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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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LILI CHIN,	:	Case No.
	:	
Plaintiff,	:	
v.	:	<b>COMPLAINT</b>
	:	
KOHL'S CORP., K.B. SOCKS, INC., and	:	
DOES 1-10,	:	
	:	
Defendants.	:	<b>JURY TRIAL DEMANDED</b>
	:	

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Plaintiff Lili Chin, by her attorneys Kushnirsky Gerber PLLC, for her complaint against defendants Kohl's Corporation ("Kohl's"), K.B. Socks, Inc. d/b/a K. Bell Socks ("K. Bell"), and Does 1-10 (together, "Defendants") alleges as follows:

**NATURE OF THE ACTION**

1. Defendants Kohl's and K. Bell join a shameful list of large corporate clothing manufacturers and retailers that steal from independent artists and designers. This lawsuit is being filed by an independent artist to enforce her rights and protect her livelihood against the unlawful actions of these large corporations.
2. Plaintiff Lili Chin is a well-known illustrator who makes a living selling her dog illustrations and posters and licensing her illustrations for use on clothing and other products. In 2011, she created the infocomic poster *Doggie Language*, shown below, which features carefully

researched and observed illustrations of her own dog, a Boston terrier named Boogie, in various poses. *Doggie Language* became a near-instant viral internet success and has since appeared on dozens of websites, blogs, and even television programs around the world.



3. Building on the success of *Doggie Language*, Ms. Chin went on to create numerous other posters and products featuring illustrated dogs, and is now working on a book featuring her collected works. Ms. Chin registered the copyright in *Doggie Language* in 2013 and placed a conspicuous copyright notice on the bottom of the poster.

4. Earlier this year, fans of Ms. Chin's art notified her that Kohl's was selling t-shirts and socks featuring copies of numerous dog illustrations from *Doggie Language* (collectively,

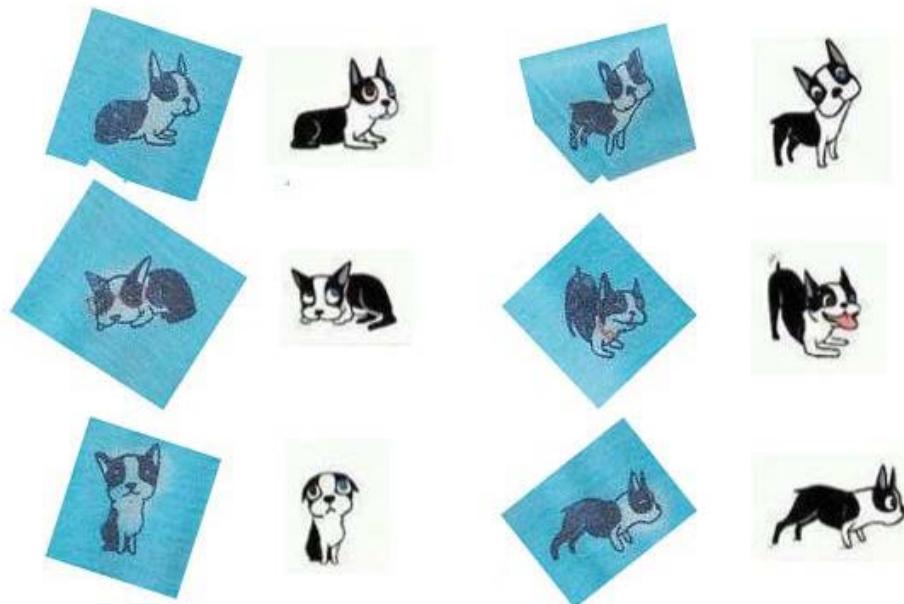
the “Infringing Clothing”). None of the defendants – Kohl’s; K. Bell, the manufacturer of the socks at issue; and the as-of-yet undetermined manufacturer of the t-shirt at issue – ever attempted to contact Ms. Chin to inquire about a license, despite the fact that Ms. Chin’s website contains copious clear information about the copyrights in her works, the Creative Commons license for non-commercial use of certain of her works, and instructions for contacting her to inquire about commercial licenses.

