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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

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14 JOSEPH TIERNEY, P/K/A “RIME,”
an individual; CARY PATRAGLIA,
15 P/K/A “HOST18,” an individual;
SPENCER VALDEZ, P/K/A
16 “TABOO,” an individual; and KEITH
ROWLAND, P/K/A “REME,” an
individual;

17 Plaintiffs,

18
19 v.

20 CAMUTO CONSULTING, INC.,
D/B/A CAMUTO GROUP, a
Connecticut corporation; VINCENT
21 CAMUTO, LLC, a Connecticut limited
liability company; CAMUTO GROUP,
22 LLC., a Delaware limited liability
company; and DOES 1-10 inclusive.

23 Defendants.
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Case No.

**COMPLAINT FOR DAMAGES,
RESTITUTION AND INJUNCTIVE
RELIEF**

DEMAND FOR JURY TRIAL

25
26 Plaintiffs Joseph Tierney, p/k/a “Rime” (“Tierney,” or “Rime”); Cary
Patraglia, p/k/a “Host18” (“Patraglia,” or “Host18”); Spencer Valdez, p/k/a “Taboo”
27 (“Valdez,” or “Taboo”); and Keith Rowland, p/k/a “Reme” (“Rowland,” or “Reme”)
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1 (collectively “Plaintiffs”) hereby complain against Defendant Camuto Consulting,
2 Inc., d/b/a Camuto Group; Vincent Camuto, LLC; and Camuto Group, LLC
3 (collectively “Camuto” or “Defendants”); and Does 1-10 inclusive (collectively
4 referred to as “Defendants”) as follows.

5 **SUMMARY OF THE CASE**

6 1. Plaintiffs Tierney, Patraglia, Valdez, and Rowland are highly acclaimed
7 contemporary artists, well known in the art world by their respective art
8 pseudonyms “Rime,” “Host18,” “Taboo,” and “Reme.” Plaintiffs have exhibited in
9 museums and galleries around the world, including the Museum of Contemporary
10 Art here in Los Angeles. Plaintiffs are well known for vibrantly colored, large-scale
11 outdoor paintings featuring their art pseudonyms.

12 2. In or about April 2015, Plaintiff Reme painted a mural on a wall on
13 Morgan Avenue, in Brooklyn, New York. As shown below, this mural featured
14 Reme’s art pseudonym:

15 REME



1 3. In or about April 2016, Plaintiffs Rime, Host18, and Taboo, painted a
2 group of outdoor murals, at 319 Boerum Street, in Brooklyn, New York. As shown
3 below, each of these murals featured the individual Plaintiffs' art pseudonyms:

4 RIME



11 HOST18



20 TABOO



1 4. In or about February 2017, Camuto inexplicably featured Plaintiffs’
2 murals (the “Murals”) as the centerpiece of a marketing campaign for their
3 Spring/Summer 2017 line (the “Campaign”), *without Plaintiffs’ knowledge or*
4 *consent*. The Campaign included both video, and still imagery featuring the Murals.
5 It debuted on Camuto’s social media accounts, including YouTube, Instagram,
6 Twitter, and Facebook; and was featured on various fashion websites. Still images
7 of the Murals taken from the Campaign were also featured throughout Camuto’s
8 own website, and the websites of third party retailers, including Macy’s. The
9 Campaign video was also broadcast in taxi cabs throughout New York and
10 displayed inside Camuto’s retail stores.

11 5. Defendants’ exploitation of Plaintiffs’ work, brand, and persona
12 damages their reputation, especially because they have carefully and selectively
13 approached any association with corporate culture and mass-market consumerism.
14 Indeed, Plaintiffs are in very high demand for commercial work and are diligent in
15 controlling distribution channels of their work.

16 **JURISDICTION AND VENUE**

17 6. This Court has original subject matter jurisdiction over this action and
18 the claims asserted herein, pursuant to 28 U.S.C. Section 1331 (“federal question
19 jurisdiction”) and 1338(a)-(b) (“patent, copyright, trademark and unfair competition
20 jurisdiction”) in that this action arises under the laws of the United States and, more
21 specifically, Acts of Congress relating to patents, copyrights, trademarks, and unfair
22 competition.

23 7. Defendants are subject to the personal jurisdiction of the Court because
24 they do or transact business in, have agents in, or are otherwise found in and have
25 purposely availed themselves of the privilege of doing business in California and in
26 this District.

27 8. Venue is proper in this District pursuant to 28 U.S.C. Section
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1 1391(b)(1)-(3) because a substantial part of the events or omissions giving rise to
2 the claims occurred in this District in that, *inter alia*, the infringing advertising was
3 used here.

4 **THE PARTIES**

5 9. Plaintiff Joseph Tierney is, and at all times relevant herein has been a
6 resident of Brooklyn, New York, and is a renowned artist, producing works under
7 the pseudonym “Rime.”

