

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

PETER CEPEDA,
97 30 133rd Avenue
Ozone Park, NY 11417

Plaintiff,

v.

JELENA NOURA “GIGI” HADID, and
10 Bond Street
New York, NY 10018

IMG WORLDWIDE, INC.,
80 State Street
Albany, NY 12207-2543

Defendants.

Civil Action No.:

COMPLAINT AND JURY
DEMAND

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff, PETER CEPEDA (“Plaintiff” or “Cepeda”), brings this complaint in the United States District Court for the Eastern District of Virginia against JELENA NOURA “GIGI” HADID (“Hadid”) and IMG WORLDWIDE, INC. (“IMG”) (together “Defendants”), alleging as follows:

PARTIES

1. Cepeda is an experienced free lance photographer of five (5) years. Cepeda specializes in candid, street photography of celebrities in New York City. Cepeda’s work regularly appears

in a wide selection of magazines and media worldwide. Cepeda primarily licenses his photography through The Image Direct (www.theimagedirect.com) and Splash News (www.splashnews.com). Cepeda resides in Queens, New York.

2. On information and belief, Hadid is an American fashion model. Hadid was signed to IMG Models, a division of IMG, in 2013. In 2016, Hadid was named International Model of the Year by British Fashion Council. Hadid has modeled for Versace, Chanel, Elie Saab, Fendi, Marc Jacobs, Anna Sui, Miu Miu, Balmain, Diane Von Furstenberg, Tommy Hilfiger, Fenty x Puma, Isabel Marant, and Giambattista Valli. Hadid has also starred in advertising campaigns for Guess, Versace, Penshoppe, Balmain F/W 2015, Topshop, Max Mara, and Stuart Weitzman. Hadid has appeared on the covers of magazines such as *Vogue* (United States, Paris, Italy, Britain, Japan, Spain, Australia, Brazil, the Netherlands, Germany, Italy, China), *Schön!*, *Numéro*, *Allure*, *W Magazine* and *Teen Vogue* as well as *WSJ Magazine*, *Elle Canada*, *Dazed* and *Harper's Bazaar*.¹ Hadid maintains an Instagram account, which has over 35 million followers throughout the world. Hadid's Instagram account is the 39th most followed account worldwide.² Hadid maintains a Twitter account, which has over six million followers. Hadid's Twitter account is the 132nd most followed account worldwide.³
3. On information and belief, IMG is a global sports, events, and talent management company. IMG distributes over 32,000 hours of content—originating from more than 200 clients and events—to major global broadcasters annually, across all forms of media including TV,

¹ https://en.wikipedia.org/wiki/Gigi_Hadid

² <https://socialblade.com/instagram/top/100/followers>

³ <https://twittercounter.com/pages/100/100>

audio, fixed media, inflight and closed circuit, broadband and mobile. IMG's content is distributed in twenty-five (25) countries worldwide. IMG owns and operates numerous divisions, including IMG College, IMG Fashion, IMG Events, IMG eSports, IMG Tennis, IMG Academy, and IMG Models. IMG represents numerous models throughout the world, including Hadid. IMG is Foreign Limited Liability Company existing under the laws of the State of Delaware, with headquarters in New York, New York.

JURISDICTION AND VENUE

4. This is a civil action seeking damages for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
5. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
6. This Court has personal jurisdiction over Defendant, and venue in this District is proper under 28 U.S.C. § 1391(b), in that Defendant: (1) directed electronic activity into the state; (2) with the manifested intent of engaging in business or other interactions within the state; and (3) that activity created, in a person within the state, a potential cause of action cognizable in the state's courts.
7. This Court also has personal jurisdiction over Defendant, and venue in this District is proper under 28 U.S.C. § 1400(a).

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

8. Cepeda captured the photograph, "Gigi Hadid customized jacket" ("Copyrighted Photograph") on July 11, 2016 in New York, New York. [EXHIBIT 1]. Cepeda captured the

Copyrighted Photograph at the corner of Prince and Mercer Streets in New York City using great technical skill and careful timing.

9. Cepeda is the sole copyright holder of the Copyrighted Photograph and has never entered into an agreement or arrangement with an individual, business, or other entity to transfer or share copyright in the Copyrighted Photograph.
10. On July 12, 2016, Instar Images (formerly INF Photo) (www.infphoto.com) (“Instar”) licensed the Copyrighted Photograph on Cepeda’s behalf to *The Daily Mail* (“Daily Mail”).
11. On July 12, 2016, in accordance with the license described above, Daily Mail posted the Copyrighted Photograph to the following URL:
 - www.dailymail.co.uk/tvshowbiz/article-3686694/Gigi-Hadid-wears-personalized-1950s-style-letterman-jacket-preps-shoot-NYC.html (Last visited August 26, 2017).
12. Daily Mail posted the Copyrighted Photograph with the article, “Gigi Hadid wears personalized 1950s-style letterman jacket with her name on front and back as she preps for shoot in NYC with curlers still in place.” [EXHIBIT 2].
13. Daily Mail attached “©Peter Cepeda/INFphoto.com,” to the bottom left corner of the Copyrighted Photograph. [EXHIBIT 3].
14. On July 12, 2016, Instar licensed the Copyrighted Photograph on Cepeda’s behalf to TMZ (www.tMZ.com) (“TMZ”).
15. On July 12, 2016, in accordance with the license described above, TMZ posted the Copyrighted Photograph to the following URL:
 - www.tMZ.com/2016/07/12/gigi-hadid-adidas-jacket (Last visited August 26, 2017).