5. The Infringing Clothing has been promoted and sold under the Kohl’s house brands Mudd and Sonoma. The Sonoma socks at issue (the “Infringing Socks”), created by K. Bell, feature near-identical copies of the “Alert” dog illustration from the *Doggie Language* poster, as shown below.

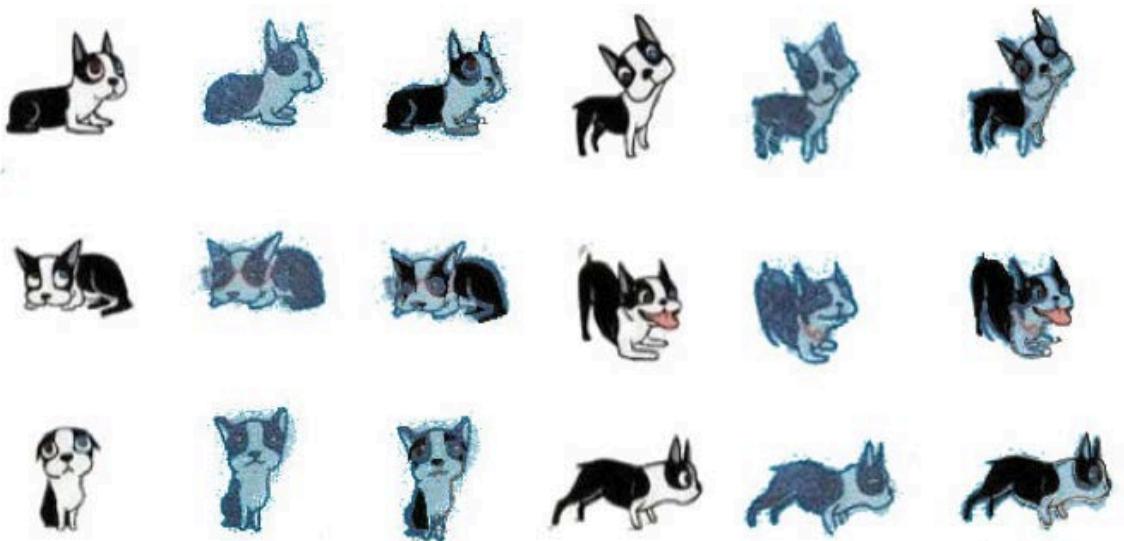


6. This was not the only instance of flagrant theft of Ms. Chin’s works by the Defendants. Kohl’s also promoted and sold a Mudd t-shirt (the “Infringing T-Shirt”), shown

below along with a side-by-side comparison of images, that also features numerous near-identical copies of dog illustrations stolen from the *Doggie Language* poster.



7. The dog images on the Infringing Socks and Infringing T-Shirt were copied directly from Ms. Chin's *Doggie Language* poster, presumably traced over and slightly modified. This is readily apparent by overlaying the illustrations from the Infringing T-Shirt onto Ms. Chin's original drawings, as shown below. For each pose, the first image is Ms. Chin's original drawing, the second is taken from the Infringing T-Shirt, and the third is a composite, or overlay, of both.



8. In July 2016, Ms. Chin contacted Kohl's regarding this flagrant infringement. Despite being notified of the existence of the Infringing Socks and Infringing T-Shirt in July and receiving several demand letters since then, Kohl's has continued to sell both items in its stores, continuing its willful infringement of Ms. Chin's copyrighted works and unfair competition with Ms. Chin. Both the Infringing Socks and the Infringing T-Shirt were still sold in stores as of the date of this filing.

9. Kohl's is the second largest department store chain in the United States, with over 1,100 stores in 49 states and annual sales in excess of \$19 billion. Despite its size and revenues, Kohl's has still chosen to steal from an independent artist and then refused to rectify the infringement when notified.

10. Ms. Chin asserts claims for copyright infringement under the United States Copyright Act, 17 U.S.C. § 101, *et seq.* (the “Copyright Act”) and unfair competition under the common law. She seeks damages, injunctive relief, and recovery of her costs and attorneys’ fees.