8 10. Plaintiff Cary Patraglia is, and at all times relevant herein has been a
9 resident of Brooklyn, New York, and is a renowned artist, producing works under
10 the pseudonym “Host18.”

11 11. Plaintiff Spencer Valdez is, and at all times relevant herein has been a
12 resident of Brooklyn, New York, and is a renowned artist, producing works under
13 the pseudonym “Taboo.”

14 12. Plaintiff Keith Rowland is a renowned artist, producing works under
15 the pseudonym “Reme.”

16 13. Defendant Camuto Consulting, Inc. is a Connecticut corporation, doing
17 business as “Camuto Group.” On information and belief, Camuto Consulting, Inc. is
18 the owner of the Vince Camuto fashion brand.

19 14. Defendant Vincent Camuto, LLC is a Connecticut limited liability
20 company, licensed to do business in the State of California.

21 15. Defendant Camuto Group, LLC is a Delaware limited liability
22 company.

23 16. Plaintiffs are ignorant of the true names and capacities of the
24 Defendants sued herein as Does 1-10, inclusive, and therefore sue said Defendants
25 by such fictitious names. Plaintiffs will amend this Complaint to allege the true
26 names and capacities when the same has been ascertained. Plaintiffs are informed
27 and believe, and thereon allege, that each fictitiously-named Defendant is
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1 responsible in some manner for the occurrences herein alleged, and that Plaintiffs'
2 damages as herein alleged were proximately caused by their conduct.

3 17. Each of the Defendants acted as an agent for each of the other
4 Defendants in doing the acts alleged and each Defendant ratified and otherwise
5 adopted the acts and statements performed, made or carried out by the other
6 Defendants so as to make them directly and vicariously liable to the Plaintiffs for the
7 conduct complained of herein.

8 **GENERAL ALLEGATIONS**

9 18. As a result of Defendants' misconduct as alleged above, Camuto has
10 enjoyed substantial revenue and profits.

11 19. Camuto benefitted from the misappropriation and infringement in a
12 number of ways, including but not limited to the following: (i) they enjoyed the
13 increased consumer interest, and sales increases generated by the Campaign, and (ii)
14 the association with Plaintiffs increased the value, image, and positioning of the
15 Camuto Defendants, and the Vince Camuto brand.

16 20. Plaintiffs have sustained significant injury and monetary damages as a
17 result of Defendants' wrongful acts as alleged in this Complaint, including
18 reputational damage and diminishment of the value of their work.

19 21. Plaintiffs are at present unable to ascertain the full extent of the
20 monetary damages they have suffered by reason of said acts. In order to determine
21 the full extent of such damages, including such profits of Defendants as may be
22 recoverable, Plaintiffs require an accounting from each Defendant of all monies
23 generated from their wrongful conduct.

24 22. Plaintiffs are informed and believe, and thereon allege, that
25 Defendants' alleged conduct was, and continues to be, intentional, deliberate,
26 willful, wanton, committed with the intention of injuring Plaintiffs, and depriving
27 Plaintiffs of their legal rights; was, and is, despicable conduct that subjects Plaintiffs
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1 to a cruel and unjust hardship; and was, and continues to be, undertaken with
2 oppression, fraud and malice. Accordingly, Plaintiffs are entitled to an award of
3 punitive or exemplary damages.

4 23. Defendants' actions have caused, and will continue to cause, damage
5 and irreparable harm to Plaintiffs (as described above) and are likely to continue
6 unabated, thereby causing further damage and irreparable harm to Plaintiffs, unless
7 preliminarily and permanently enjoined and restrained by the Court.

8 **First Claim For Relief For Copyright Infringement**
9 **(Against All Defendants)**

10 24. Plaintiffs incorporate herein by this reference paragraphs 1 through 23
11 as if set forth in full in this cause of action.

12 25. Plaintiffs' graphic expressions, as shown in the images above, are
13 original works of authorship and constitute copyrightable subject matter under the
14 laws of the United States. The images were fixed in a tangible medium of
15 expression, as described above. Applications for federal registration of each of the
16 Murals have been filed with the Register of Copyrights; and the deposit, application,
17 and fee required for registration have been delivered to the Copyright Office in
18 proper form. The case numbers associated with the applications are: 1-5488288331
19 (Taboo, titled "TABOO"); 1-5488288385 (Rime, titled "RIMEBK"); 1-5488288438
20 (Host18, titled "41 SHOTS"); and 1-5506297691 (Reme, titled "4 EYES").

21 26. At all times since the creation of their graphic expressions, Plaintiffs
22 have complied with all aspects of the Copyright Acts of 1909 and 1976 and all other
23 laws governing copyright, and secured the exclusive rights and privileges in and to
24 the graphic expression. Plaintiffs are the sole owner of all rights, title, and interest in
25 and to the copyright in their respective graphic expressions.

