

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.:**

VENUS FASHION, INC.,

Plaintiff,

vs.

CHANGCHUN CHENGJI TECHNOLOGY
CO., LTD.
AUKEY INTERNATIONAL LIMITED, and
AUKEY E-BUSINESS CO., LTD.,

Defendants.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

Plaintiff Venus Fashion, Inc. (“Venus”), by and through its undersigned attorneys, Dykema Gossett PLLC, sues Defendants Changchun Chengji Technology Co., Ltd., Aukey International Limited, and Aukey E-Business Co., Ltd. d/b/a the domain name Vessos.com (“Vessos”) and alleges:

NATURE OF THE SUIT

1. This case arises out of Vessos’s unauthorized use of Venus’s original photographic creations of Venus’s clothing designs that are registered copyrights (the “Images”). Copies and derivative versions of these Images (the “Infringing Photographs”) were used on Vessos’s competing website located at domain name www.Vessos.com without the permission or authorization of Venus.
2. Venus files this lawsuit for copyright infringement under 17 U.S.C. §101, *et. seq.*

THE PARTIES

3. Venus is a Delaware corporation with its principal place of business at 11711 Marco Beach Drive, Jacksonville, Florida 32224.

4. Venus, its affiliates and subsidiaries, is the creator, owner, and publisher of the Images and has exclusive rights to the Images.

5. Upon information and belief, Changchun Chengji Technology Co., Ltd., is either located in the People's Republic of China at Room 601, 608, Building H, Jilin Northeast Asia Cultural Technology Park, No. 5588 Feiyue road, Gaoxin district, Changchun city, Jilin province or located in the People's Republic of China at Room 601, 6/F, Building D, No. 155, Jinhe Street, Gaoxin District, Changchun, China and operates its business in the United States. Upon information and belief, Changchun Chengji Technology Co., Ltd. holds the United States Trademark registration for the Vessos trademark and is also involved in the development of the www.vessos.com website and the operation of Vessos.

6. Upon information and belief, Aukey International Limited is located in the People's Republic of China at No. 102, Building P09, China South City, No. 1 China South Road, Pinghu Street, Longgang District, Shenzhen City, Guangdong province, China and operates its business in the United States. Upon information and belief, payments to Vessos, which are processed by PayPal, are credited to Aukey International Limited and Aukey International Limited is also involved in the development of the www.vessos.com website and the operation of Vessos.

7. Upon information and belief, Aukey E-Business Co., Ltd. is located in the People's Republic of China at No. 102, Building P09, China South City, No. 1 China South Road, Pinghu Street, Longgang District, Shenzhen City, Guangdong province, China and operates its business in the United States. Upon information and belief, Aukey E-Business Co.,

Ltd. is the registrant and administrator for the vessos.com domain name, processes orders on behalf of Vessos, is also involved in the development of the www.vessos.com website and the operation of Vessos.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over the copyright claims pursuant to 28 U.S.C. §§1331 and 1338. Venus is the owner of all right, title and interest in and to the copyrights in the Images and the copyright registrations therefor, Reg. Nos. TX0008060111, TX0008161774 and TXu 1-987-646, which are the registration of the Images. Copies of the Registration Certificates are attached hereto as Composite Exhibit A1, A2 and A3, respectively.

9. This Court has personal jurisdiction over Vessos, because Vessos conducts substantial business in the District, has and is knowingly and intentionally engaging in tortious acts within the District, and has and is knowingly and intentionally engaged in tortious acts expressly aimed at this District and which cause injury within this District through at least its Internet based ecommerce store at www.vessos.com.

10. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. §§1391 and 1400 since Vessos is, upon information and belief, aliens who engage in infringing activities and cause harm within this District. Vessos has also advertised, offered for sale, and made sales and shipped and/or sold infringing products into this District.

VENUS AND VENUS'S OWNERSHIP OF THE IMAGES

11. Venus is a Florida-based fashion business created in 1982 by Doyle Scott in his college dorm room. Venus, which began in the business of creating competition bodysuits, has grown into a highly successful women's swimwear and clothing designer and developer. Venus designs and develops its products, processes orders, and markets its products all from its operations in Florida. Venus employs over 650 people in the State of Florida.

12. In the course of operating its fashion business, Venus is the author of the Images of its fashion designs. Accordingly, Venus owns all copyrights in and to the Images.

13. Venus registered the Images with the United States Copyright Office (the “Copyright Office”) under registration numbers TX0008060111 registered January 8, 2015, TX0008161774 registered February 23, 2016, and TXu 1-987-646, registered April 14, 2016. These registrations were obtained prior to any known infringement.

14. Venus displays the Images in several locations, including on its website at www.venus.com and in its catalog, as part of its online retail operations.

VESSOS’S UNAUTHORIZED USE OF VENUS’S IMAGES

15. Vessos provides an online and mobile shopping marketplace. Users can access Vessos through the Internet at www.Vessos.com.

16. As a part of its business, Vessos promotes its marketplace through promotional emails, banner ads and other communications.

