines sold to discriminating purchasers must be disregarded given the absence of any such restrictions in the application or registration). “When products are relatively low-priced and subject to impulse buying, the risk of likelihood of confusion is increased because purchasers of such products are held to a lesser standard of purchasing care.” *Recot Inc. v. M.C. Becton*, 214 F.3d 1322, 1329, 54 U.S.P.Q.2d 1894, 1899 (Fed. Cir.2000).

Thus, this factor favors Vice Clothing.

c. The VICE® Mark is Strong.

Four categories of trademarks constitute a spectrum from weak marks that receive no protection, to strong marks that deserve broad protection: (1) generic; (2) descriptive; (3) suggestive; and (4) arbitrary or fanciful. *Abercrombie & Fitch Co. v. Hunting World, Inc.*, 537 F.2d 4, 9 (2nd Cir. 1976). Arbitrary marks have no meaning at all with respect to the goods and services on which they are used. *See, e.g., TBC Corp. v. Holsa Inc.*, 126 F.3d 1470, 1471-72, 44 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1997) (Finding that GRAND SLAM as applied to automobile tires “is wholly arbitrary, i.e., it has no meaning at all. It is neither descriptive nor suggestive of the goods or any of their properties and its dictionary definitions in the fields of games and sports are of no help in solving the problem of the likelihood of confusion if the [GRAND SLAM and GRAND AM] marks are used on automobile tires”).

It is well-settled that arbitrary terms are considered strong and entitled to a broad scope of protection. *See, In re Wilson*, 57 U.S.P.Q.2d 1863, 1865, 2001 WL 58395, *2 (T.T.A.B. 2001) (Finding that PINE CONE, as applied to fruits and vegetables, “is an arbitrary and strong mark entitled to a broad scope of protection”); *In re Opus One Inc.*, 60 U.S.P.Q.2d 1812, 1814, 2001 WL 1182924, *2 (T.T.A.B. 2001) (Finding that OPUS ONE “is arbitrary as applied to wine” and therefore is “a strong mark which is entitled to a broad scope of protection”); *Kenner Parker Toys Inc. v. Rose Art Industries Inc.*, 963 F.2d 350, 352, 22 USPQ2d 1453, 1456 (Fed. Cir. 1992) (“[S]trong marks enjoy a wide latitude of legal protection”). The term “VICE,” meaning “bad or immoral behavior or habits,” has no significance in relation to clothing or headwear. Silbert Dec., ¶ 16 and Ex. O, p.1; *see also id.*, ¶ 14 and Ex. M, p. 7. As such, it is arbitrary and highly distinctive and entitled to a wide latitude of legal protection. The VICE mark is also strong by virtue of Vice Clothing’s long-term use of the mark in connection with the sale of clothing to the public online and at Vice Clothing’s brick-and-mortar location. *See Harounian Dec.*, ¶¶ 2, 6 – 8; Silbert Dec., ¶¶ 12 – 13 and Exs. K & L.

d. The Variety of Goods on Which Vice Clothing Uses its Mark Increases the Likelihood that Registration of MY VICE Will Create Consumer Confusion.

When the senior user offers for sale a variety of products under its mark, such “[d]iversification makes it more likely that a potential customer would associate the non-diversified company’s services with the diversified company, even though the two companies do not actually compete.” *Armco, Inc. v. Armco Burglar Alarm Co.*, 693 F.2d 1155, 1161 (5th Cir. 1982); *see also* 4 MCCARTHY § 24:54 (“Since likelihood of confusion turns on the state of mind of the reasonably prudent buyer, the law must take into account that such a buyer knows that modern corporations have control over widely diversified products.”); *R. J. Reynolds Tobacco Co. v. R. Seelig & Hille*, 201 U.S.P.Q. 856, 859 (T.T.A.B. 1978) (recognizing “the common practice which is so prevalent today for large corporations, not only to expand their present line of products, but also to diversify their business to include new fields of endeavor,” and refusing registration of “Sir Winston” for teas where “Winston” was already in use in connection with cigarettes). Not only does Vice Clothing sell a wide variety of apparel using the VICE[®] mark, but it is undisputed that virtually all of the goods described in the MY VICE Application are directly competitive with goods offered for sale by Vice Clothing. Therefore, this factor increases the likelihood that consumers will associate MY VICE with Vice Clothing. *See In re Wilson*, 57 U.S.P.Q.2d at 1867 (registrant's uses of its mark on a variety of different fruits and vegetables suggested it was likely that purchasers, when encountering applicant's additional fruits would assume that a source, sponsorship or other connection exists).

e. Vice Clothing Never Consented to Applicant’s Use of the MY VICE Mark.

The “market interface” factor concerns whether the senior user has consented to the use of its mark by the applicant. *E.I. DuPont de Nemours & Co.*, 476 F.2d at 1361. Vice Clothing has never consented to Applicant’s use the MY VICE designation. Harounian Dec., ¶ 9; Silbert Dec., ¶ 5 and Ex. D, p. 6 (Applicant’s response to Vice Clothing’s Request for Admission No. 21). Thus, this factor is either irrelevant, or favors Vice Clothing.

f. Evidence of Actual Confusion is Unnecessary.

It is well-settled that, while “[a] showing of actual confusion would of course be highly probative, if not conclusive, of a high likelihood of confusion [t]he opposite is not true The lack of evidence of actual confusion carries little weight.” *In re Majestic Distilling Co., Inc.*, 315 F.3d 1311, 1317 (Fed. Cir. 2003); *Giant Food, Inc.*, 710 F.2d at 1571 (“it is unnecessary to show actual confusion in establishing likelihood of confusion”); *Academy of Motion Picture Arts and Sciences v. Creative House Promotions, Inc.*, 944 F.2d 1446, 1456 (9th Cir. 1991) (“Actual confusion is not necessary to a finding of likelihood of confusion under the Lanham Act”). Thus, this factor is of minimal importance, particularly in light of the similarity of the parties’ marks and the identical goods involved.

III. CONCLUSION

WHEREFORE, PREMISES CONSIDERED, Petitioner prays for an Order granting summary judgment to Vice Clothing and refusing Applicant’s application Serial No. 86/445,916 for MY VICE.

DATED: June 1, 2016

/Sarah Silbert/

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Counsel for Registrant
KAVEH HAROUNIAN and VICE
CLOTHING, INC.

CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2016, I have served the foregoing **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OF PLAINTIFFS KAVEH HAROUNIAN AND VICE CLOTHING INC.** on Defendant in this matter by emailing a true and correct copy thereof to the following attorney of record for Defendant per the parties' agreement of October 29, 2015:

croh@ewpat.com

I have also served this document on Defendant by emailing a true and correct copy to: ming@myvicesweats.com.

DATED: June 1, 2016

/Sarah Silbert/

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Counsel for Registrant
KAVEH HAROUNIAN and VICE
CLOTHING, INC.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

Kaveh Harounian and Vice Clothing, Inc.

Plaintiffs,

v.

Myvice LLC,

Defendant.

In the Matter of Application Serial No.
86/445,916

Published in the Official Gazette April 14, 2015

Opposition No.: 91,223,280

**DECLARATION OF KAVEH HAROUNIAN
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT OF PLAINTIFFS
KAVEH HAROUNIAN AND VICE
CLOTHING INC.**

DECLARATION OF KAVEH HAROUNIAN

I, Kaveh Harounian, declare and state:

1. I am the principal of plaintiff Vice Clothing, Inc. (“Vice Clothing”) and the owner of United States Trademark Registration No. 3,053,079 for VICE® for “Clothing for men, women, and children, namely, shirts, T-shirts, sport shirts, polo shirts, sweatshirts, sweaters, jerseys, sport coats, pants, jeans, jogging suits, hats, and caps” in International Class 25 (the “VICE® Registration”). I have personal knowledge of the facts contained in this declaration, and could and would competently testify thereto if required.

2. Since on or about September 1, 1994, I have owned and operated a retail and wholesale apparel business out of downtown Los Angeles, which has continuously offered for sale clothing bearing the VICE® mark, including each type of clothing described in the VICE® Registration.

3. On or about September 1, 1994, I ran my business under the name “Union Outlet.” In January 2004 I incorporated Union Outlet in California. In July 2014 I changed the name of my company to Vice Clothing, Inc.

4. From in or about 2009 to the present I have operated my business at the address 1500 S. Los Angeles St., Los Angeles, California, 90015. When I began doing business at that location I installed a storefront sign prominently displaying the VICE® mark above the door.

5. At all pertinent times my business has been the exclusive licensee of the VICE® mark. The VICE® mark has acquired substantial goodwill and is an extremely important asset of Vice Clothing.

6. Vice Clothing sells VICE®-branded apparel to customers who visit its Los Angeles storefront, wholesale to retail stores across the country, and on the Vice.net website, Ebay and Amazon.com.

7. Vice Clothing promotes the VICE® brand on the Vice Clothing Facebook page at the Internet address <<https://www.facebook.com/officialviceclothing/>>.

8. Vice Clothing regularly operates a booth at major industry tradeshows, such as the Off Price tradeshow, which is held twice yearly in Las Vegas, Nevada.

9. I have never consented to Applicant's use the MY VICE name.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Executed on _____, 2016, at Los Angeles, California.

Respectfully submitted,

Kaveh Harounian

8. Vice Clothing regularly operates a booth at major industry tradeshows, such as the Off Price tradeshow, which is held twice yearly in Las Vegas, Nevada.

9. I have never consented to Applicant's use the MY VICE name.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Executed on 5.31, 2016, at Los Angeles, California.

Respectfully submitted,



Kavch Harvonian

CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2016, I have served the foregoing **DECLARATION OF KAVEH HAROUNIAN IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OF PLAINTIFFS KAVEH HAROUNIAN AND VICE CLOTHING INC.** on Defendant in this matter by emailing a true and correct copy thereof to the following attorney of record for Defendant per the parties' agreement of October 29, 2015:

croh@ewpat.com

I have also served this document on Defendant by emailing a true and correct copy to: ming@myvicesweats.com.

June 1, 2016

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CLOTHING, INC.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

Kaveh Harounian and Vice Clothing, Inc.

Plaintiffs,

v.

Myvice LLC,

Defendant.

In the Matter of Application Serial No.
86/445,916

Published in the Official Gazette April 14, 2015

Opposition No.: 91,223,280

**DECLARATION OF SARAH SILBERT IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT OF PLAINTIFFS KAVEH
HAROUNIAN AND VICE CLOTHING INC.**

DECLARATION OF SARAH SILBERT

I, Sarah Silbert, declare and state:

1. I am an attorney employed by Berliner Springut Steffin Azod LLP, counsel of record in this matter. I make this declaration in support of the Motion for Summary Judgment of Opposers Kaveh Harounian and Vice Clothing, Inc. (collectively, “Vice Clothing”). I have direct and personal knowledge of the facts set forth herein and, if called as a witness could and would competently testify thereto.

2. Attached hereto as Exhibit A is a true and correct copy of a certified status and title copy of Vice Clothing’s U.S. Trademark Registration No. 3,053,079 for VICE®

3. Attached hereto as Exhibit B are true and correct records from the USPTO website of Trademark Application Serial No. 86/445,916 for “MY VICE” (the “MY VICE Application”).

4. Attached hereto as Exhibit C are true and correct copies of excerpts from Applicant’s responses to Vice Clothing’s First Set of Interrogatories in this matter.

5. Attached hereto as Exhibit D are true and correct copies of excerpts from Applicant’s responses to Vice Clothing’s First Set of Requests for Admission in this matter.

6. Attached hereto as Exhibit E is a true and correct copy of a printout from the website at the URL <google.com/maps> reflecting the distance between 850 S. Broadway, Los Angeles, California, 90014—Applicant’s address provided in connection with the MY VICE Application—and 1500 S. Los Angeles St., Los Angeles, California, 90015—the location from which Vice Clothing did business on November 4, 2015, the date on which Applicant filed the MY VICE Application with the USPTO.

7. Attached hereto as Exhibit F is a true and correct copy of a printout of a page from the USPTO website reflecting the results of a TESS search for live trademark registrations that include shoes, shirts, pants, hats and underwear in the description of goods and services.

8. Attached hereto as Exhibit G are true and correct copies of screen shots of pages from the Adidas.com website taken by me on February 24, 2016.

9. Attached hereto as Exhibit H are true and correct copies of screen shots of pages from the CalvinKlein.com website taken by me on February 24, 2016.

10. Attached hereto as Exhibit I are true and correct copies of screen shots of pages from the KennethCole.com website taken by me on February 24, 2016.

11. Attached hereto as Exhibit J are true and correct copies of screen shots of pages from the Nike.com website taken by me on February 24, 2016.

12. Attached hereto as Exhibit K are true and correct copies of screen shots, taken by me on April 11, 2016, of pages from Vice Clothing's website, which Vice Clothing operates from the domain name <vice.net>.

13. Attached hereto as Exhibit L is a true and correct copy of a printout of Vice Clothing's Facebook page at the URL <<https://www.facebook.com/officialviceclothing/>>.

14. Attached hereto as Exhibit M are true and correct copies of printouts of pages from Applicant's website at the URL <<http://myvicesweats.com>>.

15. Attached hereto as Exhibit N is a true and correct copy of printouts of pages from Applicant's Facebook page at the URL <<https://www.facebook.com/myvicesweatscollection>>.

16. Attached hereto as Exhibit O is a true and correct copy of pages from the Merriam-Webster.com website.

17. Attached hereto as Exhibit P is a true and correct copy of pages from the OffPriceShow.com website.

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting

therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

Executed on June 1, 2016, at Los Angeles, California.