**JURISDICTION AND VENUE**

11. This is an action for copyright infringement under the Copyright Act and unfair competition under New York law. The Court has subject matter jurisdiction pursuant to 17 U.S.C. § 501 and 28 U.S.C. §§ 1331 and 1338 and supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

12. The Court has personal jurisdiction over all Defendants pursuant to N.Y. C.P.L.R. §§ 301 and 302. Kohl’s Corporation is a publicly-traded corporation that does continuous and systematic business in New York and in this District and maintains several large retail locations herein. Kohl’s has transacted business in New York and contracted to supply goods or services in New York in connection with the matters giving rise to this lawsuit. It has also committed acts outside of New York that caused injury to Plaintiff within New York; regularly does or solicits business in New York; derives substantial revenue from goods used or services rendered in New York; expects or reasonably should expect its infringing conduct to have consequences in New York; and derives substantial revenue from interstate commerce.

13. Defendant K.B. Socks, Inc. d/b/a K. Bell Socks is a private corporation organized and existing under the laws of the State of Delaware with a main showroom in New York, New York. K.B. does continuous and systematic business in New York and in this District and ships product to retailers and consumers in New York and in this District. Kohl’s has transacted business in New York and contracted to supply goods or services in New York in connection with the matters giving rise to this lawsuit. It has also committed acts outside of New York that

caused injury to Plaintiff within New York; regularly does or solicits business in New York; derives substantial revenue from goods used or services rendered in New York; expects or reasonably should expect its infringing conduct to have consequences in New York; and derives substantial revenue from interstate commerce.

14. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1400 because Defendants do business, may be found, and are subject to personal jurisdiction here.

### **PARTIES**

15. Plaintiff Lili Chin is an individual who resides in Los Angeles, California. Ms. Chin owns the copyright in *Doggie Language* and received federal copyright registration number VA0001892812 covering *Doggie Language* in 2013, more than two years before the infringing acts alleged herein.

16. Defendant Kohl's Corporation is a publicly-traded corporation organized and existing under the laws of the State of Delaware with its principal place of business in Menomonee Falls, Wisconsin. Kohl's operates more than 1,100 stores across 49 states, including New York, and generates annual sales in excess of \$19 billion. Kohl's corporate website lists as one of Kohl's core values: "act with integrity."

17. Defendant K.B. Socks, Inc. d/b/a K. Bell Socks is a private corporation organized and existing under the laws of the State of Delaware with its principal place of business in Inglewood, California and a main showroom in New York, New York. K. Bell is a multi-million-dollar business with an international customer base, including numerous major retailers.

18. Defendants Does 1-10 is a reference to entities whose identities are unknown to Plaintiff at this time. In connection with the named Defendants and their activities described herein, Does 1-10 have designed, manufactured, distributed, advertised, offered for sale and/or sold Infringing Clothing, and continue to do so. Plaintiff believes that information obtained in

discovery will lead to the identification of the true identities and locations of Does 1-10 and permit Plaintiff to amend this Complaint and to state the same.

### **FACTUAL BACKGROUND**

#### **I. Artist Lili Chin and the Doggie Language Artwork**

19. Ms. Chin is well known for her distinctive illustrations of dogs, which have appeared everywhere from World Health Organization outreach campaigns to publications like *Scientific American* and dog enthusiast websites like BarkPost. Several of Ms. Chin's works have proven especially popular, finding audiences around the world. In 2011, her infocomic poster *Doggie Language* (a copy of which is attached hereto as Exhibit A) first achieved "viral" success on the internet, appearing on dozens of popular blogs and websites. Building on the initial success of *Doggie Language*, Ms. Chin went on to create numerous other posters and products featuring her dog illustrations, and is now working on a book featuring some of her most popular works. In the five years since its creation, *Doggie Language* has remained immensely popular and has generated many new fans, customers, and clients for Ms. Chin.

