

1 Stephen M. Doniger (SBN 179314)
stephen@donigerlawfirm.com
2 Trevor W. Barrett (SBN 287174)
tbarrett@donigerlawfirm.com
3 Kelsey Schultz (SBN 328159)
kschultz@donigerlawfirm.com
4 DONIGER / BURROUGHS
5 603 Rose Avenue
6 Venice California 90291
7 Telephone: (310) 590-1820
Attorneys for Plaintiff
8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 CARIBBEAN BLUES, INC., doing business
12 as "EKB TEXTILES," a California
13 Corporation,

14 Plaintiff,

15 v.

16 ZULILY, LLC, a Delaware limited liability
17 company, and DOES 1-10,
18

19 Defendants.
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Case No.:

**PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

Jury Trial Demanded

1 CARIBBEAN BLUES, INC., doing business as “EKB Textiles” (“Plaintiff” or
2 “EKB”), by and through its undersigned attorneys, hereby prays to this honorable
3 Court for relief based on the following:

4 **JURISDICTION AND VENUE**

5 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
6 *et seq.*

7 2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331 and
8 1338 (a)

9 3. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(c) and
10 1400(a) in that this is the judicial district in which a substantial part of the acts and
11 omissions giving rise to the claims occurred.

12 **PARTIES**

13 4. Plaintiff is a corporation organized and existing under the laws of the
14 State of California with its principal place of business located at 777 E Washington
15 Blvd., Los Angeles, CA 90021.

16 5. Plaintiff is informed and believes and thereon alleges that Defendant
17 ZULILY, LLC, (“ZULILY”), doing business as “ZULILY” is a Delaware limited
18 liability company with its principal place of business located at 300 Deschutes Way
19 SW, Suite 304, Tumwater, WA 98501, and is doing business with the State of
20 California.

21 6. Plaintiff is informed and believes and thereon alleges that Defendant
22 ZULILY owns and operates <https://www.zulily.com>.

23 7. Plaintiff is informed and believes and thereon alleges that Defendants
24 DOES 1 through 10, inclusive, are other parties not yet identified who have infringed
25 Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights,
26 or have engaged in one or more of the wrongful practices alleged herein. The true
27 names, whether corporate, individual or otherwise, of Defendants 1 through 10,

28 inclusive, are presently unknown to Plaintiff, which therefore gives said Defendants

1 by such fictitious names, and will seek leave to amend this Complaint to show their
2 true names and capacities when same have been ascertained.

3 8. Plaintiff is informed and believes and thereon alleges that at all times
4 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
5 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
6 at all times acting within the scope of such agency, affiliation, alter-ego relationship
7 and/or employment; and actively participated in or subsequently ratified and/or
8 adopted each of the acts or conduct alleged, with full knowledge of all the facts and
9 circumstances, including, but not limited to, full knowledge of each violation of
10 Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

11 9. ZULILY and Does 1-10 will collectively be referred to as "Defendants"
12 herein.

13 **CLAIMS RELATED TO EKB DESIGN # 9383**

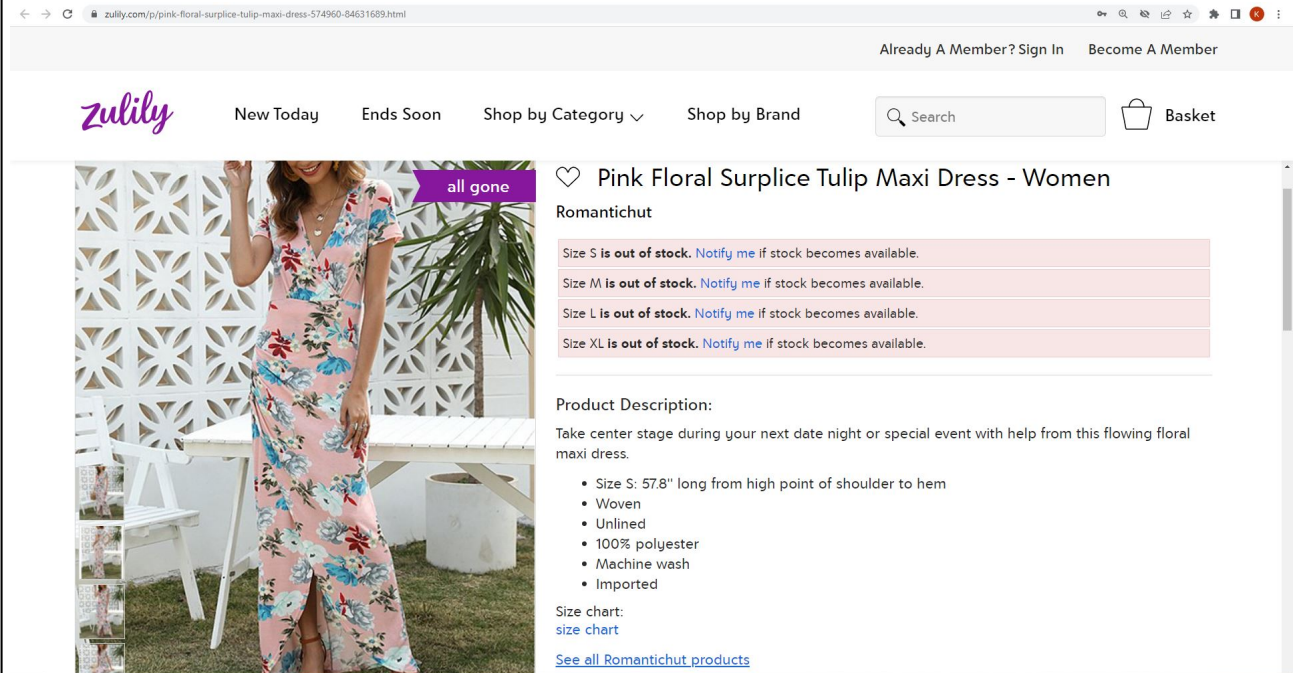
14 10. Plaintiff owns an original two-dimensional artwork used for purposes of
15 textile printing entitled EKB Design # 9383 (the "Subject Design") which has been
16 registered with the United States Copyright Office under Registration No. VA 2-114-
17 907.

18 11. Prior to the acts complained of herein, Plaintiff widely disseminated
19 fabric bearing the Subject Design to numerous parties in the fashion and apparel
20 industries.

21 12. Plaintiff is informed and believes and thereon alleges that following its
22 distribution of the Subject Design, Plaintiff learned that Defendants created, sold,
23 manufactured, caused to be manufactured, imported and/or distributed fabric and/or
24 garments comprised of fabric featuring unauthorized reproductions of the Subject
25 Design or designs which are substantially similar to the Subject Design (hereinafter
26 "Offending Products"). Offending Products includes but are not limited to the
27 garments sold by ZULILY, under SKU ROMANTICHUT_TOM1025-

28 D. PRINTING. Subject bearing the label "Romantichut" as shown in the below screen

capture:



13. Indeed, this is not the first time ZULILY has infringed the Subject Design. On or about November 3, 2020, counsel for EKB sent a cease-and-desist demand to ZULILY after purchasing garments bearing the same illicit reproductions of the Subject Design that are at issue in this case. The parties reached a confidential settlement of that matter with an effective date of January 13, 2021. Importantly, no license or authorization for future sales was here was provided as part of that resolution. Thus, Plaintiff believes and alleges that the infringement at issue was committed with actual knowledge of Plaintiff's rights such that said acts of copyright infringement were, and are willful.

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14. A representative image of the Subject Design and a detailed exemplar of Offending Products are set forth below:

<u>Subject Design:</u>	<u>Offending Product:</u>
	  

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