17. Numerous Venus Images have been copied and displayed by Vessos as photographs on the Vessos marketplace website to advertise and sell its goods which compete with those of Venus – often of inferior quality and at deep discounts from the Venus goods. These Infringing Photographs displayed by Vessos are either identical to Venus Images displayed on the Venus website, or they are substantially similar or derivatives of the Venus Images. For example, the Infringing Photographs are similar or derivative uses of the Images with the head of the model chopped off, the product photo-shopped a different color or the Image flipped to mirror the original Image. Several comparisons of Venus Images and Infringing Photographs are included below:

Venus Copyright Image	Infringing Photographs on Vessos.com		
	 <p data-bbox="565 604 829 653">Solid Off Shoulder Half Sleeve Styl... \$23.39 \$11.49</p>	 <p data-bbox="857 604 1122 653">Solid Off Shoulder Half Sleeve Vog... \$23.39 \$11.49</p>	 <p data-bbox="1149 604 1382 653">Solid Off Shoulder Half Sleeve Tre... \$23.39 \$11.49</p>
	 <p data-bbox="565 1123 829 1171">Solid Chiffon Ruffled Chic Tank \$20.79 \$10.39</p>	 <p data-bbox="857 1136 1138 1184">Feather Printed Lace Splicing Fash... \$10.19</p>	

18. Venus has received numerous complaints of actual confusion by Venus and Vessos customers who believe that they are purchasing Venus products from Vessos because the Infringing Photographs are identical or substantially similar to the Images only to find out that the merchandise purchased from Vessos is of poor quality and looks nothing like the merchandise shown in the Images. In addition, other customers have complained that Venus has been overcharging its customers because they saw the exact same image of a product on www.vessos.com.

VENUS LEARNS OF VESSOS'S UNAUTHORIZED USE OF ITS IMAGES

19. In or about March 2016, Venus became aware that its Images were copied and displayed as the Infringing Photographs publically on the Vessos website without permission or authorization from Venus.

20. On or about March 23, 2016, Venus notified Vessos by email (to service@vessos.com, the only listed way to contact Vessos on the vessos.com website) that approximately five of the Images displayed on the Vessos website are protected by copyright TX0008060111.

21. "Jessie", an employee of Vessos, replied asking for the copyright registration number but never responded to repeated requests to take down the Infringing Photographs.

22. Venus sent a follow up letter on June 3, 2016 notifying Vessos of the continued and significantly expanded unauthorized use of Venus's Images on the Vessos.com. By June 3, 2016, Vessos had displayed approximately 96 Infringing Photographs protected by copyright TX0008161774. Venus demanded that Vessos take down the Infringing Photographs and provide an explanation why Vessos did not properly address its prior and continued infringement (the "June 3 Letter"). The demand included that Vessos cease and desist all use of the Infringing Photographs, destroy the Infringing Photographs and provide the contact information for any supplier who posted a Venus Image or any customer who bought a product that was advertised using a Venus Image.

23. Vessos never replied to the June 3 Letter.

24. Vessos continues to display many of the same Infringing Photographs that Venus identified as far back as March, 2016 and continues to add new Infringing Photographs to its

website and other social media platforms. Based on a review completed by Venus on June 30, 2016, there are at least 200 Infringing Photos recently copied and displayed on Vessos's website.

25. At no time did Venus grant or Vessos obtain permission or authorization from Venus to use, alter, display or distribute its Images or any part thereof in any manner.

COUNT I – DIRECT COPYRIGHT INFRINGEMENT

26. Venus incorporates by reference the allegations in paragraphs 1-26 above as if fully set forth herein.

27. Venus created the Images and owns valid protectable copyrights in the Images. Venus registered the Images with the United States Copyright Office. The Copyright Registration numbers are TX0008060111, TX0008161774 and TXu 1-987-646.

28. Vessos had access to and copied the copyrighted Images and displayed the Infringing Photographs that are substantially similar or identical to, or derivative works of, those Images on the Vessos website, social media pages, promotional emails, banner ads, and other locations.

29. Venus notified Vessos of Vessos's unauthorized use of the Infringing Photographs.

30. The acts of Vessos constitute willful infringement of Venus's copyrights of the Images, of the copyrights in violation United States copyright laws, of 17 U.S.C. §§ 106 and 501.

31. Each such infringement by Vessos of the Images constitutes a separate and distinct act of infringement.

32. Venus has suffered actual and irreparable injury for which no adequate remedy exists at law, as a direct and proximate cause of Vessos's unauthorized use of the Images. Unless enjoined, Vessos will continue to irreparably damage Venus.

33. Venus is entitled to, pursuant to 17 U.S.C. §502, temporary and permanent injunctive relief restraining and enjoining Vessos and any affiliated persons or businesses from infringing on Venus's copyrights of the Images.