Respectfully submitted,

/Sarah Silbert/

Sarah Silbert

Opposition No. 91,223,280

Exhibit A

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

7572181



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

**UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

February 23, 2016

**THE ATTACHED U.S. TRADEMARK REGISTRATION 3,053,079 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

REGISTERED FOR A TERM OF 10 YEARS FROM *January 31, 2006*

1st* RENEWAL FOR A TERM OF 10 YEARS FROM *January 31, 2016

SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

Registrant

By Authority of the

**Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**



P. Swain
**P. SWAIN
Certifying Officer**

Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,053,079

Registered Jan. 31, 2006

**TRADEMARK
PRINCIPAL REGISTER**

VICE

HAROUNIAN, KAVEH (UNITED STATES INDIVIDUAL)
1436 SOUTH MAIN STREET, # 7&8
LOS ANGELES, CA 90015

FOR: CLOTHING FOR MEN, WOMEN, AND CHILDREN, NAMELY, SHIRTS, T-SHIRTS, SPORT SHIRTS, POLO SHIRTS, SWEATSHIRTS, SWEATERS, JERSEYS, SPORT COATS, PANTS, JEANS, JOGGING SUITS, HATS, AND CAPS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 9-1-1994; IN COMMERCE 9-1-1994.

OWNER OF U.S. REG. NO. 2,204,667.

SER. NO. 78-317,722, FILED 10-23-2003.

DEZMONA MIZELLE, EXAMINING ATTORNEY

Opposition No. 91,223,280

Exhibit B

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment



United States Patent and Trademark Office

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TESS was last updated on Sun May 22 03:20:53 EDT 2016

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My Vice

Word Mark	MY VICE
Goods and Services	IC 025. US 022 039. G & S: Dress shirts; Footwear; Hats; Headwear; Pants; Sweat pants; Sweat shirts; T-shirts; Underwear. FIRST USE: 20101001. FIRST USE IN COMMERCE: 20120701
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86445916
Filing Date	November 5, 2014
Current Basis	1A
Original Filing Basis	1A
Published for Opposition	April 14, 2015
Owner	(APPLICANT) Myvice LLC. LIMITED LIABILITY COMPANY CALIFORNIA 850 S. Brodway #300 Los Angeles CALIFORNIA 90014
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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STATUS	DOCUMENTS	Back to Search	Print
Generated on: This page was generated by TSDR on 2016-05-22 14:17:48 EDT			
Mark: MY VICE		My Vice	
US Serial Number: 86445916	Application Filing Date: Nov. 05, 2014		
Filed as TEAS Plus: Yes	Currently TEAS Plus: Yes		
Register: Principal			
Mark Type: Trademark			
TM5 Common Status Descriptor: 	LIVE/APPLICATION/Opposition Pending		
Status:	The pending trademark application has been examined by the Office and was published for opposition, at which time one or more oppositions were filed but they have not yet been decided.		
Status Date: Aug. 12, 2015	An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.		
Publication Date: Apr. 14, 2015			
▼ Mark Information ▼ Expand All			
Mark Literal Elements: MY VICE			
Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.			
Mark Drawing Type: 4 - STANDARD CHARACTER MARK			
▼ Goods and Services			
Note: The following symbols indicate that the registrant/owner has amended the goods/services: <ul style="list-style-type: none"> • Brackets [...] indicate deleted goods/services; • Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and • Asterisks *..* identify additional (new) wording in the goods/services. 			
For: Dress shirts; Footwear; Hats; Headwear; Pants; Sweat pants; Sweat shirts; T-shirts; Underwear			
International Class(es): 025 - Primary Class	U.S Class(es): 022, 039		
Class Status: ACTIVE			
Basis: 1(a)			
First Use: Oct. 01, 2010	Use in Commerce: Jul. 01, 2012		
▼ Basis Information (Case Level)			
Filed Use: Yes	Currently Use: Yes	Amended Use: No	
Filed ITU: No	Currently ITU: No	Amended ITU: No	
Filed 44D: No	Currently 44D: No	Amended 44D: No	
Filed 44E: No	Currently 44E: No	Amended 44E: No	
Filed 66A: No	Currently 66A: No		
Filed No Basis: No	Currently No Basis: No		
▼ Current Owner(s) Information			
Owner Name: Myvice LLC.			
Owner Address: 850 S. Broadway #300 Los Angeles, CALIFORNIA UNITED STATES 90014			
Legal Entity Type: LIMITED LIABILITY COMPANY	State or Country Where Organized: CALIFORNIA		
▼ Attorney/Correspondence Information			
Attorney of Record - None			
Correspondent			

Correspondent Name/Address:	CHONG ROH 3600 WILSHIRE BLVD SUITE 2228 LOS ANGELES, CALIFORNIA UNITED STATES 90010	
Phone:	6265906533	
Correspondent e-mail:	ming@myvicesweats.com	Correspondent e-mail Authorized: Yes
Domestic Representative - Not Found		
▼ Prosecution History		
Date	Description	Proceeding Number
Aug. 12, 2015	OPPOSITION INSTITUTED NO. 999999	223280
May 05, 2015	EXTENSION OF TIME TO OPPOSE RECEIVED	
Apr. 14, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Apr. 14, 2015	PUBLISHED FOR OPPOSITION	
Mar. 25, 2015	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Mar. 03, 2015	APPROVED FOR PUB - PRINCIPAL REGISTER	
Feb. 25, 2015	ASSIGNED TO EXAMINER	78185
Nov. 15, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Nov. 08, 2014	NEW APPLICATION ENTERED IN TRAM	
▲ TM Staff and Location Information		
▼ Assignment Abstract Of Title Information - None recorded		
▼ Proceedings		
Summary	▼ Party type	▼ Proceeding type
Number of Proceedings: 2		
▲ Type of Proceeding: Opposition		▼ Expand All
▲ Type of Proceeding: Extension of Time		

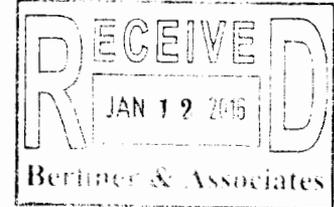
Opposition No. 91,223,280

Exhibit C

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK AND TRADEL AND APPEAL BOARD**

In the Matter of:
Application Serial No. 86/445,916
Published in the *Official Gazette*
April 14, 2015
Mark: MYVICE



Kaveh Harounian and Vice Clothing, Inc.)

Applicant,)

vs.)

Myvice LLC,)

Defendant.)

Opposition No: 91223280

**APPLICANT'S RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR
ADMISSION**

Pursuant to Fed. R. Civ. P. 26 and 36, Myvice LLC ("Applicant" or Defendant") Applicant hereby responds to Opposers', Kaveh Harounian and Vice Clothing, Inc. ("Opposer') First Set of Interrogatories (collectively, "Requests") as follows:

GENERAL OBJECTIONS

Each of the Applicant's responses, in addition to any specifically stated objections, is subject to and incorporates the following general responses and objections. The assertion of the same, similar, or additional objections, or a partial response to any individual request does not waive any of the Applicant's general responses and objections.

1. The following responses reflect the current state of the Applicant's knowledge, understanding and belief respecting matters about which inquiry has been made. The Applicant

RESPONSE TO INTERROGATORY NO. 2:

MYVICE was started in 2010 along with the use of the MY VICE MARK by Casey Cook and Chris Santos.

INTERROGATORY NO. 3:

IDENTIFY every PERSON who was involved in YOUR decision to file an application with the Patent and Trademark Office for MY VICE MARK and, with respect to each such PERSON, describe the nature of his or her involvement in the decision.

RESPONSE TO INTERROGATORY NO. 2:

Casey Cook and Chris Santos.

INTERROGATORY NO. 4:

For each product or service YOU sell, offer to sell, distribute, market, or advertise in the United States in connection with which YOU use the MY VICE MARK, IDENTIFY all PERSONS with knowledge of such use.

RESPONSE TO INTERROGATORY NO. 4:

Casey Cook, Chris Santos, Ming Ciao.

INTERROGATORY NO. 5:

DESCRIBE each and every product or service in connection with which YOU currently sell, offer for sale, distribute, advertise, or market, or which you plan to offer, sell, offer for sale, distribute, advertise, or market, under the MY VICE MARK in the United States.

RESPONSE TO INTERROGATORY NO. 5:

Sweatpants, sweatshorts, pants, shirts

INTERROGATORY NO. 6:

DESCRIBE in detail YOUR current and future plans to market any product or service in

connection with MY VICE MARK in the United States including, but not limited to: (i) all advertising and promotional media that YOU use, or intend to use, to promote or sell products or services under MY VICE MARK; (ii) where such proposed advertising or promotion is to occur, and the proposed dates of such advertisement or promotion; (iii) the marketing channels in which YOU plan to sell products or services bearing or using MY VICE MARK; and (iv) the packaging, if any, in which YOU plan to sell or market products bearing or using MY VICE MARK.

RESPONSE TO INTERROGATORY NO. 6:

Facebook, Instagram and other social media sites and directly on Applicant's website.

INTERROGATORY NO. 7:

Set forth every name or mark that YOU ever considered using as an alternative to MY VICE MARK and, for each such logo or design: (i) state the date and place where the use of such logo or design was considered; (ii) IDENTIFY all PERSONS who participated in the consideration of using such logo or design; and (iii) IDENTIFY all DOCUMENTS that mention, discuss, RELATE or REFER to YOUR consideration of such logo or design.

RESPONSE TO INTERROGATORY NO. 7:

None.

INTERROGATORY NO. 8:

If YOU claim to have acquired the right to use MY VICE MARK from any other PERSON or ENTITY: (i) IDENTIFY every PERSON and ENTITY from whom YOU claim to have acquired such rights; (ii) state the date on which the acquisition occurred; (iii) IDENTIFY all PERSONS having knowledge of the acquisition; (iv) IDENTIFY all DOCUMENTS REFERRING or RELATING TO the acquisition; and (v) describe each different product or

service ever sold or offered for sale by each PERSON under the name or mark.

RESPONSE TO INTERROGATORY NO. 8:

None.

INTERROGATORY NO. 9:

IDENTIFY each natural PERSON who provided information included in any of the answers to this set of interrogatories.

RESPONSE TO INTERROGATORY NO. 9:

Chris Santos and Ming Ciao

INTERROGATORY NO. 10:

IDENTIFY all surveys, studies or investigations produced by or for YOU REFERRING or RELATING TO the MY VICE MARK alone or in conjunction with any other word or phrase.

RESPONSE TO INTERROGATORY NO. 10:

None.

INTERROGATORY NO. 11:

DESCRIBE the circumstances under which YOU first became aware of HAROUNIAN's VICE MARK including, but not limited to, the date when YOU first became aware of the mark.

RESPONSE TO INTERROGATORY NO. 12:

Applicant first became aware of the VICE MARK in or about late October 2012 through a random search on GOOGLE.

INTERROGATORY NO. 12:

DESCRIBE in detail the characteristics of customers in the United States of goods or services offered under the MY VICE MARK including, but not limited to, the age, gender, geographical location, socio-economic status, and consuming habits.

RESPONSE TO INTERROGATORY NO. 12:

Designed for ages 12 and up for all sexes.

INTERROGATORY NO. 13:

DESCRIBE each channel of trade in which YOU sell, offer, or distribute goods or services under the MY VICE MARK in the United States.

RESPONSE TO INTERROGATORY NO. 13:

Wholesale to retailers and online direct to consumers

INTERROGATORY NO. 14:

State the amount of YOUR sales (by unit and by dollar volume) of goods or services bearing or displaying the MY VICE MARK in the United States for each year since YOU began using it.

RESPONSE TO INTERROGATORY NO. 14:

Applicant is still in the process of ascertaining the amounts but will supplement this response as information becomes available to Applicant.

INTERROGATORY NO. 15:

State the amount, if any, YOU have spent on marketing, promotion or advertising goods bearing or displaying the MY VICE MARK in the United States for each year since YOU began using it.

RESPONSE TO INTERROGATORY NO. 15:

Applicant is still in the process of ascertaining the amounts but will supplement this response as information becomes available to Applicant.

INTERROGATORY NO. 16:

IDENTIFY all DOCUMENTS that mention, discuss, evidence, constitute, refer to or

RELATE TO any actual or likely confusion stemming from YOUR use of the MY VICE MARK.

RESPONSE TO INTERROGATORY NO. 20:

None.

INTERROGATORY NO. 21:

State all facts that support or RELATE TO YOUR contention in Paragraph 10 of the ANSWER that “Opposer's claims are barred by the equitable defenses of laches, acquiescence, waiver or estoppels.”

RESPONSE TO INTERROGATORY NO. 21:

Opposer objects to the Interrogatory to the extent that it is premature as discovery is ongoing.

INTERROGATORY NO. 22:

State all facts that support or RELATE TO YOUR contention in Paragraph 11 of the ANSWER that “Opposer's claims are barred by Opposer's fraud on the United States Patent and Trademark Office in obtaining U.S. Registration No. 3053079.”

RESPONSE TO INTERROGATORY NO. 22:

Opposer objects to the Interrogatory to the extent that it is premature as discovery is ongoing.

Dated: January 8, 2016

By: 

Chong Roh, Esq.
3600 Wilshire Blvd., Suite 2228
Los Angeles, CA 90010
Tel: (213) 387-3600
Attorneys for Applicant/Defendant

Opposition No. 91,223,280

Exhibit D

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

REQUEST NO. 3:

Admit that VICE CLOTHING has common-law trademark rights in the VICE MARK.

RESPONSE TO REQUEST NO. 3:

Applicant is without knowledge or information sufficient to admit or deny and on that basis,
DENY

REQUEST NO. 4:

Admit that the registration for the VICE MARK is a valid, subsisting registration.

RESPONSE TO REQUEST NO. 4:

Applicant is without knowledge or information sufficient to admit or deny and on that basis,
DENY

REQUEST NO. 5:

Admit that YOU were aware of VICE CLOTHING's use of the VICE MARK at the time
YOU filed the '916 APPLICATION.

