

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No. 17-CV-15**

DAZZLE UP, LLC,

Plaintiff,

v.

SUGARTOWN WORLDWIDE LLC,

Defendant.

COMPLAINT

Plaintiff Dazzle Up, LLC (“Dazzle Up”), through counsel, for its Complaint against Sugartown Worldwide LLC (“Sugartown”) hereby alleges and says the following:

NATURE OF THE ACTION

1. This action arises under the Declaratory Judgment Act, 28 U.S.C. § 2201, *et, seq.* and the copyright laws of the United States, Title 17, United States Code, among other laws.

2. Sugartown has threatened copyright claims against Dazzle Up. Dazzle Up files this action seeking a declaration(s) of non-infringement of Sugartown’s asserted copyrights.

THE PARTIES

3. Dazzle Up is a limited liability company organized under the laws of the State of North Carolina with its principal place of business in Guilford County, North Carolina. Dazzle Up is also known as Simply Southern.

4. Upon information and belief, Sugartown is a Delaware limited liability company with an office and principal place of business located at 800 3rd Avenue, King of Prussia, Pennsylvania 19406.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this matter as it arises under the Federal Declaratory Judgment Act and the copyright laws of the United States. Thus, jurisdiction is proper under, at a minimum, 28 U.S.C. §§ 1331 & 1338, 17 U.S.C. § 101 *et seq.* and 28 U.S.C. § 2201 *et seq.*

6. Personal jurisdiction in this Court over Sugartown is proper under N.C. Gen. Stat. § 1-75.4, among other laws and constitutional principles, due to the following among other actions: (a) Sugartown holds itself out as the owner of the Lilly Pulitzer brand and owner of certain designs, (b) Sugartown holds itself out as, and actually conducts, marketing and distribution of Lilly Pulitzer apparel and accessories in retail stores throughout the United States, including within this District, (c) upon information and belief, Sugartown distributes its products to and through stores in this District which its website calls “A Lilly Pulitzer Specialty Store” and “A Lilly Pulitzer Department Store,” (d) upon information and belief, Sugartown operates a highly interactive website through which products may be purchased by consumers in North Carolina; (e) Sugartown has introduced into the stream of commerce for sale or distribution in and to North Carolina products and advertising; and (f) Sugartown has sent letters to Dazzle Up in North Carolina alleging infringement and threatening legal action.

7. Venue is proper in this District as, among other potential reasons, Sugartown is subject to personal jurisdiction in this District and statutorily deemed a resident of the jurisdiction, and a substantial part of the events giving rise to the claims occurred in this District.

FACTS

8. Since its start by its owner in 2003, the Dazzle Up business has grown from a cart-based t-shirt seller in a shopping mall to its current status as a leading manufacturer, wholesaler and retailer of shirts, t-shirts, clothing and other innovative gift products.

9. Dazzle Up currently operates ten (10) physical store locations in North Carolina and South Carolina.

10. Dazzle Up employs over 70 persons in North and South Carolina.

11. In addition to its online and retail sales, Dazzle Up wholesales or distributes its products to approximately 3,225 stores. Dazzle Up's products are sold in at least 32 states, including in North and South Carolina and as far west as California, as north as Michigan and as south as Florida.

12. One of Dazzle Up's brands is SIMPLY SOUTHERN®.

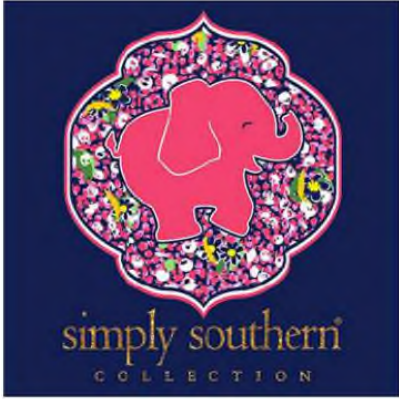
13. The most recent publication of the national *Gift Beat* trade publication, as well as prior issues in 2015 and 2016, reported that Dazzle Up's SIMPLY SOUTHERN® mark is the #2 brand for apparel in America.

14. Dazzle Up creates original artwork in the form of designs that are applied to its t-shirts and other products, such as dresses, bags, and beverage can insulating sleeves.

15. Dazzle Up owns the copyrights to its designs.

16. According to a provision of the Copyright Act, 17 U.S.C. § 408, registration of a copyright in a work created after January 1, 1978 is not a condition of copyright protection.

17. Dazzle Up has registered some, but not all, of its copyrights. Copies of copyright registration certificates and images of the following designs are attached hereto as Exhibit 1:

<u>Image</u>	<u>Registration No.</u>	<u>Title</u>
	VA 2-007-978	PRPDaisy

 <p>The image shows a purple square background. At the top is a stylized elephant silhouette filled with a pattern of pink roses and green leaves. Below the elephant, the text "simply southern" is written in a pink, cursive-style font, with "COLLECTION" in a smaller, pink, sans-serif font underneath.</p>	<p>VA 2-007-926</p>	<p>PRPElephant-Amethyst</p>
 <p>The image shows a dark blue square background. At the top is a circular logo containing a stylized rose pattern in pink and green. Below the logo, the text "simply southern" is written in a pink, cursive-style font, with "COLLECTION" in a smaller, pink, sans-serif font underneath.</p>	<p>VA 2-008-343</p>	<p>RoseLogo</p>
 <p>The image shows a yellow square background. At the top is a map of Mississippi filled with a pattern of pink roses and green leaves. A circular logo with a stylized rose pattern is overlaid on the map. Below the map, the text "Southern part of Heaven" is written in a small, cursive font, and "simply southern" is written in a larger, black, sans-serif font below that.</p>	<p>VA 2-008-057</p>	<p>MS</p>

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.