34. Pursuant to 17 U.S.C. §504, Venus is entitled to recover, at its election: 1) all damages sustained as a result of Vessos's unlawful conduct including Venus's actual damages and any profits of Vessos that are attributable to the infringement and are not a part of Venus's actual damages; or 2) statutory damages in the amount of \$150,000 for each and every act of infringement.

35. Venus has retained the undersigned counsel and is entitled to its attorneys' fees and full costs pursuant to 17 U.S.C. §505.

CLAIM FOR RELIEF

WHEREFORE, Plaintiff Venus respectfully requests this court to:

- i) enter a preliminary and permanent injunction jointly and severally against Vessos requiring Vessos and any other affiliated person or businesses to:
 - a) remove all infringing copies of Venus Images from the Vessos website; social media pages, including but not limited to Facebook; promotional materials, emails, and messages; online and print advertisements; and any other use;
 - b) cease and desist using copies and derivative works of Venus Images on the Vessos website; social media pages, including but not limited to Facebook; promotional materials, emails, and messages; online and print advertisements; and any other use;
 - c) destroy all copies of Venus's Images and any materials containing the Venus Images, or derivatives thereof, including digital and electronic copies, within Vessos's or any other affiliated person or possession, custody or control;
 - d) prohibit transfer of www.vessos.com during the pendency of this action;

- e) redirect and disable www.vessos.com; and
 - f) prevent the transfer of Vessos's assets.
- ii) enter a judgment in favor of Venus awarding Venus, at its election: 1) all damages sustained as a result of Vessos's unlawful conduct including Venus's actual damages and any profits of Vessos that are attributable to the copyright infringement and are not a part of Venus's actual damages; or 2) statutory damages in the amount of \$150,000 for each and every act of infringement;
- iii) award pre- and post-judgment interest according to the law;
 - iv) award Venus its reasonable attorneys' fees and costs; and
 - v) grant such other and further relief as this court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

Dated: July 21, 2016

By: /s/ Peter A. Chiabotti

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Attorneys for Plaintiff Venus Fashion, Inc.

COMPOSITE EXHIBIT
A1 – A3

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Registration Number
TX 8-060-111
Effective Date of Registration:
January 08, 2015

Maura A. Pallante

Register of Copyrights, United States of America

Title

Title of Work: Venus
Volume: A
Number: 734
Date on Copies: 2014

Completion/Publication

Year of Completion: Not given
Date of 1st Publication: July 22, 2014
Nation of 1st Publication: United States

Author

- Author:** Venus Fashion, Inc.
Author Created: Collective Work
Work made for hire: Yes

Copyright Claimant

Copyright Claimant: Venus Fashion, Inc.
11711 Marco Beach Drive, Jacksonville, FL, 32224

Certification

Name: Todd Durden



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Registration Number
TX 8-161-774
Effective Date of Registration:
February 23, 2016

Maria A. Pallante

United States Register of Copyrights and Director

Title _____

Title of Work: Venus
Volume: A
Number: 1015
Date on Copies: 2015

Completion/Publication _____

Date of 1st Publication: September 29, 2015

Author _____

- **Author:** Venus Fashion, Inc.
Author Created: COLLECTIVE WORK
Work made for hire: Yes

Copyright Claimant _____

Copyright Claimant: Venus Fashion, Inc.
11711 Marco Beach Drive, Jacksonville, F1, 32224

Certification _____

Name: Todd Durden

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

United States Register of Copyrights and Director

Registration Number

TXu 1-987-646

Effective Date of Registration:

April 14, 2016

Title

Title of Work: Venus

Completion/Publication

Year of Completion: 2016

Author

- **Author:** Venus Fashion, Inc.
- Author Created:** photographs, artwork
- Work made for hire:** Yes
- Citizen of:** United States
- Domiciled in:** United States

Copyright Claimant

Copyright Claimant: Venus Fashion, Inc.
11711 Marco Beach Drive, Jacksonville, FL, 32224, United States

Rights and Permissions

Organization Name: Venus Fashion, Inc.
Address: 11711 Marco Beach Drive
Jacksonville, FL 32224 United States

Certification

Name: Emily Hall
Date: April 14, 2016

Correspondence: Yes

JS 44 (Rev. 07/16) FLSD Revised 07/01/2016

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS Venus Fashion, Inc.

DEFENDANTS Changchun Chengji Technology Co., Ltd., Aukey International Limited, Aukey E-Business Co., Ltd.

(b) County of Residence of First Listed Plaintiff Duval (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Outside this District (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Peter A. Chiabotti, 777 S. Flagler Drive, Suite 1100, West Tower, West Palm Beach, FL 33401

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

- Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State Incorporated and Principal Place of Business In Another State Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Grid of categories including CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, SOCIAL SECURITY, FEDERAL TAX SUITS, and OTHER STATUTES with checkboxes for various legal claims.

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation Transfer 7 Appeal to District Judge from Magistrate Judgment 8 Multidistrict Litigation - Direct File 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions:) a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 17 U.S.C. § 101, Copyright infringement

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: YES NO

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE July 21, 2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY RECEIPT #

AMOUNT

IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.