

Exhibit A



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A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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February 16, 2018

VIA FEDEX AND VIA E-MAIL

Steven Madden, Ltd.
52-16 Barnett Ave.
Long Island City, NY 11104

Re: Cult Gaia – Unfair Competition and Trademark Infringement

To Whom It May Concern:

We are litigation counsel for Cult Gaia. Cult Gaia is the owner of several trademarks¹ in connection with its goods and services. Since at least 2011, Cult Gaia has designed and distributed unique and high quality handbags, accessories and clothing under the trademark “Cult Gaia.”

Specifically, Cult Gaia has been selling and distributing its signature Ark handbag continuously since 2013. Cult Gaia has invested substantial effort and sums to market and promote its distinctive Ark handbag. The distinctive design of the Ark handbag is the result of months of design and development work, resulting in a high-quality and uniform product with a precise, clean, and inherently distinctive appearance. Since Cult Gaia’s launch of the Gaia’s Ark bag in 2013, and through significant marketing expenditures, solicited and unsolicited press attention, and Instagram popularity, the Cult Gaia Ark bag has achieved prominence as an “it” bag and the Ark trade dress has acquired distinctiveness (i.e. secondary meaning) associating it with Cult Gaia exclusively. Therefore, the design of the Ark handbag has become a trademark of Cult Gaia in which it owns exclusive rights.

The unique and distinctive Ark trade dress includes the combination of the following features: structured and flat front and back panels made of thin, uniformly-sized strips of rigid material (such as bamboo), arranged in an interlocking manner to form three concentric half circles creating a distinctive see-through sunburst design, topped by horizontal strips and a wide handle with a curved, tapering cutaway handle made of the same material, and a curved side panel made of interlocking pieces of the same material and in the same width as the pieces that make up the front and back panels. The spacers that connect the handle pieces are either clear or the same color as the bag. (See below)

¹See, e.g. U.S. Serial Nos. 87524314, 87522459, 87445012, 87444990, 87445076, 87445050.



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The distinctive Ark trade dress has been recognized by consumers as a trademark of the Cult Gaia brand, and is used in numerous Cult Gaia handbags of various colors, materials, and sizes. The Ark trade dress has been widely recognized as a designation of Cult Gaia as evidenced by articles in InStyle, Allure, Fashion Week Daily, and other media outlets.

Cult Gaia limits distribution of its high quality goods only to limited, authorized distributors, which ensures customer satisfaction and maintains the quality of the brand. As a result, the Cult Gaia Ark trade dress is extremely valuable.

It has recently come to our attention that you have been selling numerous unauthorized replicas of the Ark bag under the name “BShipper” on your website and in retail locations, as well as featuring the unauthorized replicas on your website home page. This wholesale copying of the Ark trade dress is likely to and has already deceived consumers into believing that the infringing goods are associated with or authorized by Cult Gaia, when this is demonstrably not the case. We believe you are intentionally targeting Cult Gaia customers and potential customers, trading off the runaway success of the Ark bag.

Cult Gaia has never authorized the use of its Ark trade dress in this manner and as such, the sale and advertisement of these infringing items constitutes trademark infringement and unlawful competition and willfully violates Cult Gaia’s rights under the federal Lanham Act and California’s unfair competition law (as well as similar unfair competition laws of other states). *See* 15 U.S.C. § 1125(a) and (c); Cal. Bus. & Prof. Code § 17200 *et seq.*

Your direct copying and sale of items infringing the Ark trade dress is causing irreparable harm to our client, diverting business from Cult Gaia to your company, and actively misleading consumers. It also erodes the distinctive character of the Ark trade dress and takes unfair advantage of the reputation and popularity of Cult Gaia and the Gaia’s Ark bag.



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Demand is therefore made that you:

- ***Immediately and permanently cease and desist from any further sale, distribution, promotion, and/or advertisement of any item that infringes upon the Ark trade dress,*** including by removing any product pages or images of the infringing items from your (or your agent's) website, advertising and promotional materials.
- ***Destroy*** all infringing items and confirm destruction of the same.
- ***Cancel*** any outstanding orders/backorders to manufacturers, wholesalers, and/or consumers for infringing items.
- ***Identify*** the manufacturer(s), wholesaler(s), and or/importer(s) of the infringing items.
- Provide a ***detailed accounting*** of your sales and profits from the infringing items to date.

