

1 **GARY A. HECKER, ESQ. (State Bar No. 099008)**  
2 **JAMES M. SLOMINSKI, ESQ. (State Bar No. 166357)**  
3 **THE HECKER LAW GROUP**  
1925 Century Park East, Suite 2300  
Los Angeles, California 90067  
4 Telephone: [REDACTED]  
Facsimile: [REDACTED]  
5 Email: [REDACTED]

6 Attorneys for Plaintiff  
7 **Kim Kardashian**

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

10 **LACV11-5960** DSF(MANx)  
Civil Action No.

11 **KIM KARDASHIAN, an**  
12 **individual,**

13 **Plaintiff,**

14 **vs.**

15 **THE GAP, INC., a Delaware**  
16 **Corporation; OLD NAVY, LLC,**  
17 **a Delaware Limited Liability**  
18 **Company; OLD NAVY**  
19 **(APPAREL), LLC, a California**  
20 **Limited Liability Company;**  
21 **GAP (APPAREL), LLC, a**  
22 **California Limited Liability**  
23 **Company; and DOES 1 - 10**

24 **Defendants.**

25 **COMPLAINT FOR:**

- 26 1. **VIOLATION OF THE LANHAM**  
27 **ACT; 15 U.S.C. § 1125(a) (UNFAIR**  
28 **COMPETITION)**
2. **VIOLATION OF THE CALIFORNIA**  
**COMMON LAW RIGHT OF**  
**PUBLICITY**
3. **VIOLATION OF THE CALIFORNIA**  
**STATUTORY RIGHT OF**  
**PUBLICITY; CIVIL CODE § 3344**

**DEMAND FOR JURY TRIAL**

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

2011 JUL 20 AM 10:07

FILED

1 Plaintiff, Kim Kardashian, by and through her attorneys The Hecker Law  
2 Group, hereby alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff, Kim Kardashian, is an individual and a resident of Los Angeles,  
5 California.

6 2. Defendant, The Gap, Inc. ("The Gap"), is a Delaware corporation with its  
7 principal place of business located at 2 Folsom Street, San Francisco, California  
8 94105.

9 3. Defendant, Old Navy, LLC ("Old Navy"), is a Delaware Limited  
10 Liability Company and a subsidiary of The Gap, with its principal place of business  
11 located at 2 Folsom Street, San Francisco, California 94105.

12 4. Defendant, Old Navy (Apparel), LLC ("Old Navy Apparel"), is a  
13 California Limited Liability Company and a subsidiary of The Gap, with its principal  
14 place of business located at 2 Folsom Street, San Francisco, California 94105.

15 5. Defendant, Gap (Apparel), LLC ("Gap Apparel") is a California Limited  
16 Liability Company and a subsidiary of The Gap, with its principal place of business  
17 located at 2 Folsom Street, San Francisco, California 94105.

18 6. Plaintiff is currently unaware of the true names and capacities of DOES 1  
19 through 20, inclusive, and therefore sues them by those fictitious names. Plaintiff will  
20 amend this Complaint to allege their true names and capacities when they are  
21 ascertained.

22 7. Defendants, and each of them, are, and at all terms herein were, the alter-  
23 ego, principal, agent, employee, employer, joint venturer, customer, and/or otherwise  
24 affiliated with one another so as to be liable in such capacity for the acts alleged  
25 herein.

26 **JURISDICTION & VENUE**

27 8. This is an action for, *inter alia*, violation of 15 U.S.C. § 1125(a) and  
28 violation of the California common law and statutory right of publicity.

1           9. This Court has subject matter jurisdiction over the federal cause of action  
2 pursuant to 28 U.S.C. § 1331. This Court has jurisdiction over the state law claims  
3 pursuant to 28 U.S.C. § 1367(a).

4           10. Venue for this action is proper in this judicial district pursuant to 28  
5 U.S.C. §§ 1391(b) and (c) in that the acts alleged against Plaintiff occurred in this  
6 judicial district.