RESPONSE TO REQUEST NO. 5:

ADMIT

REQUEST NO. 6:

Admit that the VICE MARK became a valid, common-law trademark before YOU filed
the '916 APPLICATION.

RESPONSE TO REQUEST NO. 6:

Applicant is without knowledge or information sufficient to admit or deny and on that basis,
DENY

REQUEST NO. 7:

Admit that YOU were aware of the existence of VICE CLOTHING at the time YOU

filed the '916 APPLICATION.

RESPONSE TO REQUEST NO. 7:

ADMIT

REQUEST NO. 8:

Admit that YOU were aware of the goods and services offered by VICE CLOTHING in connection with the VICE MARK at the time YOU filed the '916 APPLICATION.

RESPONSE TO REQUEST NO. 8:

DENY

REQUEST NO. 9:

Admit that YOU were aware of the existence of the VICE REGISTRATION at the time YOU filed the '916 APPLICATION.

RESPONSE TO REQUEST NO. 9:

ADMIT

REQUEST NO. 10:

Admit that the MY VICE MARK and the VICE MARK both contain the word "VICE."

RESPONSE TO REQUEST NO. 10:

ADMIT

REQUEST NO. 11:

Admit that the term "Vice" is the dominant element of the MY VICE MARK.

RESPONSE TO REQUEST NO. 11:

DENY

REQUEST NO. 12:

Admit that the term "Vice" is more distinctive than the term "My."

RESPONSE TO REQUEST NO. 12:

DENY

REQUEST NO. 13:

Admit that the MY VICE MARK is substantially similar to the VICE MARK.

RESPONSE TO REQUEST NO. 13:

DENY

REQUEST NO. 14:

Admit that the MY VICE MARK is confusingly similar to the VICE MARK.

RESPONSE TO REQUEST NO. 14:

DENY

REQUEST NO. 15:

Admit that the MY VICE MARK is likely to give rise to the mistaken belief by members of the public that YOUR goods or services originate from or are in some way associated with VICE CLOTHING and/or the goods and services that VICE CLOTHING offers under the VICE MARK.

RESPONSE TO REQUEST NO. 15:

DENY

REQUEST NO. 16:

Admit that the '916 APPLICATION and the VICE REGISTRATION both identify clothing as the goods in connection with which MYVICE and VICE CLOTHING use the MYVICE MARK and the VICE MARK, respectively.

RESPONSE TO REQUEST NO. 1:

ADMIT

REQUEST NO. 17:

Admit that the '916 APPLICATION and the VICE REGISTRATION both identify hats as goods in connection with which MYVICE and VICE CLOTHING use the MYVICE MARK and the VICE MARK, respectively.

RESPONSE TO REQUEST NO. 17:

ADMIT

REQUEST NO. 18:

Admit that the '916 APPLICATION and the VICE REGISTRATION both identify pants as goods in connection with which MYVICE and VICE CLOTHING use the MYVICE MARK and the VICE MARK, respectively.

RESPONSE TO REQUEST NO. 18:

ADMIT

REQUEST NO. 19:

Admit that the '916 APPLICATION and the VICE REGISTRATION both identify sweat shirts as goods in connection with which MYVICE and VICE CLOTHING use the MYVICE MARK and the VICE MARK, respectively.

RESPONSE TO REQUEST NO. 19:

ADMIT

REQUEST NO. 20:

Admit that the '916 APPLICATION and the VICE REGISTRATION both identify t shirts as goods in connection with which MYVICE and VICE CLOTHING use the MYVICE MARK and the VICE MARK, respectively.

RESPONSE TO REQUEST NO. 1:

ADMIT

REQUEST NO. 21:

Admit that VICE CLOTHING at no time gave YOU permission to use the VICE MARK.

RESPONSE TO REQUEST NO. 21:

ADMIT

REQUEST NO. 22:

Admit that YOU have no basis for contending, in Paragraph 11 of the ANSWER, that “Opposer's claims are barred by Opposer's fraud on the United States Patent and Trademark Office in obtaining U.S. Registration No. 3053079.”

RESPONSE TO REQUEST NO. 22:

DENY

REQUEST NO. 23:

Admit that YOU have no basis for contending, in Paragraph 10 of the ANSWER, that “Opposer's claims are barred by the equitable defenses of laches, acquiescence, waiver or estoppels.”

RESPONSE TO REQUEST NO. 22:

DENY

Dated: January 8, 2016

By: 

Chong Roh, Esq.
3600 Wilshire Blvd., Suite 2228
Los Angeles, CA 90010
Tel: (213) 387-3600
Attorneys for Applicant/Defendant

Opposition No. 91,223,280

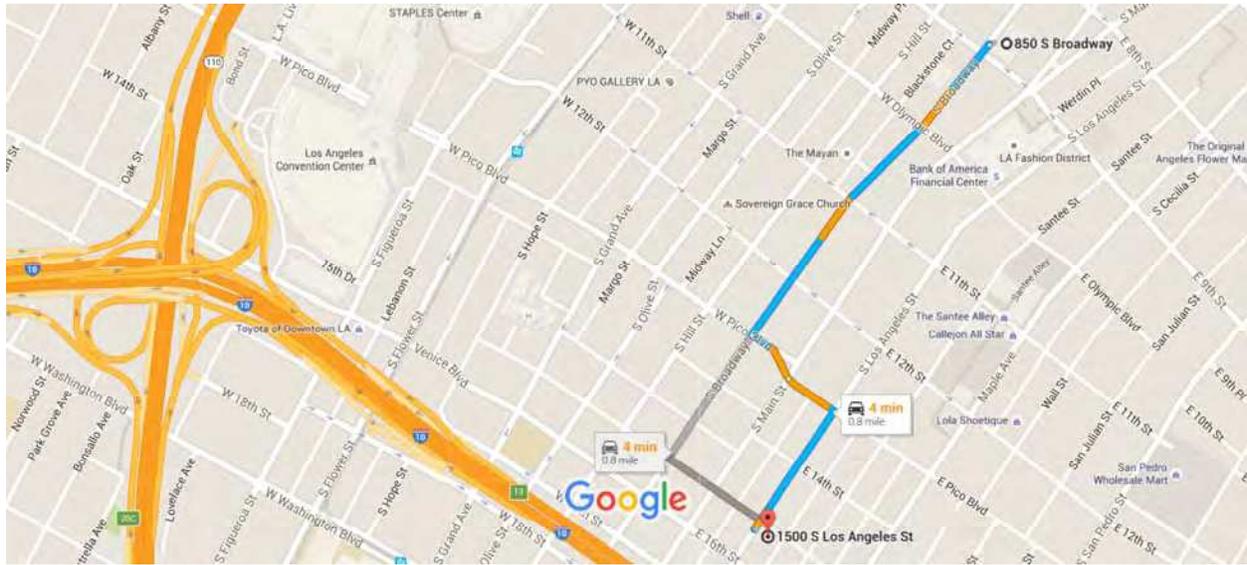
Exhibit E

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment



850 S Broadway, Los Angeles, CA 90014 to 1500 S Los Angeles St

Drive 0.8 mile, 4 min



Map data ©2016 Google 500 ft



via S Broadway

3 min without traffic

4 min

0.8 mile



via S Broadway and W 15th St

3 min without traffic

4 min

0.8 mile

Google Maps

Opposition No. 91,223,280

Exhibit F

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment



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TESS was last updated on Wed Feb 24 03:20:58 EST 2016

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[BOTTOM](#) | [HELP](#)

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found (This page: 1 ~
500)**

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Refine Search

Current Search: S15: docs: 8079
occ: 147885

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	86976682	4906310	WISER BALL	TSDR	LIVE
2	86694530	4904737	AUGOO	TSDR	LIVE
3	86660219	4904479	G-LIFE	TSDR	LIVE
4	86653111	4904362	CERTIFIED ALPHA MALE CLUB ALWAYS-A-LEADER	TSDR	LIVE
5	86589172	4906210	WONDEROUS	TSDR	LIVE
6	86580727	4904052	PGXT	TSDR	LIVE
7	86560604	4904021	JAPAN NIGHT	TSDR	LIVE
8	86536751	4903966	WOWCOSPLAY	TSDR	LIVE
9	86436312	4905952		TSDR	LIVE
10	86427802	4903697		TSDR	LIVE
11	86333890	4905818	ALIENGear	TSDR	LIVE
12	86241632	4905685		TSDR	LIVE
13	86130408	4775090	BODY ALIVE	TSDR	LIVE
14	86978013	4903181	SLACKLINE INDUSTRIES	TSDR	LIVE
15	86697422	4901901	YYKIDS	TSDR	LIVE
16	86695912	4901807	PLAY'N WASH	TSDR	LIVE
17	86690659	4901434	OWNEST	TSDR	LIVE
18	86687639	4901337	NISSE	TSDR	LIVE
19	86656936	4901159	WMA	TSDR	LIVE
20	86652021	4901009	ACCESSORY REVOLUTION	TSDR	LIVE

Opposition No. 91,223,280

-1-

EXHIBIT F to Silbert Dec. ISO Plaintiffs' Motion for Summary Judgment
http://tmsearch.uspto.gov/bin/gate.exe

2/24/2016

Opposition No. 91,223,280

Exhibit G

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

adidas men women kids sports brands customize miccoach

sign up and save 15% free shipping, no minimum free returns

Back | Home / Men / Underwear

men - underwear (15 products)

Sort By

YOUR SELECTION

Gender: Men

Product Type: Underwear

REFINE

CATEGORY

Accessories (13)

Apparel (2)

SPORTS

Training (13)

Lifestyle (2)

BRAND

COLORS

Athletic Comfort Crew Tee 3-P...
Men's Training
\$30

Athletic Comfort Ribbed Tank...
Men's Training
\$28

Camo Underwear 2 Pairs
Men's adidas Neo
\$17

2 colors

adidas men women kids sports brands customize miccoach

sign up and save 15% free shipping, no minimum free returns

Back | Home / Men / Pants
men • pants (123 products)

HAVE QUESTIONS? TALK WITH AN EXPERT

YOUR SELECTION
 X Gender: Men
 X Product Type: Pants
 clear all

REFINE

SPORTS
 Soccer (42)
 Lifestyle (35)
 Basketball (20)
 Training (18)
 Running (5)
 Skateboarding (2)
 Tennis (1)

PARTNER
 NBA Shop (9)

Sort By

Standard 19 Pants
Men's Training
\$110 ★★★★★ 1
2 colors

Standard 19 Pants
Men's Training
\$110 ★★★★★ 1
2 colors

Tiro 15 Three-Quarter Pants
Men's Soccer
\$40 ★★★★★ 8

9 colors 9 colors 9 colors

adidas men women kids sports brands customize microach

sign up and save 15% free shipping, no minimum free returns

Back | Home / Men / Short Sleeve Tops

men - short sleeve tops (178 products)

Sort By

HAVE QUESTIONS? TALK WITH AN EXPERT

YOUR SELECTION

Gender: Men

Product Type: Short Sleeve Tops

REFINE

SPORTS

- Basketball (52)
- Training (36)
- Soccer (34)
- Running (17)
- Skateboarding (17)
- view more

PARTNER

- Clubs (6)
- Damian Lillard (4)

NEW

Techfit Fire Shirt Men's Training \$28

Standard 19 Climacool Aerokni... Men's Training \$65

Standard 19 Climacool Aerokni... Men's Training \$65

3 colors

3 colors

3 colors

3 colors

2 colors

2 colors

3 colors

adidas men women kids sports brands customize miccoach

sign up and save 15% free shipping, no minimum free returns

men - running - shoes (113 products)

HAVE QUESTIONS? TALK WITH AN EXPERT

YOUR SELECTION

Gender: Men
Sports: Running
Category: Shoes

REFINE

SHOES
Shoes (73)

FRANCHISE
 Duramo (3)

FRANCHISE
 Duramo (8)
 Ultra Boost (8)
 Climateheat Rocket (7)
 Supernova Glide (7)

Sort By

NEW

5 colors
Ultra Boost Shoes
Men's Running
\$180
★★★★★ 282

5 colors
Ultra Boost Shoes
Men's Running
\$180
★★★★★ 282

5 colors
Ultra Boost Shoes
Men's Running
\$180
★★★★★ 282

5 colors

COM PLEX
BEST SNEAKER OF 2015

adidas men women kids sports brands customize microach

sign up and save 15% free shipping, no minimum free returns

www.adidas.com/us/men-hats

adidas

Q search

Sort By

HAVE QUESTIONS? TALK WITH AN EXPERT

YOUR SELECTION

Gender: Men

Product Type: Hats

REFINE

SPORTS

- Training (21)
- Basketball (20)
- Lifestyle (8)
- Running (5)
- Tennis (5)
- Soccer (4)

PARTNER

- NBA Shop (13)
- Boston Marathon (4)
- Damian Lillard (3)
- Clubs (2)

NEW ORIGINALS RILEY SNAPBACK ... Men's Originals \$30

NEW ORIGINALS THRASHER SNAPB... Men's Originals \$26

NEW ORIGINALS BEACON SNAPBAC... Men's Originals \$28

NEW ORIGINALS TEAM STRUCTURE... Men's Originals

NEW ORIGINALS TEAM STRUCTURE... Men's Originals

NEW ORIGINALS THRASHER SNAPB... Men's Originals

NEW ORIGINALS TEAM STRUCTURE... Men's Originals

Opposition No. 91,223,280

Exhibit H

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

Men's Boxer Briefs - CK U - X
 www.calvinklein.com/shop/en/ck/search/mens-boxer-briefs

Calvin Klein

WORLD OF CALVIN KLEIN | HOME | SALE | FRAGRANCE | BAGS + SHOES | UNDERWEAR | JEANS | MEN | WOMEN | CALVIN KLEIN COLLECTION