20. Ms. Chin hosts all of her dog illustrations on her website *Doggie Drawings*, located at doggiedrawings.net, where she also sells a variety of merchandise and clothing featuring her original designs. For more popular items, Ms. Chin partners with authorized licensees to produce official merchandise. Ms. Chin is currently selling a t-shirt featuring various illustrations similar to those from *Doggie Language*, as shown in Exhibit B attached hereto. A dog owner and activist, Ms. Chin donates a portion of the proceeds from many of her sales to various dog rescue organizations.

21. The *Doggie Language* poster is available for sale on Ms. Chin's website and is available for download and use under a Creative Commons license requiring attribution and prohibiting any commercial use or creation of derivative works. The *Doggie Language* poster

itself features a conspicuous ©2011 Lili Chin copyright notice at the bottom with her website address and signature. The copyright notice is repeated on her website. Ms. Chin obtained a copyright registration covering *Doggie Language* in 2013. For those wishing to license her images, Ms. Chin's name and contact information are displayed prominently on her website, on each individual poster, and in her federal copyright registration.

22. Independent artists like Ms. Chin rely on licensing revenues from their artwork. The ability of artists to license and control the commercial use of their artwork is critical for their careers and livelihoods, and is a key right bestowed on artists under the Copyright Act. Ms. Chin's artwork is her livelihood, her passion, and her sole source of income.

## **II. Defendants' Infringement and Unfair Competition**

23. In April 2016, Ms. Chin was contacted by a friend, who told her that Kohl's was selling t-shirts featuring illustrations from her *Doggie Language* poster. Indeed, the same friend congratulated Ms. Chin, mistakenly believing that she had licensed her works to Kohl's and was affiliated with the Infringing T-Shirt. In August 2016, Ms. Chin, who maintains an active social media presence, was notified by a fan that Kohl's was also selling socks featuring *Doggie Language*.

24. In July 2016, Ms. Chin contacted Kohl's regarding the Infringing Clothing that was being promoted and sold under Kohl's house brands Mudd and Sonoma. Numerous fans of Ms. Chin's also contacted Kohl's through social media channels and demanded that the infringing items be removed.

25. The Infringing Socks, created by K. Bell, feature near-identical copies of the "Alert" dog illustration from the *Doggie Language* poster. A comparison of the Infringing Socks and the dog illustration copied from the *Doggie Language* poster is attached hereto as Exhibit C.

26. This was not the only instance of flagrant theft of Ms. Chin's works by the Defendants. Kohl's also promoted and sold a Mudd-branded t-shirt that also features numerous near-identical copies of dog illustrations from the *Doggie Language* poster. Comparisons of the Infringing T-Shirt and the dog illustrations copied from the *Doggie Language* poster are attached hereto as Exhibit D.

27. It is readily apparent that the dog images on the Infringing Socks and Infringing T-Shirt were copied directly from Ms. Chin's *Doggie Language* poster, presumably traced over and slightly modified. The Infringing Clothing was sold on the Kohl's website and in Kohl's retail stores throughout the country. The Kohl's website promoted and advertised the Infringing Clothing by posting images of the Infringing Clothing on its website. Despite being notified of the existence of the Infringing Socks and Infringing T-Shirt in July and receiving several demand letters since then, Kohl's has continued to sell both items in its stores, continuing its willful infringement of Ms. Chin's registered copyrights.

28. None of the Defendants – Kohl's, K. Bell, and the as-of-yet undetermined manufacturer of the Infringing T-Shirt – ever attempted to contact Ms. Chin to inquire about a license, despite the fact that Ms. Chin's website contains clear information about the copyrights in her works, the Creative Commons license for certain of her works, and instructions for contacting her to inquire about commercial licenses. Indeed, in the process of unlawfully copying images from *Doggie Language*, Defendants removed the copyright management information that Ms. Chin had placed on the original poster.

29. Defendants' infringement of *Doggie Language* has been willful. Ms. Chin sells clothing items that feature her artwork and artwork from *Doggie Language*, and Defendants have marketed and sold the same clothing items featuring infringing copies of Ms. Chin's artwork.