7                           **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

8   **KIM KARDASHIAN**

9           11. Kim Kardashian (“Plaintiff”) is an internationally known celebrity,  
10 model, television personality, actress, entrepreneur and pop culture icon.

11           12. Plaintiff has attained an extraordinary level of popularity and fame in the  
12 United States and around the world, and is the subject of pervasive public interest and  
13 attention in contemporary mainstream media, including television, web-based media  
14 and print media. She is highly sought after to endorse commercial products and  
15 services using her name, likeness, identity and persona.

16           13. Plaintiff is widely recognized as the star of the hit television series  
17 "*Keeping Up with the Kardashians*", the most watched television series in the history  
18 of *E!* Entertainment Television.

19           14. Plaintiff is among the top celebrities who drive the most consumer traffic  
20 to brand advertisers’ websites, according to the celebrity endorsement website Ad.ly.  
21 Plaintiff’s official website, kimkardashian.com, receives tens of millions of page  
22 views per month and is ranked among the highest of any celebrity.

23           15. Plaintiff has more than eight million followers on Twitter, more than five  
24 million “likes” on Facebook, and is among the top personalities searched on the  
25 Internet. Microsoft has reported that the term “Kim Kardashian” was the most  
26 frequently searched term on Microsoft’s Bing Search engine in 2010, exceeding all  
27 other searched terms by 20%.

28           16. Plaintiff has been featured on the covers of dozens of popular and widely

1 circulated magazines, including Cosmopolitan, Glamour, Allure, Harpers Bazaar,  
2 People, W, and Shape, and is well known for her distinctive and consistent look,  
3 fashion and style.

4 17. Plaintiff has appeared as a guest on numerous television shows, including  
5 The Today Show, Regis and Kelly, The View, The Rachel Ray Show, The Tyra  
6 Banks Show, America's Next Top Model, Piers Morgan Tonight, The Larry King  
7 Show, Late Night With David Letterman, The Tonight Show with Jay Leno, Jimmy  
8 Kimmel Live!, Late Night with Jimmy Fallon, and many others. She also has been  
9 featured in widely viewed musical performances, including as a celebrity contestant  
10 on the hit television series "*Dancing with the Stars*" and in music video productions.

11 18. Plaintiff has selectively endorsed, and continues to selectively endorse, a  
12 variety of products and services, including clothing, shoes, fashion accessories,  
13 athletic wear, jewelry, perfume, skin care products and fashion styling services.

14 19. Plaintiff is the co-owner, chief fashion stylist and celebrity endorser of  
15 ShoeDazzle<sup>®</sup>, a fashion apparel and stylist service company. She is the co-owner and  
16 a celebrity endorser of the *DASH* designer boutiques which sell fashion clothing and  
17 accessories. She is a co-creator and celebrity endorser of the *Kardashian Kollection*  
18 for Sears, which includes apparel, accessories, handbags, lingerie, shoes, jewelry and  
19 shoes, as well as for the brand *K-Dash by Kardashian* for QVC. Further, she has  
20 produced, promoted and endorsed a popular fitness series, "Fit in Your Jeans by  
21 Friday", which has held the number one spot on the popular merchandise website  
22 Amazon.com.

23 20. Plaintiff has invested substantial time, energy, finances and  
24 entrepreneurial effort in developing her considerable professional and commercial  
25 achievements and success, as well as in developing her popularity, fame, and  
26 prominence in the public eye.

27 21. Plaintiff's name, likeness, identity and persona have come to be  
28 associated in the minds of the consuming public with products and services she

1 endorses, including apparel products and entertainment services.

2 22. Plaintiff's name, likeness, identity and persona have become widely  
3 known by a substantial segment of the public in the United States and internationally,  
4 and thereby have become, and are, valuable commercial assets that symbolize Plaintiff  
5 and the level of quality associated with Plaintiff's products, services and entertainment  
6 performances, and the goodwill that is associated with them.