BOXER BRIEFS

56 ITEMS

REFINE BY: PRICE | COLOR | SIZE | CLEAR ALL

IRON STRENGTH MICRO BOXER BRIEF				
\$32.00	\$32.00	\$32.00	\$32.00	\$32.00
MORE COLORS				

CHANGE LOCATION: UNITED STATES

ABOUT CALVIN KLEIN | FIND A STORE

< UNDERWEAR - ALL

FEATURED SHOPS

- NEW ARRIVALS
- WOMEN'S EXCLUSIVELY OURS
- MEN'S EXCLUSIVELY OURS
- 40% OFF WARDROBE ESSENTIALS

WOMEN'S SILHOUETTES

- PANTIES
- BRAS
- BRALETTES
- 3 FOR 30 PANTIES
- SLEEPWEAR

WOMEN'S COLLECTIONS

- MODERN COTTON
- IRON STRENGTH
- MAGNETIC FORCE
- CALVIN KLEIN BLACK
- STEEL
- SEDUCTIVE COMFORT
- RADIANT COTTON
- PERFECTLY FIT
- INVISIBLES
- BOTTOMS UP
- ESSENCE
- CAROUSEL
- ICON
- SATIN EDGE

MEN'S SILHOUETTES

- BOXER BRIEFS
- BRIEFS
- TRUNKS
- BOXERS
- MULTIPACKS

Men's Pants, Slacks & Chinos | www.calvinklein.com/shop/en/ck/search/mens-pants

Calvin Klein

WOMEN | MEN | CALVIN KLEIN COLLECTION | UNDERWEAR | JEANS | BAGS + SHOES | FRAGRANCE | HOME | SALE | WORLD OF CALVIN KLEIN

LIMITED TIME TAKE AN EXTRA 25% OFF WITH PROMO CODE FEB25CK + FREE SHIPPING AT \$75 DETAILS >

PANTS

SIZE UP YOUR OPTIONS
FIND YOUR PERFECT PAIR >

FEATURED SHOPS
NEW ARRIVALS
CK ONE
IRON STRENGTH
30% OFF BLACK SERIES

APPAREL
SHIRTS
DRESS SHIRTS
POLOS
T-SHIRTS + GRAPHIC TEES

PANTS
SLIM FIT
STRAIGHT FIT
ULTRA SLIM FIT
SLIM
DENIM
BLAZERS + SPORT COATS
SUITING
SWEATSHIRTS + SWEATERS
JACKETS + OUTERWEAR
ACTIVEWEAR
SHORTS
SWIM

BAGS + SHOES
SHOES
BAGS
WALLETS + SMALL GOODS
WATCHES
BELTS
COLD WEATHER ACCESSORIES

44 ITEMS
CLEAR ALL

REFINE BY: PRICE | COLOR | SIZE

CHANGE LOCATION: UNITED STATES

ABOUT CALVIN KLEIN | FIND A STORE

Men's Shirts | Calvin Klein X
 www.calvinklein.com/shop/en/ck/search/mens-shirts

Calvin Klein

CALVIN KLEIN COLLECTION | WOMEN | MEN | JEANS | UNDERWEAR | BAGS + SHOES | FRAGRANCE | HOME | SALE | WORLD OF CALVIN KLEIN

LIMITED TIME TAKE AN EXTRA 25% OFF WITH PROMO CODE FEB25CK + FREE SHIPPING AT \$75 DETAILS >

SHIRTS

< MEN - ALL
 FEATURED SHOPS
 NEW ARRIVALS
 CK ONE
 IRON STRENGTH
 30% OFF BLACK SERIES
 APPAREL
 SHIRTS
 LONG SLEEVE
 SHORT SLEEVE
 DRESS SHIRTS
 POLOS
 T-SHIRTS + GRAPHIC TEES
 PANTS
 DENIM
 BLAZERS + SPORT COATS
 SUITING
 SWEATSHIRTS + SWEATERS
 JACKETS + OUTERWEAR
 ACTIVEWEAR
 SHORTS
 SWIM
 BAGS + SHOES
 SHOES
 BAGS
 WALLETS + SMALL GOODS
 WATCHES
 BELTS
 COLD WEATHER ACCESSORIES
 SUNGLASSES
 SOCKS
 TIES

REFINE BY: PRICE | COLOR | SIZE

95 ITEMS
 CLEAR ALL

PREMIUM SLIM FIT DOBBY SHIRT
 PREMIUM SLIM FIT WOOD GRAIN
 PREMIUM SLIM FIT OMBRE PLAID
 PREMIUM SLIM FIT PLACEMENT
 CK ONE SLIM FIT LARGE CHECK

CHANGE LOCATION: UNITED STATES | ABOUT CALVIN KLEIN | FIND A STORE

Men's Shoes, Oxfords, Site X

www.calvinklein.com/shop/en/ck/search/mens-shoes

Calvin Klein

CALVIN KLEIN COLLECTION | WOMEN | MEN | JEANS | UNDERWEAR | BAGS + SHOES | FRAGRANCE | HOME | SALE | WORLD OF CALVIN KLEIN

LIMITED TIME TAKE AN EXTRA 25% OFF WITH PROMO CODE FEB25CK + FREE SHIPPING AT \$75 DETAILS >

SHOES

60 ITEMS CLEAR ALL

< MEN - ALL
FEATURED SHOPS
 NEW ARRIVALS
 CK ONE
 IRON STRENGTH
 30% OFF BLACK SERIES
APPAREL
 SHIRTS
 DRESS SHIRTS
 POLOS
 T-SHIRTS + GRAPHIC TEES
 PANTS
 DENIM
 BLAZERS + SPORT COATS
 SUITING
 SWEATSHIRTS + SWEATERS
 JACKETS + OUTERWEAR
 ACTIVEWEAR
 SHORTS
 SWIM
BAGS + SHOES
 SHOES
 LOAFERS + SLIP ON'S
 LACE-UPS + OXFORDS
 BOOTS
 SNEAKER
 SANDALS
 SNEAKERS
 BAGS
 WALLETS + SMALL GOODS
 WATCHES

SORT BY: PRICE | REFINE BY: COLOR | SIZE |
 ABOUT CALVIN KLEIN | FIND A STORE

Men's Hats, Scarves & Gloves | www.calvinklein.com/shop/en/ck/search/mens-hats-gloves-scarves

can we help you find something?

Calvin Klein

CALVIN KLEIN COLLECTION | WOMEN | MEN | JEANS | UNDERWEAR | BAGS + SHOES | FRAGRANCE | HOME | SALE | WORLD OF CALVIN KLEIN

LIMITED TIME TAKE AN EXTRA 25% OFF WITH PROMO CODE FEB25CK + FREE SHIPPING AT \$75 DETAILS >

FREE SHIPPING ON ORDERS OF \$75 OR MORE DETAILS*

COLD WEATHER ACCESSORIES

1 ITEM CLEAR ALL

REFINE BY: PRICE | COLOR | SIZE

REVERSIBLE JACQUARD LOGO BEANIE \$45.00

- < MEN - ALL
- FEATURED SHOPS**
- NEW ARRIVALS
- CK ONE
- IRON STRENGTH
- 30% OFF BLACK SERIES
- APPAREL**
- SHIRTS
- DRESS SHIRTS
- POLOS
- T-SHIRTS + GRAPHIC TEES
- PANTS
- DENIM
- BLAZERS + SPORT COATS
- SUITING
- SWEATSHIRTS + SWEATERS
- JACKETS + OUTERWEAR
- ACTIVEWEAR
- SHORTS
- SWIM
- BAGS + SHOES**
- SHOES
- BAGS
- WALLETS + SMALL GOODS
- WATCHES
- BELTS
- COLD WEATHER ACCESSORIES**
- SUNGLASSES

CHANGE LOCATION | UNITED STATES | **SOCKS**

ABOUT CALVIN KLEIN | FIND A STORE

Opposition No. 91,223,280

Exhibit I

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

3 DAYS ONLY: SELECT SUIT \$149, SELECT DRESS SHIRTS \$34 **SHOP NOW** [DETAILS](#)

Location: 91601 CHANGE

NEW MEN WOMEN SALE EXPLORE

KENNETH COLE

SHIRTS

CLOTHING

VIEW ALL

TOPS

DEHNH

JACKETS + COATS

PANTS + SHORTS

SUITS

SOCKS + UNDERWEAR

BAHS

ACCESSORIES

FEATURES

LABELS

FILTER BY LABEL

- KENNETH COLE BLACK LABEL
- KENNETH COLE NEW YORK
- REACTION KENNETH COLE

FILTER BY SIZE

28	30	31
32	33	34
36	38	28/30
30/30	30/32	31/30
31/32	32/30	32/32
32/34	33/30	33/32
33/34	34/30	34/32
34/34	36/30	36/32

Sort by

PANTS + SHORTS

BONDED CARGO PANT
KENNETH COLE NEW YORK
~~\$\$\$8.00~~ **\$63.39**

MARLED SHORT
KENNETH COLE BLACK LABEL
\$38.00

GREY SLIM-FIT 6-POCKET PANT
KENNETH COLE NEW YORK
\$69.00

DRAWSTRING TWILL JOGGER PANT
REACTION KENNETH COLE
\$93.50

DRAWSTRING TWILL JOGGER PANT
REACTION KENNETH COLE
\$93.50

REACTION KENNETH COLE
\$93.50

DRAWSTRING TWILL JOGGER PANT
REACTION KENNETH COLE
\$93.50

DRAWSTRING TWILL JOGGER PANT
REACTION KENNETH COLE
\$93.50

DRAWSTRING TWILL JOGGER PANT
REACTION KENNETH COLE
\$93.50

STORE LOCATOR CLIENT SERVICES GIFT CARDS CORPORATE INFO FOLLOW US SIGN UP FOR UPDATES

3 DAYS ONLY: SELECT SUIT \$149, SELECT DRESS SHIRTS \$34 **SHOP NOW** [DETAILS](#)

[NEW](#) [MEN](#) [WOMEN](#) [SALE](#) [EXPLORE](#)

Location: 91601 CHANGE

LOGIN

SEARCH

HOME

KENNETH COLE

SHIRTS

CLOTHING

VIEW ALL

TOPS

DENIM

JACKETS + COATS

PANTS + SHORTS

SUITING

SOCKS + UNDERWEAR

BMGS

ACCESSORIES

FEATURES

LABELS

FILTER BY TYPE

- KNITS + TEES
- SHIRTS
- DRESS SHIRTS
- SWEATERS

FILTER BY SIZE

XS	S	M
L	XL	XXL
14.5	15	15.5
16	16.6	17
17.5	18	32-33
34-35	36-37	14-14H
15-15H	16-16H	16-16H

TOPS

SORT BY



SLIM-FIT COLOREBLOCK BUTTON-FRONT SHIRT
REACTION KENNETH COLE
\$79.50

ACID WASHED CREWNECK SWEATER
KENNETH COLE NEW YORK
\$79.00

ACID WASHED CREWNECK SWEATER
KENNETH COLE NEW YORK
\$79.00

COLORBLOCK BOMBER JACKET
KENNETH COLE BLACK LABEL
\$166.00

ZIP-FRONT HOODIE
KENNETH COLE BLACK LABEL
\$178.00



[STORE LOCATOR](#) [CLIENT SERVICES](#) [GIFT CARDS](#) [CORPORATE INFO](#) [FOLLOW US](#) [SIGN UP FOR UPDATES](#)

3 DAYS ONLY - SELECT SUIT \$149, SELECT DRESS SHIRTS \$34 **SHOP NOW** [DETAILS](#)

KENNETH COLE

NEW MEN WOMEN SALE EXPLORE

Locations: 91601 CHANGE LOGIN

www.kennethcole.com/men/shoes/

SHOES

VIEW ALL SNEAKERS LOAFERS OXFORDS BOOTS SANDALS SHOE CARE CLOTHING BAGS ACCESSORIES FEATURES LABELS

Sort By

Filter by Size: 7, 7.5, 8, 8.5, 9, 9.5, 10, 10.5, 11, 11.5, 12, 13, L, M, ONE SIZE

Filter by Color: [Color swatches]

Grid of shoe products:

- NO QUESTION STUDDIED HIGH TOP SNEAKER REACTION KENNETH COLE \$110.00
- NO QUESTION STUDDIED HIGH TOP SNEAKER REACTION KENNETH COLE \$110.00
- CHAIN MAIL HIGH TOP SNEAKER REACTION KENNETH COLE \$95.00
- QUALITY GUY LEATHER SLIP ON SNEAKER KENNETH COLE NEW YORK \$145.00
- SNAP DOWN LOW TOP SNEAKER KENNETH COLE NEW YORK \$145.00

STORE LOCATOR CLIENT SERVICES GIFT CARDS CORPORATE INFO FOLLOW US SIGN UP FOR UPDATES



DOWN SCARF
 KENNETH COLE NEW YORK
~~\$76.00~~ **\$54.99**

NEPAL PASHMINA SCARF
 KENNETH COLE NEW YORK
~~\$176.00~~ **\$124.99**

NEPAL PASHMINA SCARF
 KENNETH COLE NEW YORK
~~\$176.00~~ **\$124.99**

CASHMERE SLOUCH HAT
 KENNETH COLE NEW YORK
~~\$86.00~~ **\$59.99**

CASHMERE SLOUCH HAT
 KENNETH COLE NEW YORK
~~\$86.00~~ **\$59.99**



CASHMERE SLOUCH HAT
 KENNETH COLE NEW YORK
~~\$86.00~~ **\$59.99**

MINERVA RIBBED-KNIT HAT
 KENNETH COLE NEW YORK
~~\$76.00~~ **\$54.99**

MINERVA RIBBED-KNIT HAT
 KENNETH COLE NEW YORK
~~\$76.00~~ **\$54.99**

MINERVA RIBBED-KNIT HAT
 KENNETH COLE NEW YORK
~~\$76.00~~ **\$54.99**

MERINO WOOL GLOVES
 KENNETH COLE NEW YORK
~~\$66.00~~ **\$59.99**

SHOES | CLOTHING | BAHS | **ACCESSORIES** | VIEW ALL | WATCHES | CURIOSITIES | TIES + BELTS | JEWELRY + SUNGLASSES | **HATS, GLOVES + SCARVES** | FRAGRANCE | FEATURES | LABELS