16. TMZ posted the Copyrighted Photograph with the article, “Gigi Hadid My Personal Jacket.” [EXHIBIT 4].
17. TMZ attached “INFphoto.com,” to the bottom left corner of the Copyrighted Photograph. [EXHIBIT 5].
18. Beginning on or about July 12, 2016, Defendants copied and uploaded the Copyrighted Photograph to Hadid’s Instagram account, which was posted to the following URL:
 - www.instagram.com/p/BHxRY0rjUj5/?hl=en&taken-by=gigihadid (“Instagram Post”) (Last visited August 26, 2017). [EXHIBIT 6].
19. As of the date of this filing, Hadid’s Instagram account still displays the Copyrighted Photograph, including the Instagram Post as well as a separate webpage displaying all of the photographs utilized by Hadid on her Instagram account, www.instagram.com/gigihadid/?hl=en. [EXHIBIT 7].
20. As of the date of this filing, the Instagram Post has received 1.2 million likes.
21. Beginning on or about July 12, 2016, Defendants posted a link to the Instagram Post to Hadid’s Twitter account, which was posted to the following URL:
 - www.twitter.com/gigihadid (“Twitter Post”) (Last visited August 26, 2017). [EXHIBIT 8].
22. As of the date of this filing, Hadid’s Twitter account still displays the Twitter Post. The Twitter Post has been retweeted over 1,300 times. [EXHIBIT 8].
23. As a result of Hadid’s Post, numerous prominent, commercial, online publications copied and posted the Copyrighted Photograph, crediting Hadid or Instagram. [EXHIBIT 9 displays a selection of the publications].

24. At the time of this filing, despite numerous demands by Cepeda to Defendants to remove the infringing posts described above, Defendants have refused.
25. Cepeda deposited copies of the Copyrighted Photograph with the United States Copyright Office and paid the required registration fee in accordance with 17 U.S.C. § 408-9, 708.
26. Cepeda received a receipt (Case Number 1-5776412659) of his registration application for the Copyrighted Photograph from the United States Copyright Office. [EXHIBIT 10].

COUNT I: INFRINGEMENT OF COPYRIGHT PURSUANT TO 17 U.S.C. §101 ET SEQ.

27. Cepeda incorporates herein by this reference each and every allegation contained in each paragraph above.
28. Cepeda is, and at all relevant times has been, the copyright owner or licensee of exclusive rights under United States copyright with respect to the Copyrighted Photograph, which is the subject of a valid and complete application before the United States Copyright Office for Certificate of Copyright Registration by the Register of Copyrights.
29. Among the exclusive rights granted to each Cepeda under the Copyright Act are the exclusive rights to reproduce the Copyrighted Photograph and to distribute the Copyrighted Photograph to the public.
30. Cepeda is informed and believes that Defendants, without the permission or consent of Cepeda, have copied and used the Copyrighted Photograph to Hadid's Instagram account. In doing so, Defendants violated Cepeda's exclusive rights of reproduction and distribution. Defendants' actions constitute infringement of Cepeda's copyright and exclusive rights under copyright.

31. Cepeda is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Cepeda.
32. As a result of Defendants' infringement of Cepeda's copyright and exclusive rights under copyright, Plaintiff is entitled to actual damages, including any profits realized by Defendant attributable to the infringement, pursuant to 17 U.S.C. § 504(b) for Defendant's infringement of the Copyrighted Photograph.

COUNT II: CONTRIBUTORY INFRINGEMENT

33. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.
34. Cepeda is informed and believes Defendants, without the permission or consent of Cepeda, knowingly made available the Copyrighted Photograph to third party publishers and distributors when Defendants posted the Copyrighted Photograph to Hadid's Instagram account, the "Instagram Post."
35. Cepeda is informed and believes Defendants, without permission or consent of Cepeda, knowingly posted an active link to the Instagram Post on Hadid's Twitter account, the "Twitter Post."
36. By displaying the Copyrighted Photograph on two distinct URLs, and posting the active link described above, Defendants are contributing to direct copyright infringement.
37. Cepeda is informed and believes Defendants, without the permission or consent of Cepeda, had knowledge or reason to know of such contributory infringement.

38. Defendants' acts of contributory infringement have been willful, intentional, and purposeful, in disregard of an indifferent to the rights of Plaintiff.
39. As a result of Defendants' actions, Cepeda is entitled to actual damages or such other and further relief as is just and proper.