Defendant Kohl's posted images of the Infringing Clothing on its website and displayed the infringing copies of Ms. Chin's artwork thereon.

30. Defendants have willfully misappropriated Ms. Chin's labor, skill, and expenditures on her own clothing and other goods that feature her artwork, and have done so intentionally and in bad faith. Consumers viewing the Infringing Clothing and seeing the infringing copies of Ms. Chin's artwork thereon are likely to be confused as to the origin of these goods, and are likely to mistakenly believe that Ms. Chin is somehow affiliated with or associated with these goods when in fact she is not.

31. Defendants have unlawfully benefited from this willful infringement and unfair competition with Ms. Chin. Defendants' infringement of *Doggie Language* began well after Ms. Chin obtained a federal copyright registration in that work.

32. Ms. Chin has been significantly damaged by these unlawful uses of *Doggie Language*, and she has been forced to file this Action in order to protect her rights and her livelihood.

**FIRST CLAIM FOR RELIEF**  
**COPYRIGHT INFRINGEMENT - 17 U.S.C. § 501, et seq.**

33. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 32 above, and incorporates them herein by this reference.

34. Plaintiff is the legal owner of all right, title, and interest in *Doggie Language*. Plaintiff is the legal owner of the copyright in that work.

35. Defendants have copied, reproduced, distributed, adapted, and/or publicly displayed elements of *Doggie Language* without the consent, permission, or authority of Plaintiff.

36. Defendants' conduct constitutes infringement of Plaintiff's copyrights and exclusive rights in violation of sections 106 and 501 of the Copyright Act.

37. Defendants' acts of infringement have been willful, intentional, purposeful, and in reckless disregard of and with indifference to the rights of Plaintiff.

38. As a result of the infringement that began in and stemmed from the United States, Plaintiff has and will continue to suffer damages in the United States and around the world.

39. As a result of the infringement that began in and stemmed from the United States, Defendants have unlawfully profited in the United States and around the world.

40. Plaintiff is entitled to her actual damages and Defendants' profits related to the infringement both in the United States and around the world, pursuant to 17 U.S.C. § 504. Plaintiff may also elect, at any time before final judgment is rendered, to receive statutory damages in connection with Defendants' willful infringement, pursuant to 17 U.S.C. § 504.

41. Defendants will continue to willfully infringe Plaintiff's rights in *Doggie Language* unless restrained by the Court. Plaintiff is entitled to injunctive relief prohibiting further infringement, pursuant to 17 U.S.C. § 502.

**SECOND CLAIM FOR RELIEF**  
**UNFAIR COMPETITION – COMMON LAW**

42. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 41 above, and incorporates them herein by this reference.

43. Defendants are selling clothing items featuring infringing copies of Ms. Chin's artwork. Ms. Chin herself sells items of clothing featuring her artwork, and licenses her artwork to others for use on clothing and other goods.

44. In doing so, Defendants have willfully misappropriated Ms. Chin's labor, skill, and expenditures on her own clothing and other goods that feature her artwork, and have done so

intentionally and in bad faith.

45. As a result of Defendants' conduct, Plaintiff has suffered substantial damages, as well as the continuing loss of goodwill and reputation established by her in her marks. This continuing loss of goodwill cannot be properly calculated and thus constitutes irreparable harm and an injury for which Plaintiff has no adequate remedy at law. Plaintiff will continue to suffer irreparable harm unless this Court enjoins Defendants' conduct.

**THIRD CLAIM FOR RELIEF**  
**REMOVAL OF COPYRIGHT MANAGEMENT INFORMATION - 17 U.S.C. § 1202**

46. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 45 above, and incorporates them herein by this reference.

47. Plaintiff's artwork, *Doggie Language*, contained conspicuous copyright management information at the bottom of the poster.

48. In the process of unlawfully copying, reproducing, distributing, adapting, and/or publicly displaying elements of *Doggie Language* without the consent, permission, or authority of Plaintiff, Defendants also intentionally removed the copyright management information from *Doggie Language*.

