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Do these designs look identical to you?

SPENCERS GIFTS LLC



URBAN BRATZ LLC



They do to Urban Bratz. Urban Bratz, owner of a copyright registration for its design, filed suit in the Northern District of Illinois against Spencer Gifts claiming copyright and trademark infringement among other causes of action.



WINTHROP WEINSTINE

ATTORNEYS AND COUNSELORS AT LAW

Capella Tower | Suite 3500 | 225 South Sixth Street | Minneapolis, MN 55402
Main: (612) 604-6400 | Fax: (612) 604-6800 | www.winthrop.com | *A Professional Association*

You can read the complaint, filed August 24, [here](#).

Specifically, Urban Bratz claims that it created its design in November of 2008 and obtained copyright registrations in the design in February 2010 and November 2010. In March of 2009, Urban Bratz approached Spencer Gifts regarding the possibility of carrying Urban Bratz's t-shirts with the graphic. According to the complaint, Spencer Gifts followed up with Urban Bratz to obtain additional material featuring the graphic, but apparently never asked permission to begin using the graphic in its own manufacturing or sales. In its complaint, Urban Bratz pleads that Spencer Gifts had access to Urban Bratz's designs and that the designs are identical, such that the court should award Urban Bratz statutory damages dating from the date of the Plaintiff's first issued copyright registration in February 2010.

On September 10, Spencer Gifts filed a motion to dismiss Urban Bratz's claims for false designation of origin and copyright infringement due to a purported failure to state a claim upon which relief could be granted. Regarding the copyright infringement claim, Spencer Gifts stated that Urban Bratz's claim should fail because Urban Bratz did not allege that Spencer Gifts started selling the T-Shirts after February 2, 2010 – namely, with notice of Urban Bratz's copyright. The Copyright Act prevents plaintiffs from recovering statutory damages and attorney fees if the alleged infringement commenced after first publication of the work and before the effective date of its registration, unless such registration is made within three months after the first publication of the work. Here, Urban Bratz claims that it published its design in November of 2008 but did not obtain registration until over a year later. On November 22, Urban Bratz filed an amended complaint that does not appear to remedy this issue.

Should Urban Bratz be successful on its copyright and other claims, it is nevertheless capable of obtaining other relief under the Copyright Act, including an injunction prohibiting Spencer Gifts from using the design in the future and actual damages for any profits that Spencer Gifts has made on its sales of goods with the design. Stay tuned for further developments in this case.