COUNT III: REMOVAL AND ALTERATION OF INTEGRITY OF COPYRIGHT
MANAGEMENT INFORMATION PURSUANT TO 17 U.S.C. §1202

40. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.
41. Cepeda is informed and believes that Defendants, without the permission or consent of Cepeda, knowingly and with the intent to conceal infringement, intentionally removed the copyright management information from Cepeda's Copyrighted Photograph before displaying the Copyrighted Photograph on Hadid's Instagram account, www.instagram.com/gigihadid. In doing so, Defendant violated 17 U.S.C. § 1202(a)(1) and (b)(1).
42. As a result of Defendants' actions, Cepeda is entitled to statutory damages pursuant to 17 U.S.C. § 1203(c). Cepeda is further entitled to his attorneys' fees and costs pursuant to 17 U.S.C. § 1203(b)(5).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. Declaring that Defendants' unauthorized conduct violates Cepeda's rights under the Federal Copyright Act;

- B. Immediately and permanently enjoining Defendants, their officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing Cepeda's Copyrighted Photograph without consent or otherwise infringing Cepeda's copyright or other rights in any manner;
- C. Ordering Defendants to account to Cepeda for all gains, profits, and advantages derived by Defendants by their infringement of Cepeda's copyright or such damages as are proper, and since Defendants intentionally infringed Cepeda's copyright, for the maximum allowable statutory damages for each violation;
- D. Awarding Cepeda actual and/or statutory damages for Defendants' copyright infringement in an amount to be determined at trial;
- E. Awarding Cepeda his costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. § 505, 17 U.S.C. § 1203(b)(3), and § 1203(b)(5); and
- F. Awarding Cepeda such other and further relief as is just and proper.

JURY DEMAND

Cepeda hereby demands a trial by jury on all claims for which there is a right to jury trial.

Dated: September 5, 2017

/s/ David C. Deal
David C. Deal (VA Bar No.: 86005)
The Law Office of David C. Deal, P.L.C.
P.O. Box 1042
Crozet, VA 22932
434-233-2727, Telephone
888-965-8083, Facsimile
Attorney for Plaintiff

EXHIBIT 1



EXHIBIT 2

The screenshot shows a web browser displaying the Daily Mail website. The address bar shows the URL: www.dailymail.co.uk/tvshowbiz/article-3686694/Gigi-Hadid. The page is dated Saturday, Aug 26th 2017. The main headline reads: "Gigi Hadid wears personalized 1950s-style letterman jacket with her name on front AND back as she preps for shoot in NYC with curlers still in place". The article is by Heidi Parker for DailyMail.com, published on 13:18 EDT, 13 July 2016, and updated on 17:41 EDT, 13 July 2016. The article text describes Gigi Hadid wearing a pink letterman jacket with her name on it, and mentions her preparation for a Tommy Hilf photo shoot in Manhattan. A small image of Gigi Hadid with her hair in curlers is visible at the bottom of the article. The right sidebar contains a "FEMAIL TODAY" section with various celebrity news snippets and images.



EXHIBIT 3



Did she use a pen on this? It looked as if the last 'as' had been scribbled out with a Sharpee