49. Plaintiff has been injured as a result of Defendants' violation of 17 U.S.C. § 1202 and is entitled to injunctive relief, impounding of the Infringing Clothing, damages, costs, and attorneys' fees.

**WHEREFORE**, Plaintiff Lili Chin demands judgment as follows:

1. Awarding Plaintiff her actual damages in connection with Defendants' willful copyright infringement;

2. Awarding Plaintiff her actual damages in connection with Defendants' unfair competition with Plaintiff;

3. Awarding Plaintiff statutory damages, attorneys' fees, and costs under the Copyright Act;
4. Awarding Plaintiff \$25,000 per violation of 17 U.S.C. § 1202, ordering the impounding of the Infringing Clothing under 17 U.S.C. § 1202, and awarding Plaintiff costs and attorneys' fees under 17 U.S.C. § 1202;
5. Granting an injunction that permanently restrains and enjoins Defendants from copying, reproducing, distributing, adapting, and/or publicly displaying *Doggie Language*;
6. Awarding Plaintiff punitive damages against Defendants in connection with their willful infringement and unfair competition;
7. Awarding Plaintiff interest, including prejudgment interest, on the foregoing sums; and
8. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
September 27, 2016

Respectfully Submitted,  
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# **EXHIBIT A**

# DOGGIE LANGUAGE

starring Boogie the Boston Terrier



ALERT



SUSPICIOUS



ANXIOUS



THREATENED



ANGRY



"PEACE!"  
look away/head turn



STRESSED  
yawn



STRESSED  
nose lick



"PEACE!"  
sniff ground



"RESPECT!"  
turn & walk away



"NEED SPACE"  
whale eye



STALKING



STRESSED  
scratching



STRESS RELEASE  
shake off



RELAXED  
soft ears, blinky eyes



"RESPECT!"  
offer his back



FRIENDLY & POLITE  
curved body



FRIENDLY



"PRETTY PLEASE!"  
round puppy face



"I'M YOUR LOVEBUG!"  
belly-rub pose



"HELLO I LOVE YOU!"  
greeting stretch



"I'M FRIENDLY!"  
play bow



"READY!"  
prey bow



"YOU WILL FEED ME"



CURIOUS  
head tilt



HAPPY  
(or hot)



OVERJOYED  
wiggly



"MMMM...."



"I LOVE YOU,  
DON'T STOP"

## **EXHIBIT B**



# **EXHIBIT C**



# **EXHIBIT D**

Image from KOHL'S WEBSITE  
[http://www.kohls.com/product/prd-2078682/mudd-v-neck-graphic-tee-girls-6-16-girls-plus-size/color=Blue\\_Toss\\_Dog](http://www.kohls.com/product/prd-2078682/mudd-v-neck-graphic-tee-girls-6-16-girls-plus-size/color=Blue_Toss_Dog)



DOGGIE LANGUAGE poster - property of Lili Chin

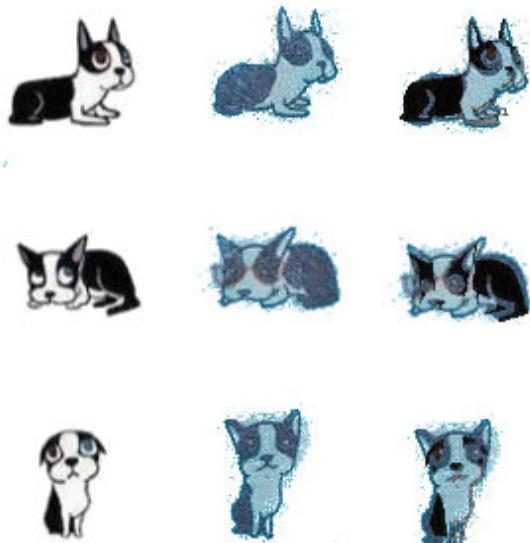
## DOGGIE LANGUAGE

starring Boogie the Boston Terrier

By Lili Chin [www.doggiedrawings.net](http://www.doggiedrawings.net)



LILI CHIN MUDD COPY  
ORIGINAL



LILI CHIN MUDD COPY  
ORIGINAL