7 23. Plaintiff regularly receives substantial financial offers requesting  
8 permission for, and seeking the use of, her name, likeness, identity and persona for  
9 licensing, endorsing, marketing and promoting products, services and performances.

10 24. Plaintiff maintains strict control over the manner in which her name,  
11 likeness, identity and persona are used. Plaintiff exercises careful consideration in  
12 selecting and approving products, services or performances that she will permit to  
13 license or use her name, likeness, identity or persona. Plaintiff restricts such use and  
14 licensing to products, services and performances that are of acceptably high quality to  
15 Plaintiff, and for which compensation is commensurate with the exploitation and  
16 value thereof.

17 **DEFENDANTS' WRONGFUL CONDUCT**

18 25. In February 2011, Defendants launched a multimedia advertising  
19 campaign to sell their products, including apparel and fashion accessories, using the  
20 likeness, identity and persona of Plaintiff for commercial purposes without her  
21 consent.

22 26. Defendants broadcast, displayed and otherwise publicized advertisements  
23 for Defendants' products, including apparel and fashion accessories, using, centered  
24 around, and focused on, the likeness, identity, and persona of Plaintiff ("The  
25 Infringing Ads").

26 27. Defendants used Plaintiff's likeness in the form of a celebrity "look-  
27 alike" in the Infringing Ads.

28 28. Defendants incorporated and used qualities, attributes and traits

1 associated with Plaintiff's likeness, identity, and persona in the Infringing Ads to  
2 further evoke Plaintiff's likeness, identity and persona.

3 29. Defendants incorporated a storyline associated with the Plaintiff's  
4 likeness, identity and persona in the Infringing Ads to further evoke Plaintiff's  
5 likeness, identity and persona.

6 30. Defendants' Infringing Ads immediately received substantial attention  
7 and interest from the media and the consuming public as a direct and proximate result  
8 of Defendants' unlawful use and misappropriation of Plaintiff's likeness, identity and  
9 persona.

10 31. The Infringing Ads are likely to cause confusion, and have caused actual  
11 confusion, in the minds of the consuming public as to an association of Kim  
12 Kardashian with Defendants' products and services.

13 32. Following the release of the Infringing Ads, Defendants knowingly and  
14 intentionally took steps to exacerbate and perpetuate the likelihood of confusion and  
15 actual confusion in the minds of the consuming public, and to perpetuate their  
16 unlawful exploitation of Kim Kardashian's likeness, identity and persona for  
17 Defendants' commercial gain, including by Defendants' unlawful use of Kim  
18 Kardashian's name.

19 33. The Infringing Ads were repeatedly broadcast and prominently displayed  
20 and distributed in various media, including on cable and broadcast television, on the  
21 World Wide Web, on mobile devices, and in Defendants' retail stores.

22 34. The Infringing Ads continue to be broadcast, shown and publicly  
23 displayed by Defendants.

24 35. The Infringing Ads falsely represent that Kim Kardashian sponsors,  
25 endorses, or is associated with, Defendants.

26 36. Plaintiff did not authorize Defendants, or any of them, to use her name,  
27 likeness, identity or persona in connection with the Infringing Ads, or otherwise.

28 37. Plaintiff was not contacted by Defendants to seek or to obtain her

1 permission, nor was she compensated by Defendants, for the use of her name,  
2 likeness, identity or persona.

3 38. The use of Plaintiff's name, likeness, identity and persona by Defendants  
4 was, and is, in conscious disregard of Plaintiff's right of privacy and publicity, and of  
5 her exclusive right to control the use and exploitation of her name, likeness, identity  
6 and persona.

7 39. The aforementioned misappropriation and use of Kim Kardashian's  
8 name, likeness, identity and persona by Defendants was intentional. Defendants'  
9 misappropriation was purposefully designed and intended to confuse, to cause  
10 mistake, and to deceive the public into believing that Plaintiff was appearing in the  
11 Infringing Ads, and/or that Plaintiff sponsored, endorsed or was associated with  
12 Defendants' products, services and performances.