Please confirm in writing no later than close of business on **Friday, February 23rd** that you have complied with the foregoing demands.

While Cult Gaia wishes to resolve this matter amicably, because of the serious harm caused by your conduct, if you continue to sell the infringing items, Cult Gaia is prepared to vigorously enforce its rights and will not hesitate to file a lawsuit seeking any and all available legal and equitable remedies, including injunctive relief, monetary damages, restitution, and attorneys' fees.

Please note that, under applicable law, you are required to maintain any and all electronic or hard copy documents, communications, and electronic data and information which may be relevant to Cult Gaia's claims, including but not limited to, hard drives, databases, web pages, server logs, spreadsheets, programming code, correspondence, postage logs, user "chat" messages, e-mail and other electronic communications, instant messages, word processing documents, notebooks, musical recordings (in any format), social media posts, calendars, telephone logs, Internet usage files, off-line storage or information stored on removable media, information contained on laptops (whether business or personal), and network access information. To the extent that you utilize a manual or automated deletion/destruction policy, it must be disabled to ensure the preservation of all such documents and information. A failure to abide by these requirements may result in penalties against you, and form the basis of legal claims for spoliation, in the event litigation becomes necessary.

Nothing contained in this letter is intended to, nor shall it constitute, a waiver or relinquishment of any rights, claims, defenses, or causes of action possessed by our client, all of which are expressly reserved.

Exhibit 1

For a limited time, select Boots & Booties up to 50% off [Shop Women's](#) [Shop Men's](#)



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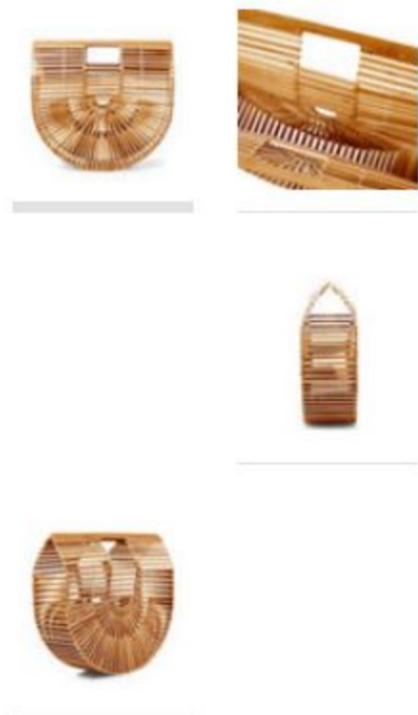
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BSHIPPER

\$68.00



[WRITE A REVIEW](#)



COLOR: NATURAL - \$68.00



SIZE:

ONESZ

QTY:

IN STOCK

[ADD TO BAG](#)

[LOVE IT!](#)



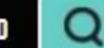
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BSHIPPER

\$68.00



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COLOR: NATURAL - \$68.00



SIZE:

ONESZ

IN STOCK

QTY:

1



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COLOR: NATURAL - \$68.00



SIZE:

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COLOR: NATURAL - \$68.00



SIZE:

ONESZ

IN STOCK

QTY:

1



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SM Steve Madden Official Site | <https://www.stevemadden.com>

#SMOOTD

YEAH, THEY'RE EXCLUSIVE

SHOP FRIDAY-L SHOP WOMEN'S EXCLUSIVES

< >

JOCK JAMS

SHOP GETCHA

SHOP SNEAKERS

TAKE IT EASY

Steve says "relax" in the LANCER.

SHOP LANCER SHOP SNEAKERS

BASKET CASE

SHOP BSHIPPER SHOP HANDBAGS

WIFE MATERIAL

Move quickly – the stunning WIFEY is back in stock.

CARD WEECV

SM'S PICKS

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QANT
FENCE M...
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