26 27. Subsequent to Plaintiffs' creation of the graphic expressions and (on
27 information and belief) with full knowledge of the rights of Plaintiffs, Defendants
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1 infringed Plaintiffs' copyrights by copying and reproducing, as described above, the
2 artwork and exhibiting such copied images as advertising materials.

3 28. All of Defendants' acts were performed without the permission, license
4 or consent of Plaintiffs.

5 29. By reason of Defendants' acts of copyright infringement as alleged
6 herein, Plaintiffs have suffered and will continue to suffer substantial damage to
7 their businesses in the form of diversion of trade, loss of profits, and a diminishment
8 in the value of Plaintiffs' works, rights, and reputation, in part as described above,
9 all in amounts that are not yet ascertainable but not less than the jurisdictional
10 minimum of this court.

11 30. By reason of Defendants' infringement of Plaintiffs' copyright as
12 alleged herein, Defendants are liable to Plaintiffs for the actual damages incurred by
13 Plaintiffs, and each of them, as a result of the infringement, and for any profits of
14 Defendants directly or indirectly attributable to such infringement.

15 31. Defendants' copying was willful, as alleged above.

16 **Second Claim For Relief For Falsification, Removal and Alteration of**
17 **Copyright Management Information in Violation of the Digital Millennium**
18 **Copyright Act (17 U.S.C. § 1202)**
19 **(Against All Defendants)**

20 32. Plaintiffs incorporate herein by this reference paragraphs 1 through 23,
21 and 25 through 31 as if set forth in full in this cause of action.

22 33. The Murals contained copyright management information protected
23 under 17 U.S.C. § 1202(b), including Plaintiffs' signatures (i.e. stylized renditions
24 of their pseudonyms "Rime," "Host18," "Taboo," and "Reme").

25 34. Defendants intentionally obscured and/or altered the copyright
26 management information contained in the Murals, in that Plaintiffs' names are not
27 legible in Defendants' advertising materials, because some of the letters are cut off,
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1 or otherwise obscured.

2 35. Defendants' conduct constitutes a violation of 17 U.S.C. § 1202(a), and
3 1202(b).

4 36. Defendants' falsification, removal and/or alteration of that copyright
5 management information was done without Plaintiffs' knowledge or authorization.

6 37. Defendants' falsification of said copyright management information
7 was done by Defendants intentionally, knowingly, and with the intent to induce,
8 enable, facilitate, or conceal Defendants' infringement of Plaintiffs' respective
9 copyrights in the Murals. Defendants also knew, or had reason to know, that such
10 removal and/or alteration of copyright management information would induce,
11 enable, facilitate, or conceal Defendants' infringement of Plaintiffs' respective
12 copyrights in the Murals.

13 38. Plaintiffs have sustained significant injury and monetary damages as a
14 result of Defendants' wrongful acts as hereinabove alleged. Plaintiffs are at present
15 unable to ascertain the full extent of the monetary damages they have suffered by
16 reason of said acts. In order to determine the full extent of such damages, including
17 such profits of Defendants as may be recoverable under 17 U.S.C. § 1203, Plaintiffs
18 will require an accounting from each Defendant of all monies generated from their
19 wrongful falsification, removal and alteration of Plaintiffs' respective copyright
20 management information.

21 39. In the alternative, Plaintiffs may elect to recover statutory damages
22 pursuant to 17 U.S.C. § 1203(c)(3) in a sum of not more than \$25,000 from each
23 Defendant for each violation of 17 U.S.C. § 1202.

24 **PRAYER**

25 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of
26 them, as follows:

27 1. That Plaintiffs are awarded all damages, including future damages, that
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1 each Plaintiff has sustained, or will sustain, as a result of the acts complained of
2 herein, subject to proof at trial;

3 2. That Plaintiffs are awarded their costs, attorneys' fees and expenses in
4 this action;

5 3. That Plaintiffs are awarded pre-judgment interest;

6 4. For an order permanently enjoining each Defendant and their
7 employees, agents, servants, attorneys, representatives, successors, and assigns, and
8 any and all persons in active concert or participation with any of them, from
9 engaging in the misconduct referenced herein;

10 5. That each Defendant be ordered to immediately recall and remove any
11 and all infringing advertisements from any and all remaining locations, physical or
12 digital;

13 6. That Defendants be ordered to file with this Court and serve upon
14 Plaintiffs' counsel within thirty (30) days after services of the judgment demanded
15 herein, a written report submitted under oath setting forth in detail the manner in
16 which they have complied with the judgment;

17 8. For disgorgement of all proceeds, and restitution of the moneys
18 wrongfully received by Defendants as the result of their wrongful conduct, including
19 copyright infringement;

20 9. For punitive damages in an amount sufficient to deter Defendants, and
21 each of them, from their wrongful conduct; and

22 10. For further relief, as the Court may deem appropriate.

23 DATED: 7/5/17

GLUCK LAW FIRM P.C.

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25
26 By: /s/
27 Jeffrey S. Gluck
28 Attorney for Plaintiffs