EXHIBIT 4

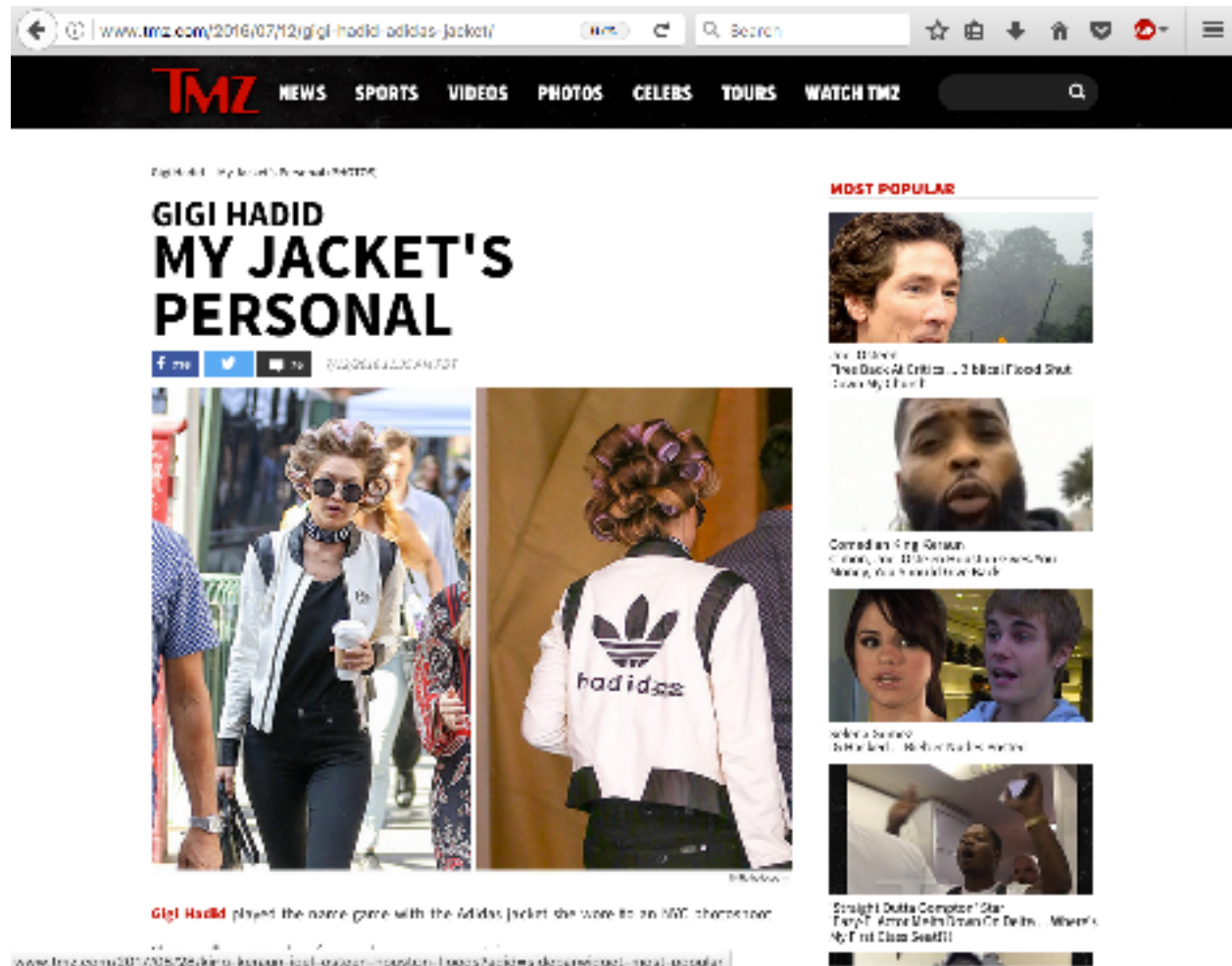


EXHIBIT 5



EXHIBIT 6

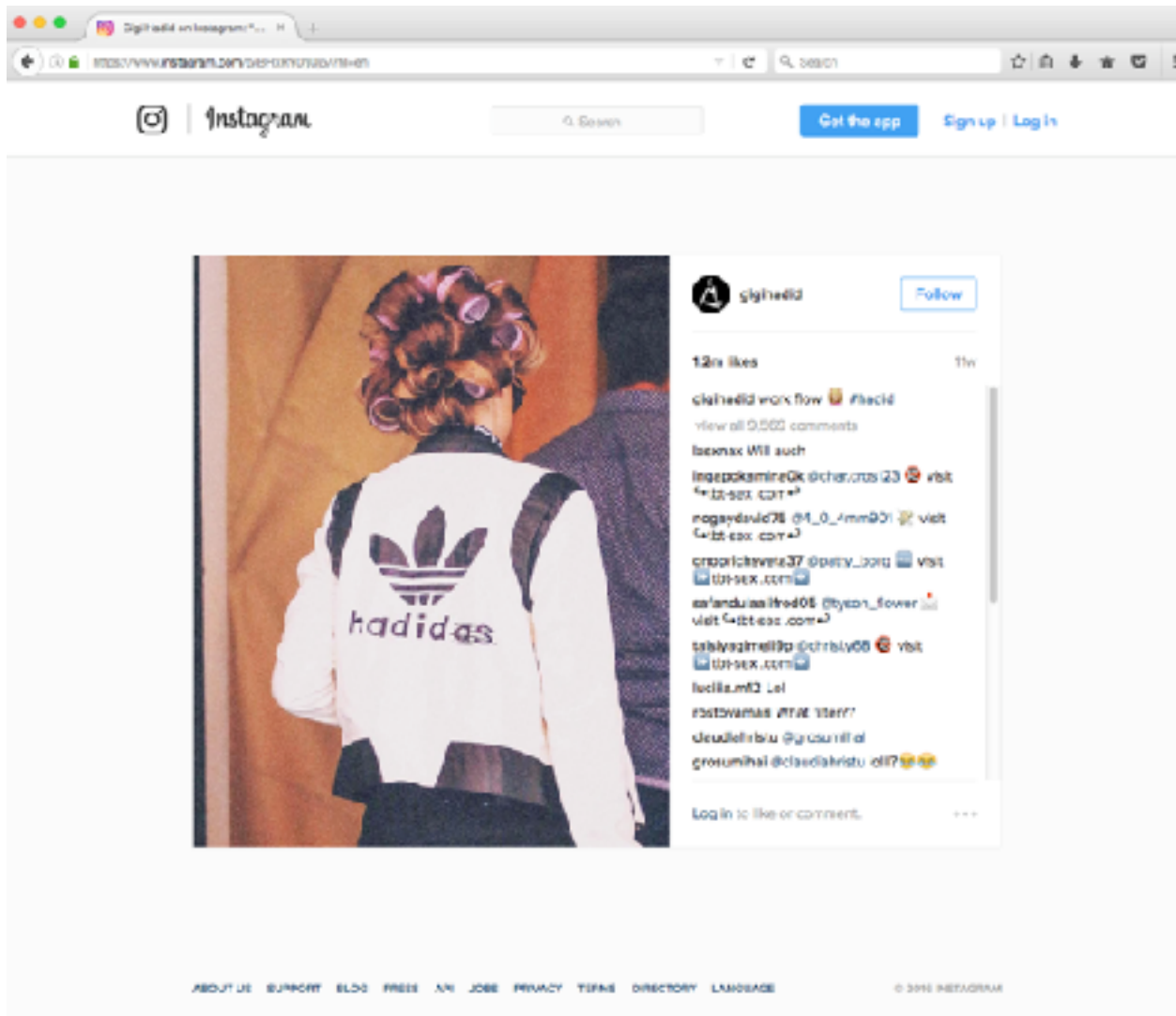