13 40. Defendants have created a likelihood of confusion in the minds of the  
14 consuming public as to the source, sponsorship, endorsement, or association of Kim  
15 Kardashian with Defendants, and with their goods, services and performances.

16 41. Defendants have profited, and will continue to profit, from their unlawful  
17 and intentional misappropriation and use of Kim Kardashian's name, identity, likeness  
18 and persona.

### 19 FIRST CLAIM FOR RELIEF

#### 20 (Violation of the Lanham Act 15 USC § 1125(a); Unfair Competition)

21 42. Plaintiff incorporates by reference the allegations of paragraphs 1  
22 through 41 as though fully set forth herein.

23 43. In doing the acts alleged herein, Defendants have engaged in commercial  
24 activity that is likely to cause confusion and/or mislead consumers into believing that  
25 Plaintiff has endorsed, sponsored, or otherwise approved of their products, services  
26 and performances when in fact she has not.

27 44. Defendants' acts as set forth herein have, in fact, misled and confused  
28 consumers, and continue to mislead and confuse consumers.

1 45. Defendants' conduct constitutes a willful violation of 15 U.S.C. §  
2 1125(a).

3 46. As a result of Defendants' actions, Plaintiff has suffered, and will  
4 continue to suffer, damages in an amount to be proven at trial.

5 **SECOND CLAIM FOR RELIEF**

6 **(Violation of the California Common Law Right of Publicity)**

7 47. Plaintiff incorporates by reference the allegations of paragraphs 1  
8 through 41 as though fully set forth herein.

9 48. In doing the acts alleged herein, Defendants have used for commercial  
10 purposes Plaintiff's name, likeness, identity and persona without her consent.

11 49. The commercial use and misappropriation of Plaintiff's name, likeness,  
12 identity and persona is a violation of the California common law right of privacy,  
13 which includes the right of publicity.

14 50. As a proximate result of Defendants' acts alleged herein, Plaintiff has  
15 suffered and will continue to suffer damages in an amount to be proven at trial.

16 **THIRD CLAIM FOR RELIEF**

17 **(Violation of the California Statutory Right of Publicity; Civil Code § 3344)**

18 51. Plaintiff incorporates by reference paragraphs 1 through 41 as though  
19 fully set forth herein.

20 52. In doing the acts alleged herein, Defendants have knowingly, willfully,  
21 and unlawfully used and misappropriated Plaintiff's name and likeness in connection  
22 with the Infringing Ads for their own commercial purposes.

23 53. Defendants' misappropriation of Plaintiff's name and likeness for their  
24 own commercial purposes is a violation of California Civil Code § 3344.

25 54. As a result of Defendants' actions, Plaintiff has suffered, and will  
26 continue to suffer, damages in an amount to be proven at trial.



**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff requests entry of judgment against Defendants, and each of them, as follows:

1. A preliminary and permanent injunction requiring Defendants and their agents, servants, and employees, and all other persons with whom they are acting in concert to refrain from using Kim Kardashian's name, likeness, identity, or persona in any promotion, advertising, or marketing activities;
2. Compensatory damages, consequential damages, lost profits, and/or disgorgement of Defendants' profits;
3. An award of attorney's fees and costs;
4. Enhanced damages;
5. Punitive damages; and
6. Any other relief that is just and proper under the law.

Respectfully submitted,

DATED: July 20, 2011

**THE HECKER LAW GROUP**

By: 

Gary A. Hecker, Esq.  
James M. Slominski, Esq.  
**THE HECKER LAW GROUP**  
1925 Century Park East, Suite 2300  
Los Angeles, California 90067  
Telephone: (310) 286-0377  
Facsimile: (310) 286-0488

Attorneys for Plaintiff  
**KIM KARDASHIAN**

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial.

Respectfully submitted,

DATED: July 20, 2011

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**THE HECKER LAW GROUP**  
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Los Angeles, California 90067  
Telephone: (310) 286-0377  
Facsimile: (310) 286-0488

Attorneys for Plaintiff  
**KIM KARDASHIAN**