FILTER BY SIZE
 9 | 10 | 9 1/2 | L | ONE SIZE | XL

FILTER BY COLOR
 [Color swatches: black, white, blue, green, red, purple, yellow, grey, brown, pink, orange, light blue, dark blue]

FILTER BY LABEL
 KENNETH COLE NEW YORK

Opposition No. 91,223,280

Exhibit J

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

Compression & Nike Pro

store.nike.com/us/en_us/pw/nike-pro-compression/obnZobt

Join / Log In Site Feedback Help

Search

Men Women Boys Girls Customize

Gender: Men's Women's Girls' Boys'

COMPRESSION & NIKE PRO (46)

Sort By: ▾

	7 Colors Nike Pro Hypercool Compression Boys' Shorts \$25		7 Colors Nike Pro 6" Hypercool Compression Men's Shorts
	3 Colors Nike Pro Hyperstrong Slider 1.5 Men's Baseball Shorts \$70		2 Colors Nike F.C. Slider Men's Soccer Shorts
	4 Colors Nike Pro Clutch Slider Men's Baseball Shorts \$50		1 Color Nike Pro 11" Vixen Women's Training Shorts
	4 Colors Nike Pro Hypercool Tidal Multi 3" Women's Training Shorts \$45		3 Colors Nike Pro 7" Cool Women's Training Shorts
	3 Colors Nike Pro Hypercool Palm 3" Women's Training Shorts \$45		2 Colors Nike Pro Hyperstrong Swingman Heist Slider Compression

Men's Tops & T-Shirts (951)

Shoes
Compression & Nike Pro
Tops & T-Shirts
Base Layer & Nike Pro (55)
Long-sleeved (154)
Short-sleeved (693)
Sleeveless & Tank Tops (44)
Polos (79)
Jerseys (10)
Button-downs & Flannels (24)
Hoodies & Pullovers
Jackets & Vests
Pants & Tights
Shorts
Surf & Swimwear
Accessories & Equipment

FILTERS

SPORT
Lifestyle
Running
Basketball
Football
Soccer
Training & Gym

Men's
WOMEN
BOYS
GIRLS
CUSTOMIZE

Join / Log In Site Feedback Help

Search

Sort By: ▾

	6 Colors Nike AeroReact Men's Running Shirt \$90		10 Colors Nike Dri-FIT Men's Training Shirt \$35		6 Colors Nike Pro Hypercool Max Fitted Men's Shirt \$60		5 Colors Nike Ultimate Dry Men's Training Shirt \$80		10 Colors Nike AeroReact Men's Running Shirt \$100
	6 Colors Nike Element Sphere Half-Zip Men's Running Shirt \$55		5 Colors Nike Dri-FIT Knit Men's Running Shirt \$50		7 Colors Nike AeroReact Half-Zip Men's Running Top \$50		5 Colors Nike Dri-FIT Contour Men's Running Shirt \$50		5 Colors Nike Dri-FIT Elevate Tailwind Men's Running Shirt \$50

Men's Running Shoes, Nike | store.nike.com/us/en_us/pw/mens-running-shoes/7puZ8yZoi3?ipp=118

Join / Log In | Site Feedback | Help

Search

Men's Running Shoes, Nike | Nike+ | NikeiD | Nike

MEN | WOMEN | BOYS | GIRLS | CUSTOMIZE

MEN'S

MEN'S RUNNING SHOES (118)

Shoes

- Lifestyle (383)
- Running (118)**
- Basketball (93)
- Football (40)
- Soccer (100)
- Training & Gym (55)
- + More

Compression & Nike Pro

Tops & T-Shirts

Hoodies & Pullovers

Jackets & Vests

Pants & Tights

Shorts

Surf & Swimwear

Accessories & Equipment

FILTERS

SHOE TYPE

Cleats & Spikes

SURFACE

Road

Sort By:

	PERSONALIZE	6 Colors	Nike Free RN Distance Men's Running Shoe \$120		9 Colors	Nike Free 5.0 Men's Running Shoe \$100
	9 Colors	Nike Flyknit Racer Unisex Running Shoe (Men's Sizing) \$150		13 Colors	PERSONALIZE	Nike Air Zoom Pegasus 32 Men's Running Shoe \$110
	6 Colors	Nike Free 4.0 Flyknit Men's Running Shoe \$120		CUSTOMIZE IT	NIKEiD	Nike Air Zoom Pegasus 32 Photosynthesis ID Running Shoe \$150
	6 Colors	Nike Free 4.0 Flyknit Men's Running Shoe \$120		4 Colors	PERSONALIZE	Nike Flyknit Air Max Running Shoe \$150
	6 Colors	Nike Free 4.0 Flyknit Men's Running Shoe \$120		3 Colors	PERSONALIZE	Nike Air Max 2016 Print Men's Running Shoe \$150

Men's Hats, Visors & Headbands (165)

store.nike.com/us/en_us/pw/mens-hats-visors-headbands/7puZof1?pp=1,20

Join / Log In Site Feedback Help

Search

Sort By: ▾

MEN'S HATS, VISORS & HEADBANDS (165)

MEN WOMEN BOYS GIRLS CUSTOMIZE

Shoes

Compression & Nike Pro

Tops & T-Shirts

Hoodies & Pullovers

Jackets & Vests

Pants & Tights

Shorts

Surf & Swimwear

Accessories & Equipment

Bags & Backpacks (112)

Balls (41)

Belts (25)

Gloves & Mitts (58)

Clubs (80)

Hats, Visors & Headbands (165)

Nike+ Accessories (2)

Other (81)

Scarves (1)

Shin Guards (11)

Sleeves & Arm Bands (26)

Socks (112)

Sunglasses (23)

Swim Goggles & Caps (3)

Training and Gym (14)

FILTERS

1 Color
Nike Run Shield Max
Running Knit Hat
\$80

1 Color
Nike Hypervis Tour Skully
Knit Golf Hat
\$30

3 Colors
Hurley One And Textures
Men's Fitted Hat
\$30

1 Color
Jordan Jumpman
Adjustable Hat
\$30

5 Colors
TW Ultralight Tour
Adjustable Golf Hat
\$32

3 Colors
Nike True Tour
Fitted Golf Hat
\$32

3 Colors
Hurley One And Textures
Men's Fitted Hat
\$30

6 Colors
Nike Ultralight Tour
Adjustable Golf Hat
\$32

Out of Stock
Jordan Reversible
Knit Hat
\$28

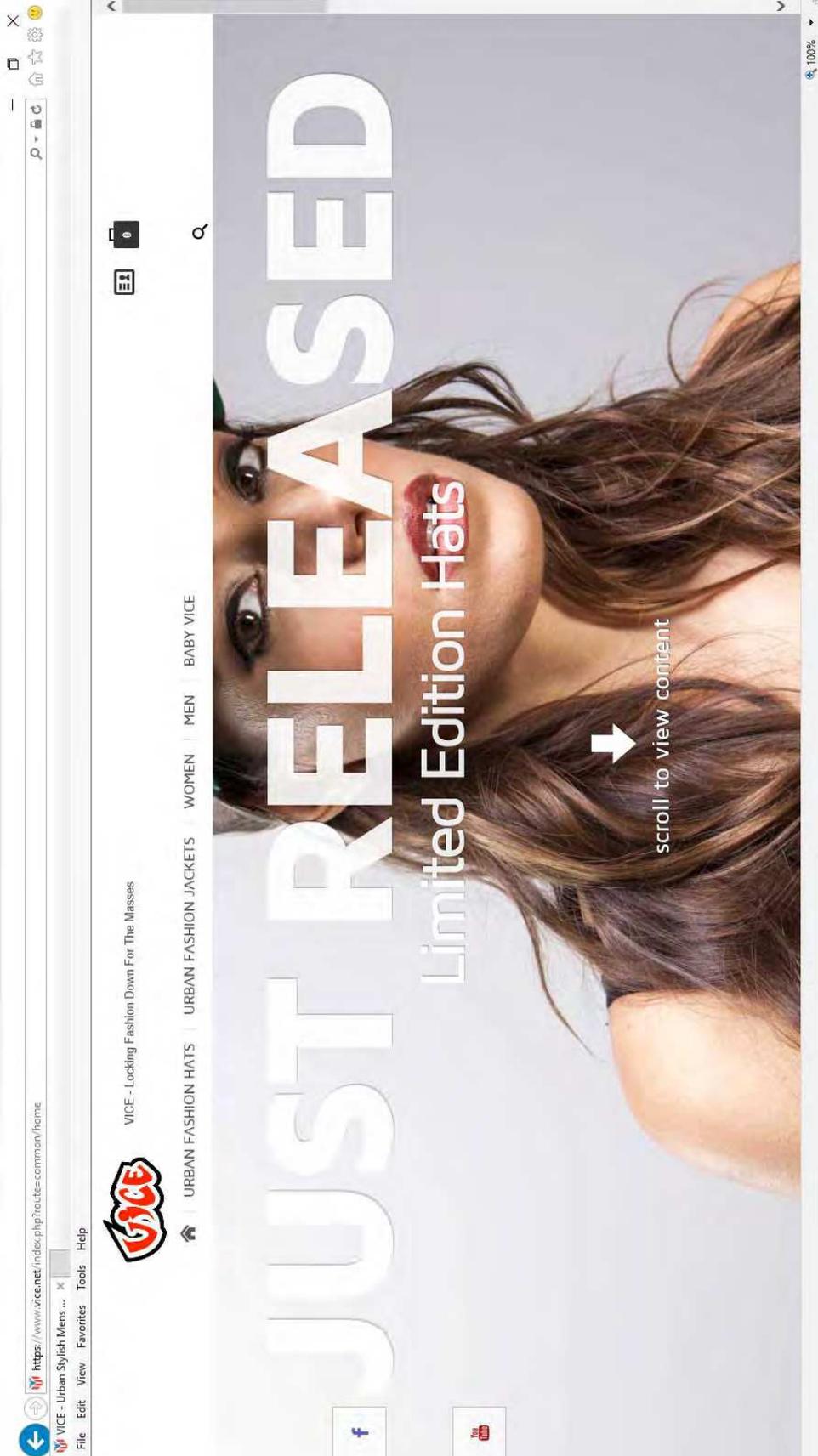
9 Colors
Nike Tour Legacy Mesh
Fitted Golf Hat
\$32

2 Colors
Nike SB Fisherman
Knit Hat
\$20

Opposition No. 91,223,280

Exhibit K

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment



Browser address bar: <https://www.vice.net/index.php?route=common/home>

Browser tabs: VICE - Urban Stylish Mens ...