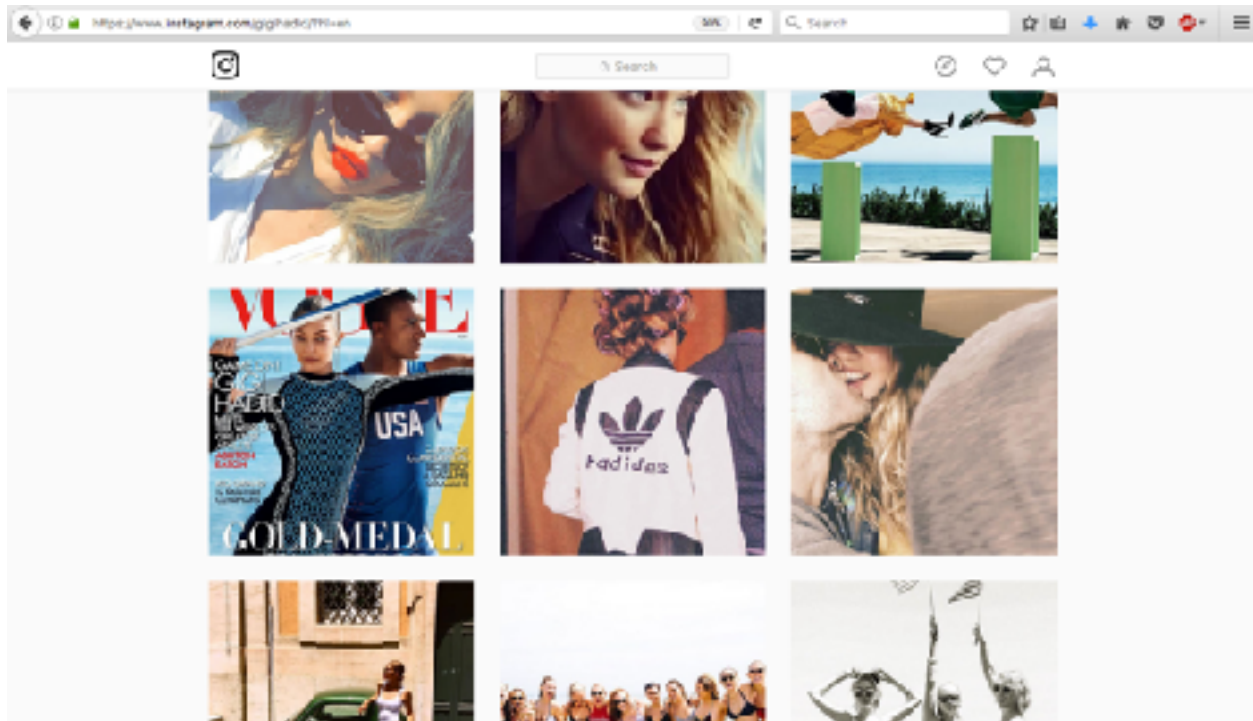
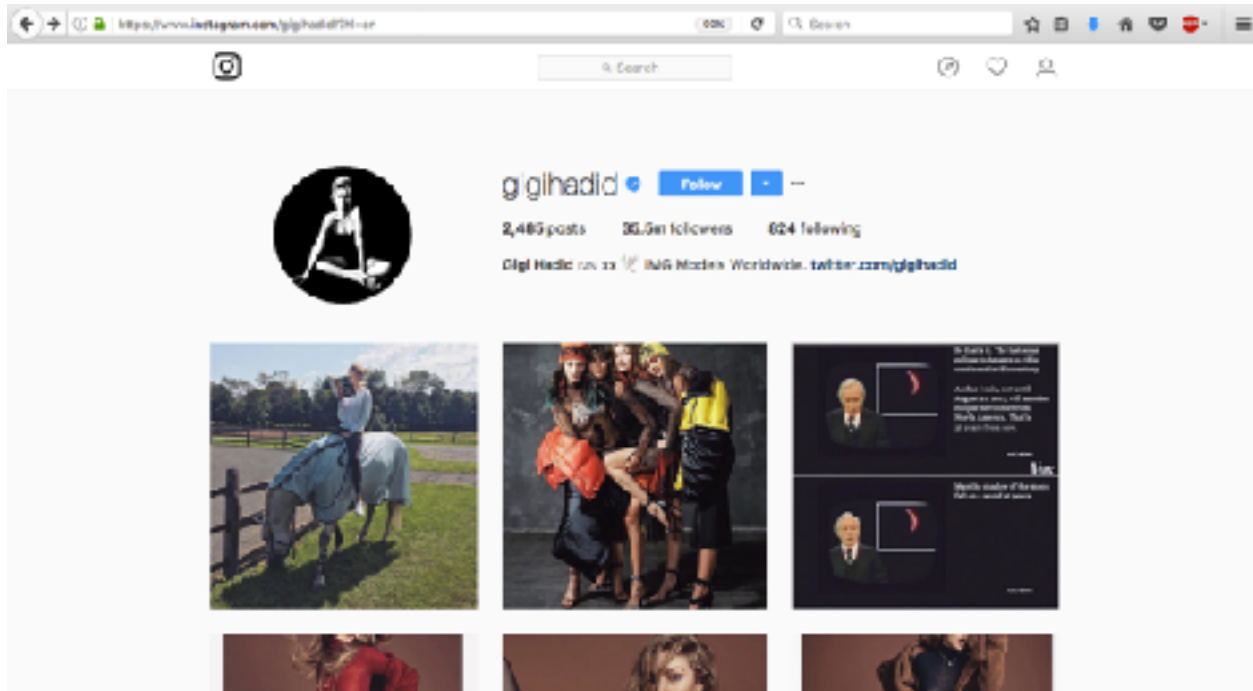