Browser menu: File Edit View Favorites Tools Help

Browser icons: Back, Forward, Home, Stop, Refresh, Print, Search, Extensions

Browser zoom: 100%

VICE

WOMEN

FREE SHIPPING
on orders over \$100

LIMITED EDITION
moneyback guarantee

LOOK GOOD IN ANY CLIMATE
online consultations

POPULAR

BEST SELLERS

NEW PRODUCTS


 Brown Came & Pink Flat Bill Vice Snappaack Hat
\$25.00

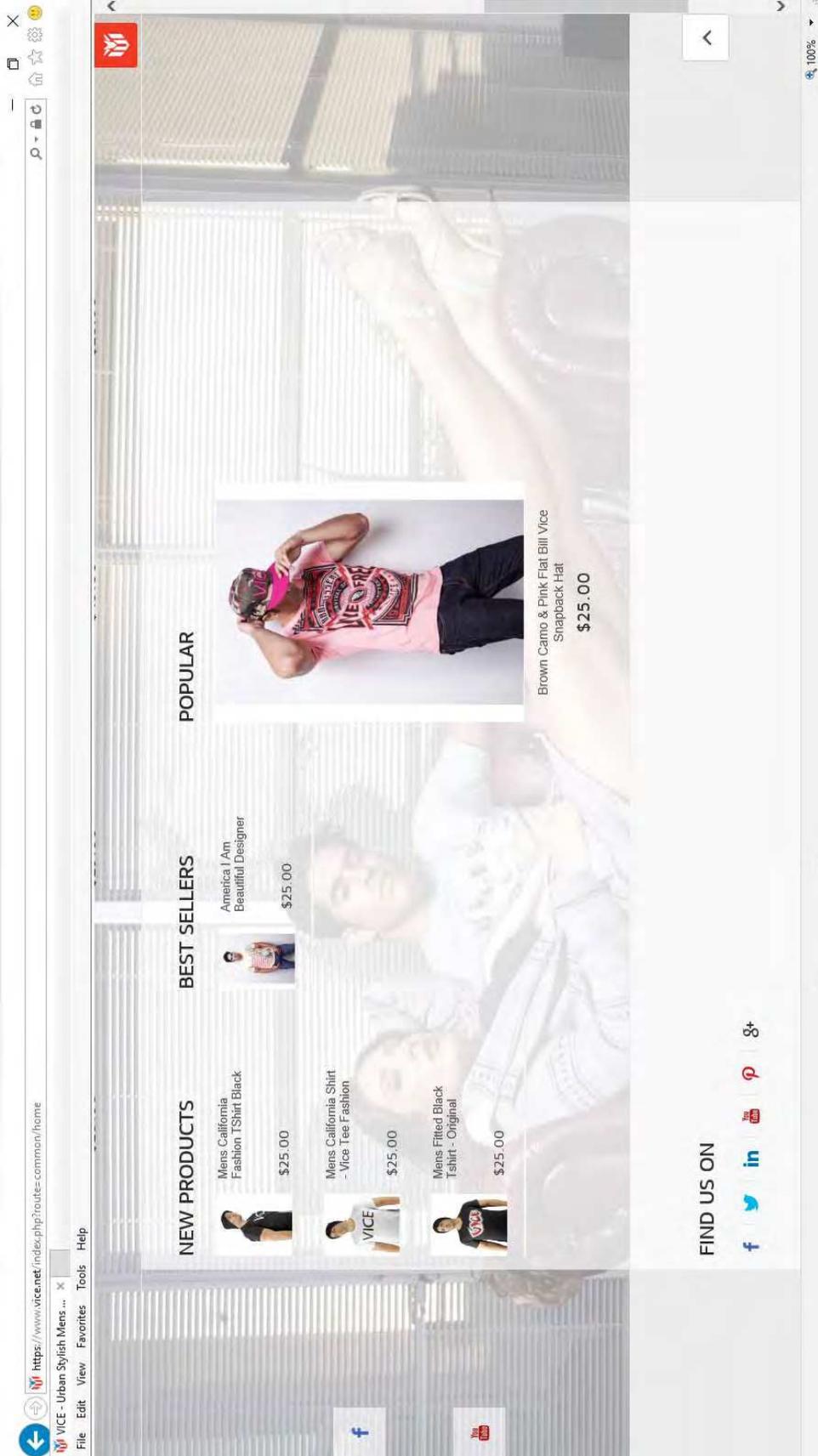

 Women's California Fashion Print Tee - Vice Blue
\$29.00

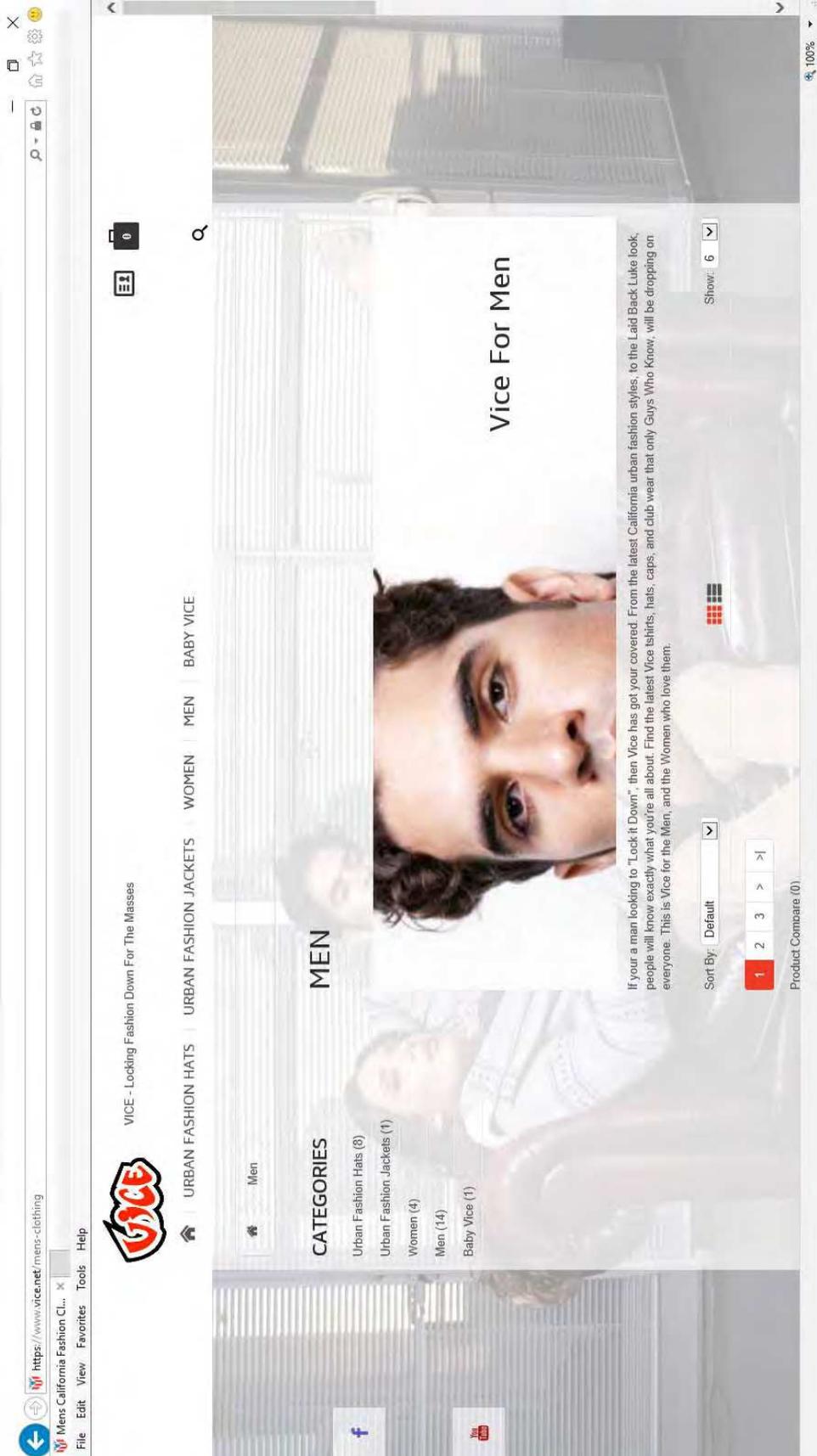

 Womens Baby Blue Aztec Print Layered Jacket - Vice
\$49.00

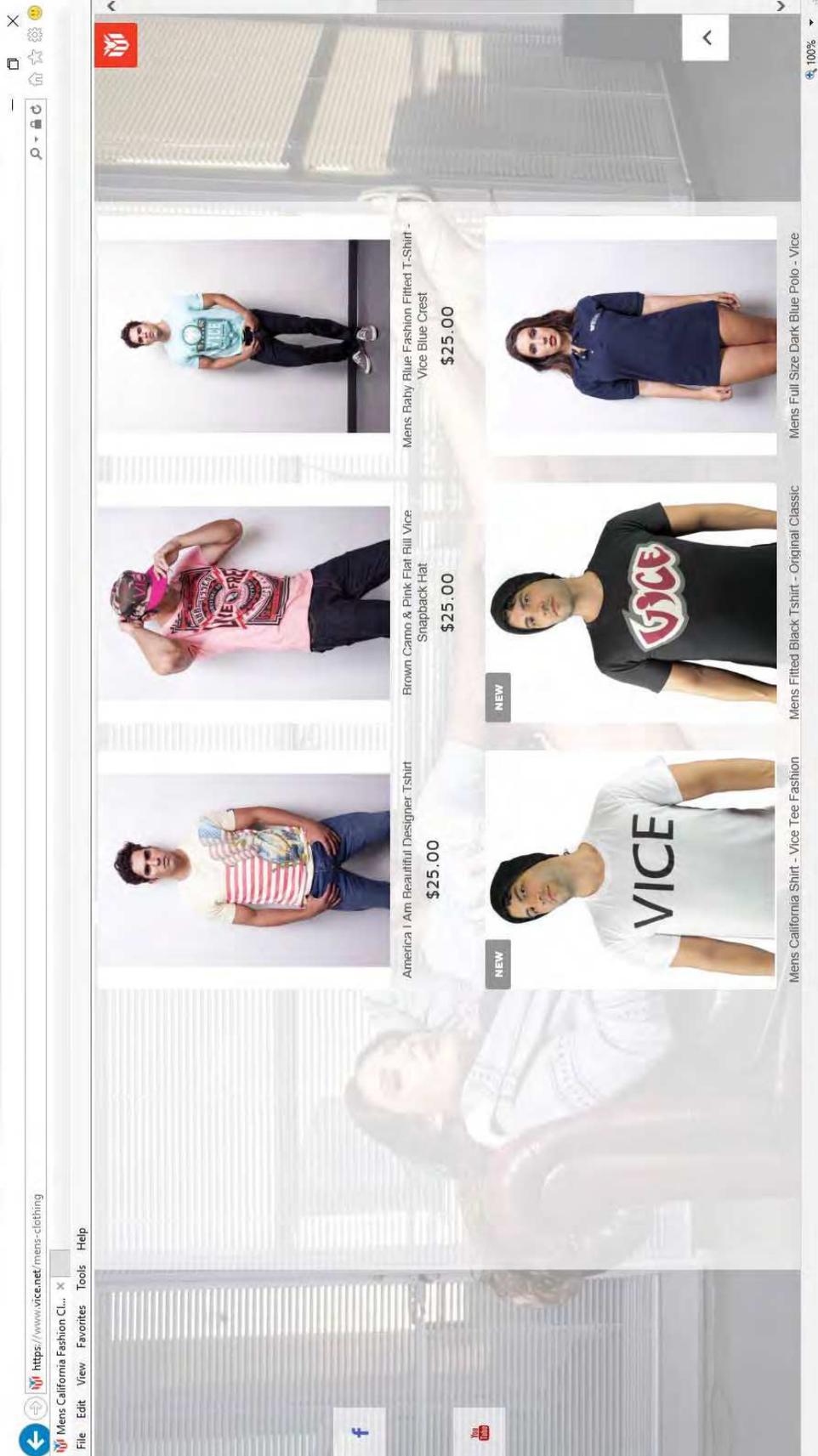

 Womens Pink & Black Snappaack Cap 3D Print - Baby Vice Pink
\$25.00

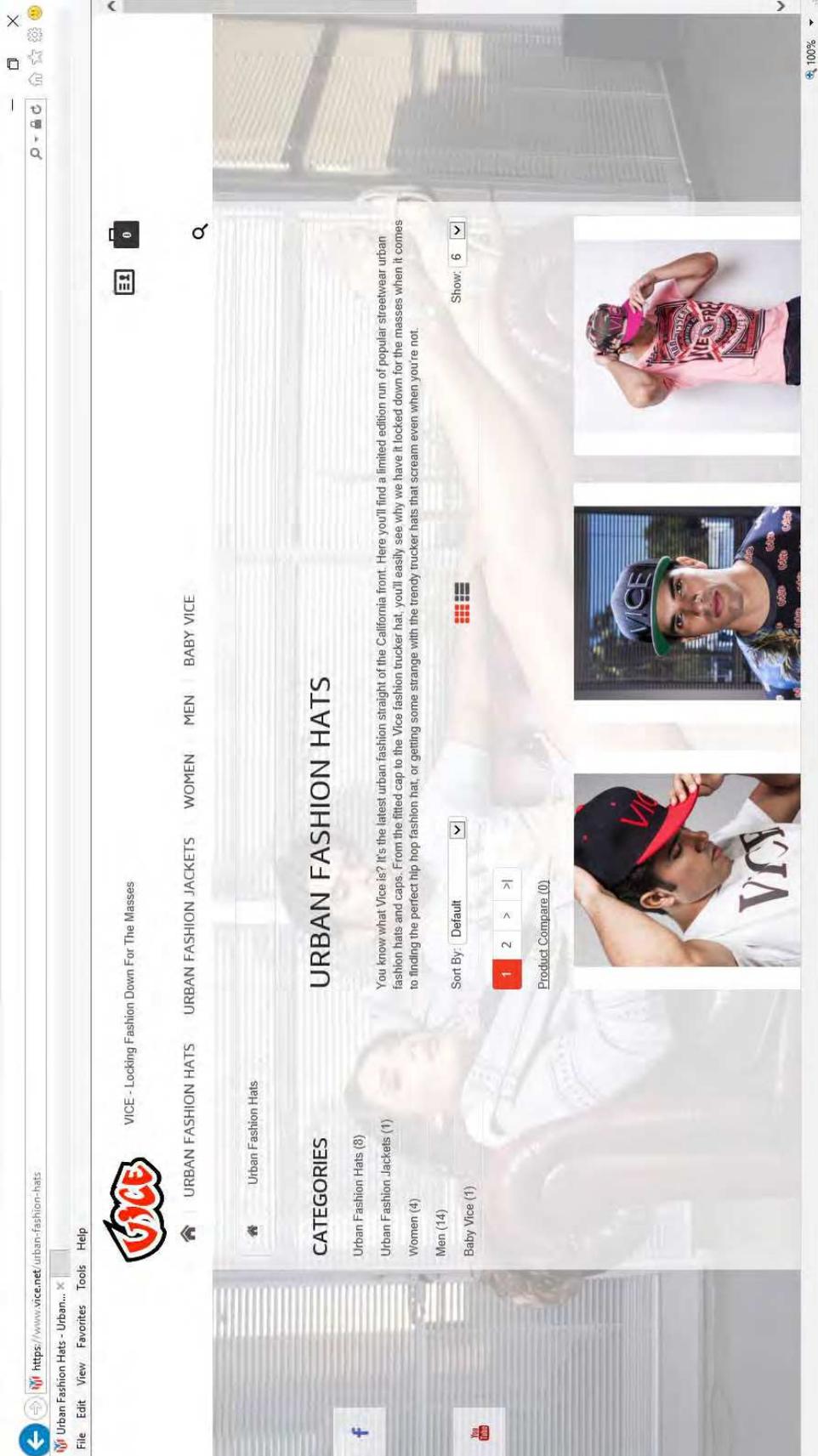

 Mens California Fashion TShirt Black


 America I Am Beautiful Designer









Browser address bar: <https://www.vice.net/urban-fashion-hats>

Page title: Urban Fashion Hats - Urban... X

Navigation: File Edit View Favorites Tools Help

Product List:

- 

Black & Red Urban Hat - Black Hat w/Red Brim and 3D Logo
\$25.00
- 

Black Urban Cap - Vice Black Snapback w/3D Print
\$25.00
- 

Brown Camo & Pink Flat Bill Vice Snapback Hat
\$25.00
- 

Ganja Pot Leaf Snapback Hat - Vice Ganja Leaf Flat Bill Snapback Cap
\$25.00
- 

Tropical Print Red & Black Snapback Hat - Vice Alpha
\$25.00
- 

Vice Camo & Black Snapback Cap
\$25.00

Footer: Inbox - sarah.silbert@gmail.com - Microsoft Outlook

Opposition No. 91,223,280

Exhibit L

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

Facebook interface for Vice Clothing. The top navigation bar includes the Facebook logo, the page name "Vice Clothing", a search icon, and user navigation options like "Sarah", "Home 20+", and "Find Friends".

The main header image shows a man and a woman sitting on a red leather sofa in a modern office setting. The woman is wearing a grey Vice Clothing jacket and high-heeled sandals. The man is wearing a light blue Vice Clothing t-shirt. A "Vice Clothing" logo is overlaid on the left side of the image. Below the image are "Like" and "Message" buttons.

The page layout includes a left sidebar with sections for "Search for posts on this Page", "2 people like this", "Invite friends to like this Page", "ABOUT" (with a link to the official Vice clothing and fashion page), "PHOTOS" (displaying a grid of images including the Vice logo and fashion models), and "VISITOR POSTS" (currently empty).

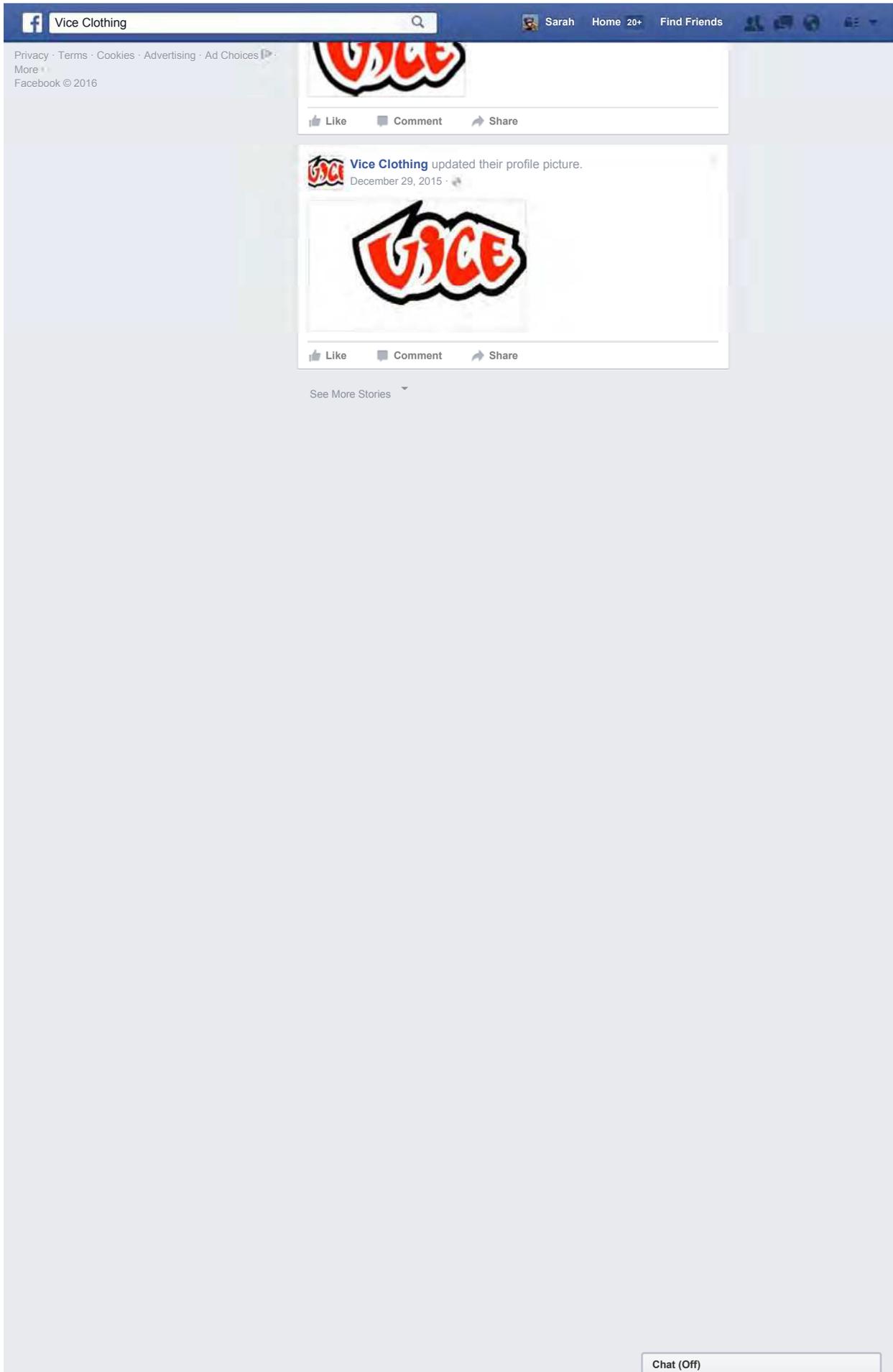
The main content area features a post from Vice Clothing dated March 22 at 1:35am. The post text reads: "Still a little chilly outside in the #spring months. #vice has got this covered just right! <https://www.vice.net/womens-aztec-print-jacket>". Below the text is a photo of a woman wearing a white Aztec print jacket. The caption for the photo is "Womens Baby Blue Aztec Print Layered Jacket - Vice California Fashion" and includes a description: "This women's Baby Blue Aztec Print Jacket has a warm insulated and soft inside, and features a year round print that is both trendy and accessorizing to any...".

Below the post is a "VISITOR POSTS" section with a "Be the first to add a post." prompt and a "Create Post" button.

The "PEOPLE ALSO LIKE" section lists three clothing brands: "Platini Fashion", "Rnt23 Jeans", and "Victoria's Secret".

At the bottom of the main content area, there are two more updates: "Vice Clothing updated their cover photo." (January 5) showing the same couple on the sofa, and "Vice Clothing updated their profile picture." (December 29, 2015).

A "Chat (Off)" button is located at the bottom right of the page.



Opposition No. 91,223,280

Exhibit M

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

Log in or Create an account

Cart: 0

Search

MY VICE
THE SWEATS COLLECTION

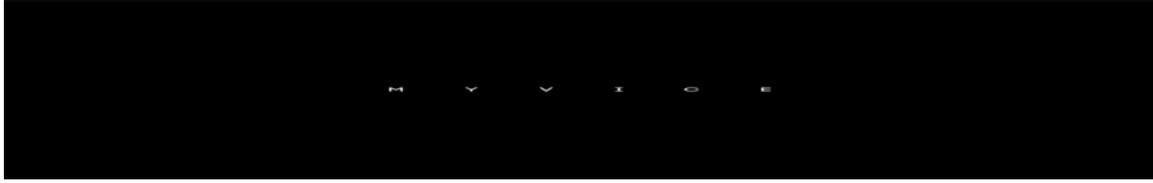
HOME

OUR SWEATS COLLECTION

MILITARY COLLECTION

ABOUT US

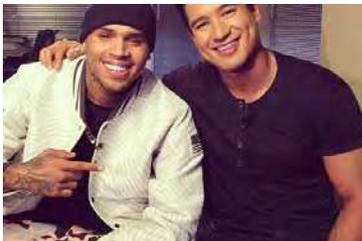
NEWS



Recent News

September 25, 2014

Chris Brown shines during interview in Sailcloth Blue Camo Barbados Sweatshorts



Read more --

September 24, 2014

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April 28, 2014

Justin Bieber rocking MyVice Camo Shanghai sweatpants from the new Spring/Summer 2014 Collection



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Military Collection

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MyVice Autumn 2014 Military Green capsule



BEACH BOULEVARD - Military Green
MYVICE Sweats Collection
\$65.00



BROOKLYN - Military Green
MYVICE Sweats Collection
\$105.00



Camo Never Dies - SHANGHAI
MYVICE Sweats Collection
~~\$150.00~~ \$89.00



Camo Never Dies - VENICE
MYVICE Sweats Collection
~~\$115.00~~ \$72.00



SHANGHAI - Military Green
MYVICE Sweats Collection
\$150.00



SILVERLAKE
MYVICE Sweats Collection
\$120.00



TRIBECA
MYVICE Sweats Collection
\$98.00



VENICE - Military Green
MYVICE Sweats Collection
\$98.00

Latest news

Chris Brown shines during interview in Sailcloth Blue Camo Barbados Sweatshorts

Chris Brown shined in his recent exclusive interviews with ACCESS HOLLYWOOD and EXTRA with Mario Lopez. In a charismatic fashion, Breezy was rocking our Sailcloth Camo Barbados Sweatshorts for his...

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MYVICE

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Products

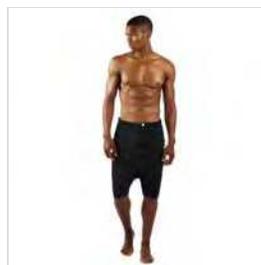
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BALBOA
MYVICE Sweats Collection
\$88.00 Sold Out



BALBOA - Midnight
MYVICE Sweats Collection
\$88.00



BARBADOS
MYVICE Sweats Collection
\$89.00 Sold Out



BEACH BOULEVARD
MYVICE Sweats Collection
\$65.00



BEACH BOULEVARD - Military Green
MYVICE Sweats Collection
\$65.00



BROOKLYN - Glow
MYVICE Sweats Collection
\$165.00 Sold Out



BROOKLYN - Knit Fleece
MYVICE Sweats Collection
\$95.00



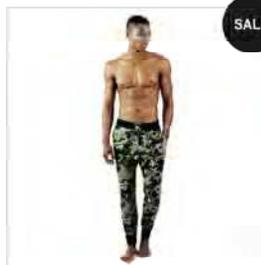
BROOKLYN - Military Green
MYVICE Sweats Collection
\$105.00



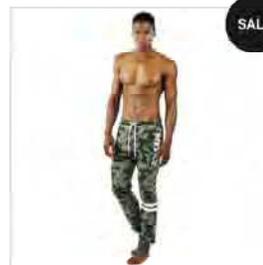
BROOKLYN - Neo
MYVICE Sweats Collection
\$105.00



BROOKLYN - Rustic
MYVICE Sweats Collection
\$105.00



Camo Never Dies - SHANGHAI
MYVICE Sweats Collection
~~\$150.00~~ \$89.00



Camo Never Dies - VENICE
MYVICE Sweats Collection
~~\$115.00~~ \$72.00



High Reflective - Venice



HUNTINGTON



HUNTINGTON - Bonfire

High Reflective - BEACH BOULEVARD
MYVICE Sweats Collection
\$65.00 Sold Out



HUNTINGTON - Varsity
MYVICE Sweats Collection
\$102.00

MYVICE Sweats Collection
\$98.00



Knit Fleece - SHANGHAI
MYVICE Sweats Collection
\$89.00 Sold Out

MYVICE Sweats Collection
~~\$102.00~~ from \$72.00



Polka Dots - BARBADOS
MYVICE Sweats Collection
\$89.00 Sold Out

MYVICE Sweats Collection
\$102.00



Polka Dots - SHANGHAI
MYVICE Sweats Collection
\$165.00 Sold Out



Sailcloth Blue Camo - SHANGHAI
MYVICE Sweats Collection
\$89.00 Sold Out



SHANGHAI
MYVICE Sweats Collection
\$165.00



SHANGHAI - Military Green
MYVICE Sweats Collection
\$150.00



SHANGHAI - Opium White
MYVICE Sweats Collection
\$165.00

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Next

Latest news

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SHANGHAI - Phoenix
MYVICE Sweats Collection
\$165.00



SILVERLAKE
MYVICE Sweats Collection
\$120.00



THE DIAMOND HEAD
MYVICE Sweats Collection
\$65.00



TRIBECA
MYVICE Sweats Collection
\$98.00



TRIBECA - Rustic
MYVICE Sweats Collection
\$98.00



VENICE
MYVICE Sweats Collection
\$98.00



VENICE - Military Green
MYVICE Sweats Collection
\$98.00

Previous

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Latest news

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MY VICE

THE SWEATS COLLECTION

About Us

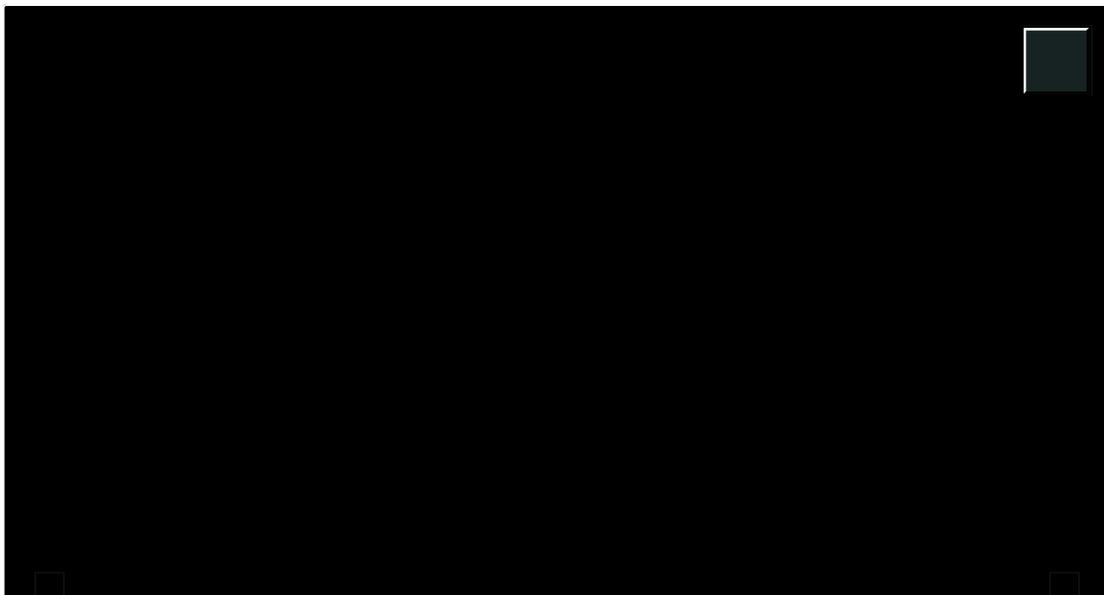
About Us

Vice: (n.) \vīs\

A habit of character or behavior; a deep-seated disposition; an addiction. *“I am on a constant pursuit of greatness. I am addicted to that feeling of overcoming life’s challenges. It has become my one true vice.”*

Everyone deserves the confidence and comfort to pursue their best self. Our dream is to be there with you when you do—whether it’s on stage, at the office, or simply on your everyday climb to greatness. In that ambition we’ve designed the most comfortable, most stylized men’s sweatpants imaginable.