EXHIBIT 7



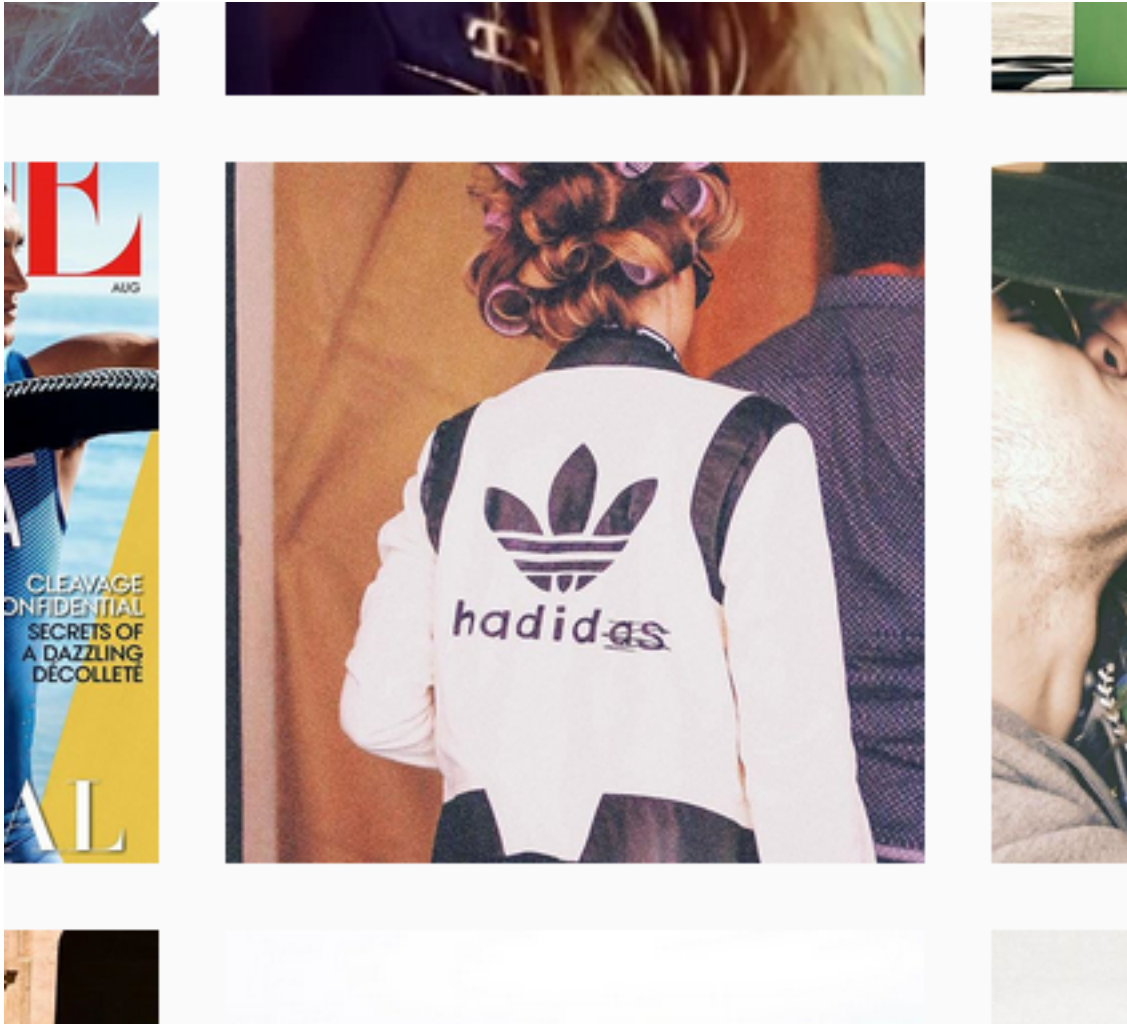


EXHIBIT 8

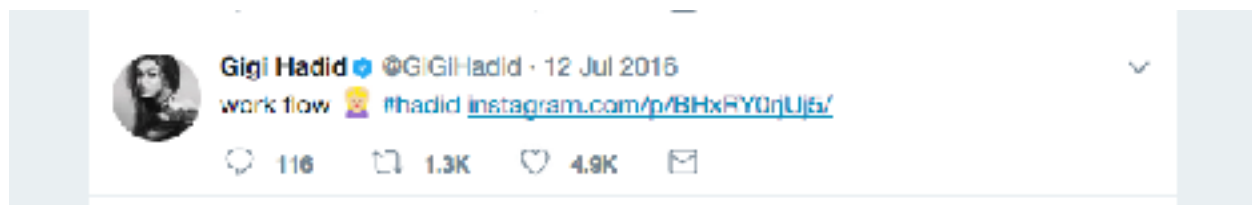
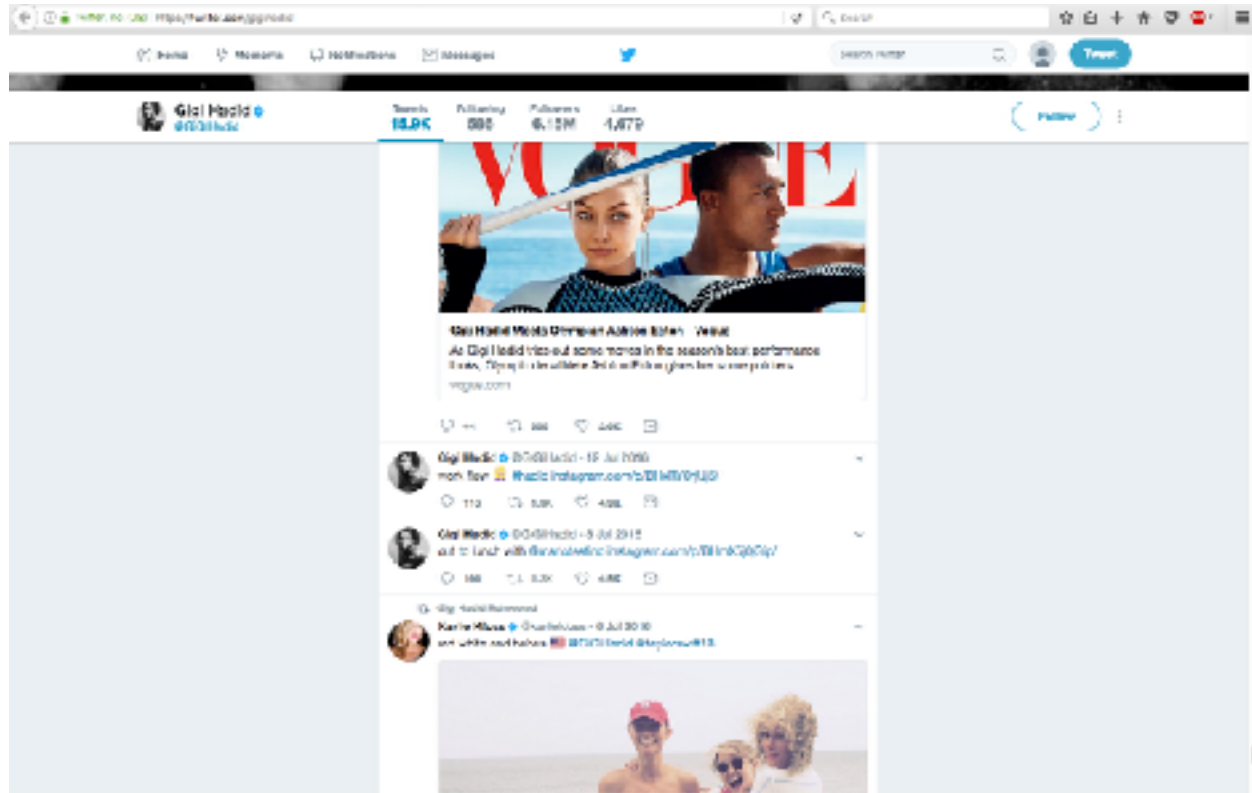