Conceived with the highest fashion designs, and woven from the most sumptuous fabrics, MyVice sweats exist at the intersection of comfort and style. We’ve created these remarkable sweats because our vice is feeling great... of overcoming the impossible. What is your vice?



Opposition No. 91,223,280

Exhibit N

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment



MyVice Sweats

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Recent 2014

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Wheels For the Real World zipcar.com Like your friends IRL. 10,000 cars to connect you. Gas, insurance & 180 miles included.



MyVice Sweats Clothing

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Search for posts on this Page

596 people like this Invite friends to like this Page

ABOUT

designer sweats/ lifestyle brand for triumphant, confident and free men. http://www.myvicesweats.com/

PHOTOS



VIDEOS



News Feed

MyVice Sweats April 5

Just In: Justin Bieber seen here in our Barbados Polka Dots sweat shorts.



Justin Bieber on Instagram: "Swirly" INSTAGRAM

Like Show more reactions Comment Share Chat (Off) 42 Top Comments

2 shares

Comments

- Write a comment... Gov Nik Now I can look at any white man with dreads and say 'you Justin beiber looking prick' Like Reply 2 April 6 at 3:26am James Wickham White people rocking dreadlocks always end up looking like a nob Like Reply 1 April 6 at 3:37am

View 2 more comments

MyVice Sweats February 17

Team MyVice is proud to announce the emergence of Vic Michel, a designer at MyVice, as the personal stylist for Draymond Green of the Golden State Warriors. USA today's recent article described Michel's work



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on Green as "loud and proud as the man himself."
<http://goo.gl/eTdXgD>



Draymond Green's style befitting of his growing swagger

A first time All-Star, Draymond Green had the wardrobe to match the weekend party.

USATODAY.COM

Like Show more reactions Comment Share

9 Top Comments

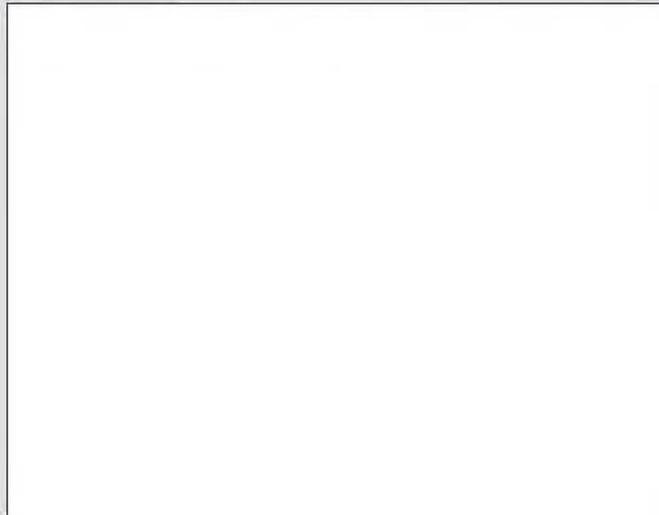
Comments

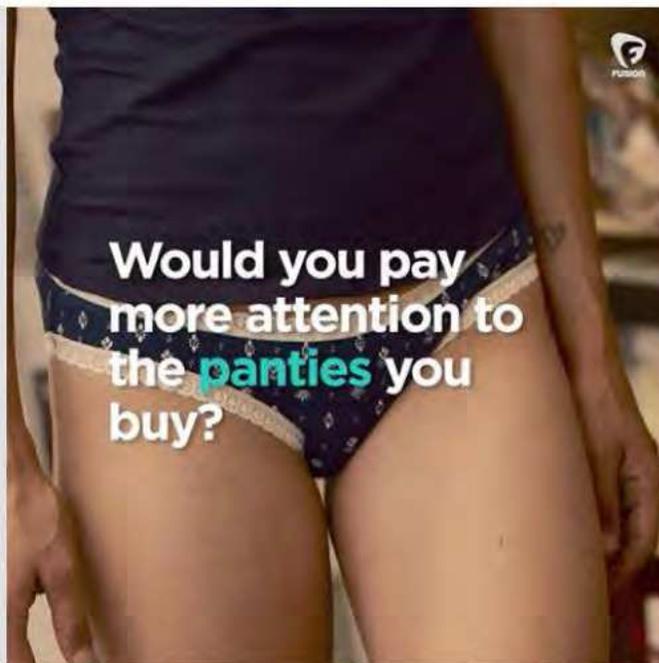
 Write a comment...

 **Donna Miles** Way to go My Vice. Love this guy!
Like Reply February 18 at 9:16am

 **MyVice Sweats** shared Fusion's video
February 9 📷

Not all apparel products are made the same.
We, here at MyVice, is COMMITTED to develop and source materials from trusted and environmentally-responsible vendors.





3,630,541 Views

Fusion

February 9 New York, NY

If your choice in underwear was connected to suicides in India, would you pay more attention to the panties you buy?

Like Show more reactions Comment Share



MyVice Sweats shared Elite Daily's post.

November 30, 2015

yes! another reason for you to grab your MyVice Sweats today!



Elite Daily

November 30, 2015

Apparently, sweatpants are the male equivalent of leggings:
<http://elitedai.ly/1IUjWUf>



Women Are Going Crazy Over Guys In Grey Sweatpants This Season (Photos)

It's like "50 Shades Of Grey Sweatpants."

ELITEDAILY.COM

Like Show more reactions Comment Share

3

Comments



Write a comment...

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MyVice Sweats Clothing

DAY 16

Shop Now Like Message

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About MyVice Sweats

Page Info

PAGE INFO

Short Description: designer sweats/ lifestyle brand for triumphant, confident and free men.

Long Description: MyVice is a men's lifestyle sweat collection based out of Los Angeles, CA that focuses on blending casual comfort with designer fashion. MyVice is a play on the original definition of VICE: being an addiction or a habit. Some people are addicted to love, drugs, exercise, etc. Our Vice? Sweats. MyVice is sweatpants, redefined. An under-appreciated aspect of men's fashion, we saw an opportunity to bring sweats to life. Focusing on high quality fabrics, tailored cuts, and fashionable design, MyVice provides the comfort without compromising your style. Our casual, classic, All-American lifestyle brand of clothing is synonymous with quality. MyVice Sweats Collection takes every approach to ensure all of its products for fit, feel and quality.

Products: Men's designer sweats

Website: <http://www.myvicesweats.com>

Chat (Off)

Opposition No. 91,223,280

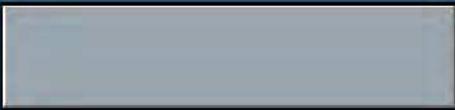
EXHIBIT O

Silbert Dec. ISO Plaintiffs' Motion for Summary Judgment



SINCE 1828

MENU



vice



MONTH FREE

Start Your Free Trial

1 vice

noun | \ 'vīs\

Popularity: Top 10% of words

Simple Definition of VICE

- : bad or immoral behavior or habits
- : a moral flaw or weakness
- : a minor bad habit

Examples: VICE in a sentence

Tip: Synonym guide



Full Definition of vice

- a : moral depravity or corruption : WICKEDNESS
 - b : a moral fault or failing
 - c : a habitual and usually trivial defect or

tunics
UP TO 70% OFF

zulily

SHOP NOW

WORD OF THE DAY

hobnob

to spend time with in a friendly way

Get Word of the Day daily email!

Your email address

SUBSCRIBE



- 2 : **BLEMISH, DEFECT**
- 3 : a physical imperfection, deformity, or taint
- 4 **a often capitalized** : a character representing one of the **vices** in an English morality play
b : **BUFFOON, JESTER**
- 5 : an abnormal behavior pattern in a domestic animal detrimental to its health or usefulness
- 6 : sexual immorality; *especially* : **PROSTITUTION**

See **vice** defined for English-language learners

See **vice** defined for kids

Examples of **VICE** in a sentence

Such men are prone to *vice*.

He thought gambling was a *vice*.

Eating too much is my *vice*.

The city is a den of filth and *vice*.

GILT

— **SPRING REFRESH** —

Suede & Leather

Shop Now



TRENDING NOW

- 1 **Encrypt**
From the Greek verb meaning "to hide."
- 2 **Rotten Borough**
Lookups spiked after two articles use...
- 3 **Gullible**
It's in the dictionary—we promise
- 4 **Battery**
Lookups for the word spiked after Tru...
- 5 **Shrapnel**
A civilian bystander was wounded in t...

[SEE ALL >](#)

BROWSE DICTIONARY

- vicara**
- vicarage**
- vicar apostolic**
- vicarate**
- vicar capitular**



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Opposition No. 91,223,280

Exhibit P

Silbert Dec. in support of Plaintiffs' Motion for Summary Judgment

OFFPRICE

AUGUST 13 - 16, 2016,
LAS VEGAS



WHY EXHIBIT?

OFFPRICE is the preeminent place to connect with retailers of all shapes and sizes in the discount apparel industry.

[Exhibitor application](#)

[Exhibitor Floorplan](#)

Who should exhibit?

Retailers from locations across the country and around the world all know the incredible values found throughout the show floor. National chains, boutique stores, new businesses, and more all shop OFFPRICE each February and August. The OFFPRICE Show and on-line properties are for off-price specialists and jobbers. The OFFPRICE Specialist definition of a jobber is a merchant who purchases off-price merchandise and warehouses the merchandise for the purpose of resale to the retail trade. If this describes your company, you should be exhibiting at OFFPRICE.

Below is a sampling of the type of retail stores that attend, casting a wide reaching net:

Boutique; Discount Store; Fitness Facility; Drug Store; Farm Supply Store; Variety Store; Non-Profit / Thrift Store; Army / Navy Surplus; Mail Order; Dollar Store; Sporting / Camping; Casino; Online; Retailer; Supermarket; Distributor / Wholesaler; Home Gift Retailer; Leased Department Operator; Convenience Store; Importer / Exporter; Golf Retailer; Direct Seller via TV; Off-Price Retailer; Hospital / Health Care; College Bookstore



Why exhibit - OFFPRICE



Apparel Candy

- new styles updated every month
- free shipping on orders over \$299
- easy to shop
- low prices everyday

SHOP
TODAY

Where do OFFPRICE buyers come from?

Retailers from all 50 states, Washington DC, and Puerto Rico attend each OFFPRICE Show. But the show's reach doesn't stop there. Buyers travel from around the world to find the best values under one roof. Just some of the countries represented at the show include:

CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2016, I have served the foregoing **DECLARATION OF SARAH SILBERT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OF PLAINTIFFS KAVEH HAROUNIAN AND VICE CLOTHING INC.** on Defendant in this matter by emailing a true and correct copy thereof to the following attorney of record for Defendant per the parties' agreement of October 29, 2015:

croh@ewpat.com

I have also served this document on Defendant by emailing a true and correct copy to: ming@myvicesweats.com.

June 1, 2016

/Sarah Silbert/

Robert Berliner
Sarah Silbert
Berliner Springut Steffin Azod LLP
555 West Fifth Street, 31st Floor
Los Angeles, CA 90013
tel: 213-533-4171
fax: 213-533-4174
ssilbert@berliner-ip.com
rberliner@berliner-ip.com

Counsel for Registrant
KAVEH HAROUNIAN and VICE
CLOTHING, INC.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

Kaveh Harounian and Vice Clothing, Inc.

Plaintiffs,

v.

Myvice LLC,

Defendant.

In the Matter of Application Serial No.
86/445,916

Published in the Official Gazette April 14, 2015

Opposition No.: 91,223,280

**[PROPOSED] ORDER GRANTING
MOTION FOR SUMMARY JUDGMENT
OF PLAINTIFFS KAVEH HAROUNIAN
AND VICE CLOTHING INC.**

The Motion for Summary Judgment of Opposers Kaveh Harounian and Vice Clothing, Inc. (collectively, "Vice Clothing") came on regularly for hearing by the Trademark Trial and Appeal Board of the United States Patent and Trademark Office. After considering all papers and arguments of counsel presented in support of and in opposition to Vice Clothing's Motion for Summary Judgment, and good cause appearing,

IT IS HEREBY ORDERED THAT:

Vice Clothing's Motion for Summary Judgment is GRANTED. The Board finds that Vice Clothing has established a Likelihood of Confusion as a matter of law. As such, judgment should be entered for Vice Clothing as a matter of law and application No. 86/445,916 is DENIED.

DATED: _____, 2016

Administrative Trademark Judge

CERTIFICATE OF SERVICE

I hereby certify that, on June 1, 2016, I have served the foregoing **[PROPOSED] ORDER GRANTING MOTION FOR SUMMARY JUDGMENT OF PLAINTIFFS KAVEH HAROUNIAN AND VICE CLOTHING INC.** on Defendant in this matter by emailing a true and correct copy thereof to the following attorney of record for Defendant per the parties' agreement of October 29, 2015:

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DATED: June 1, 2016

/Sarah Silbert/

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