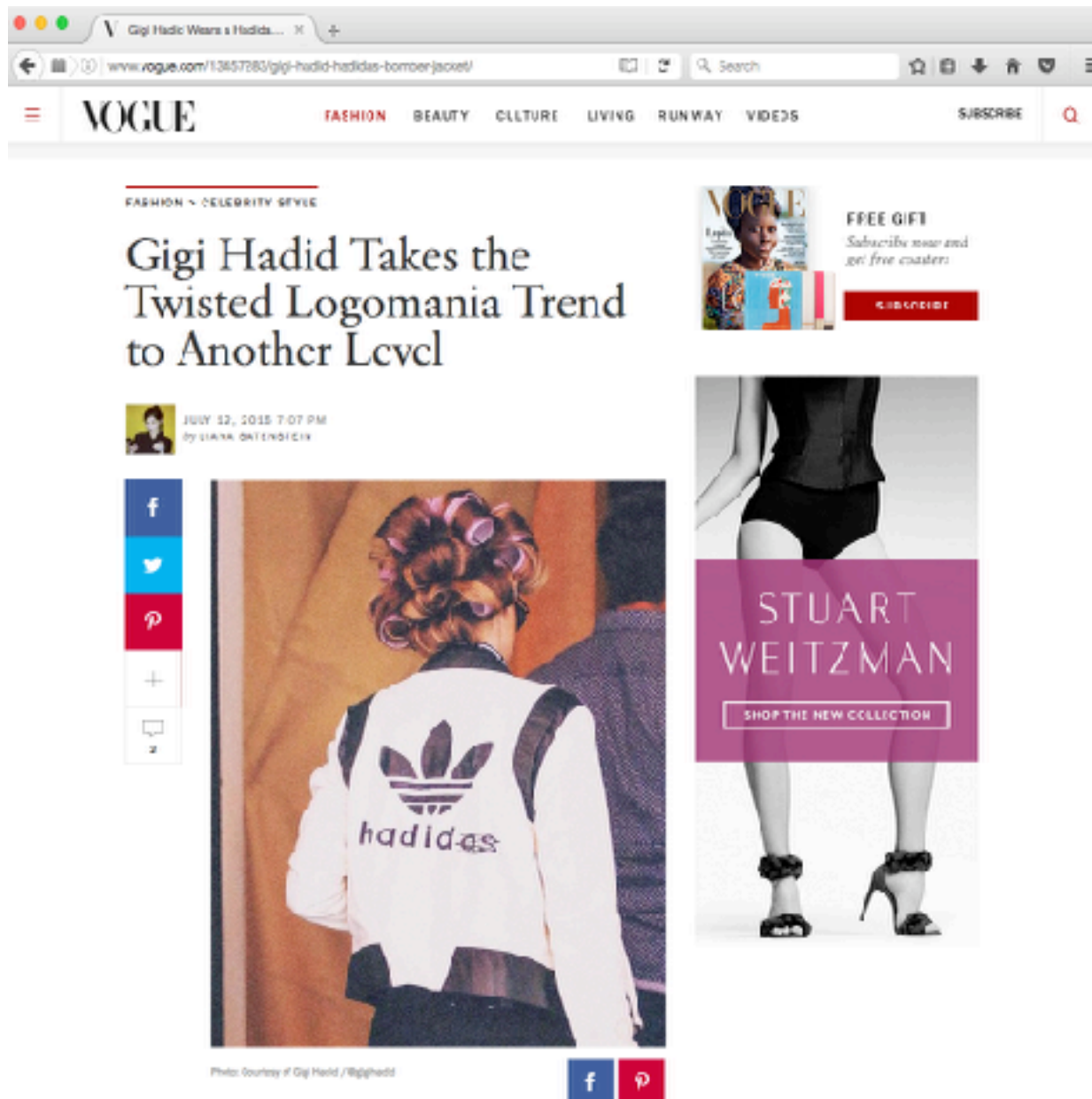
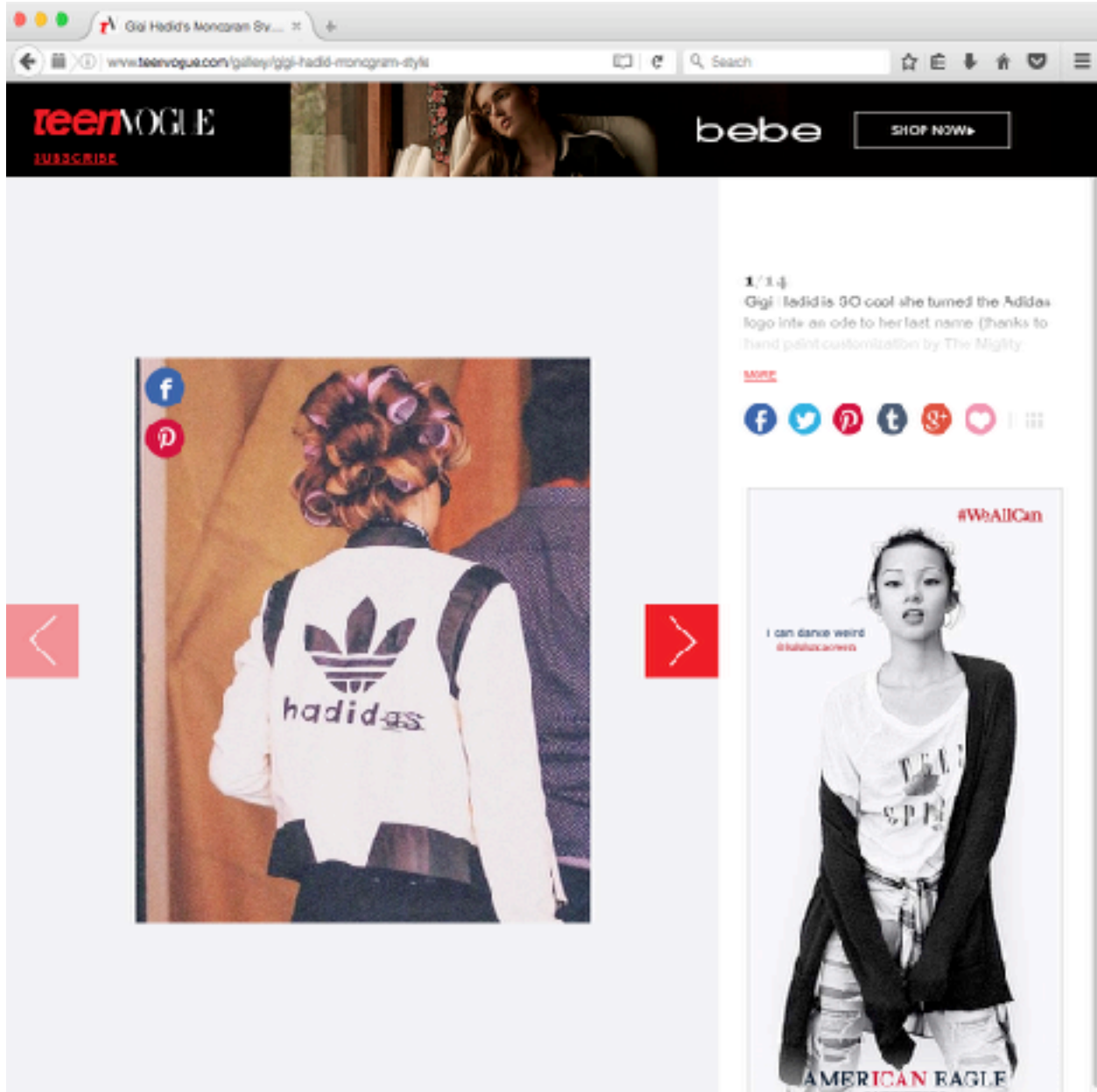
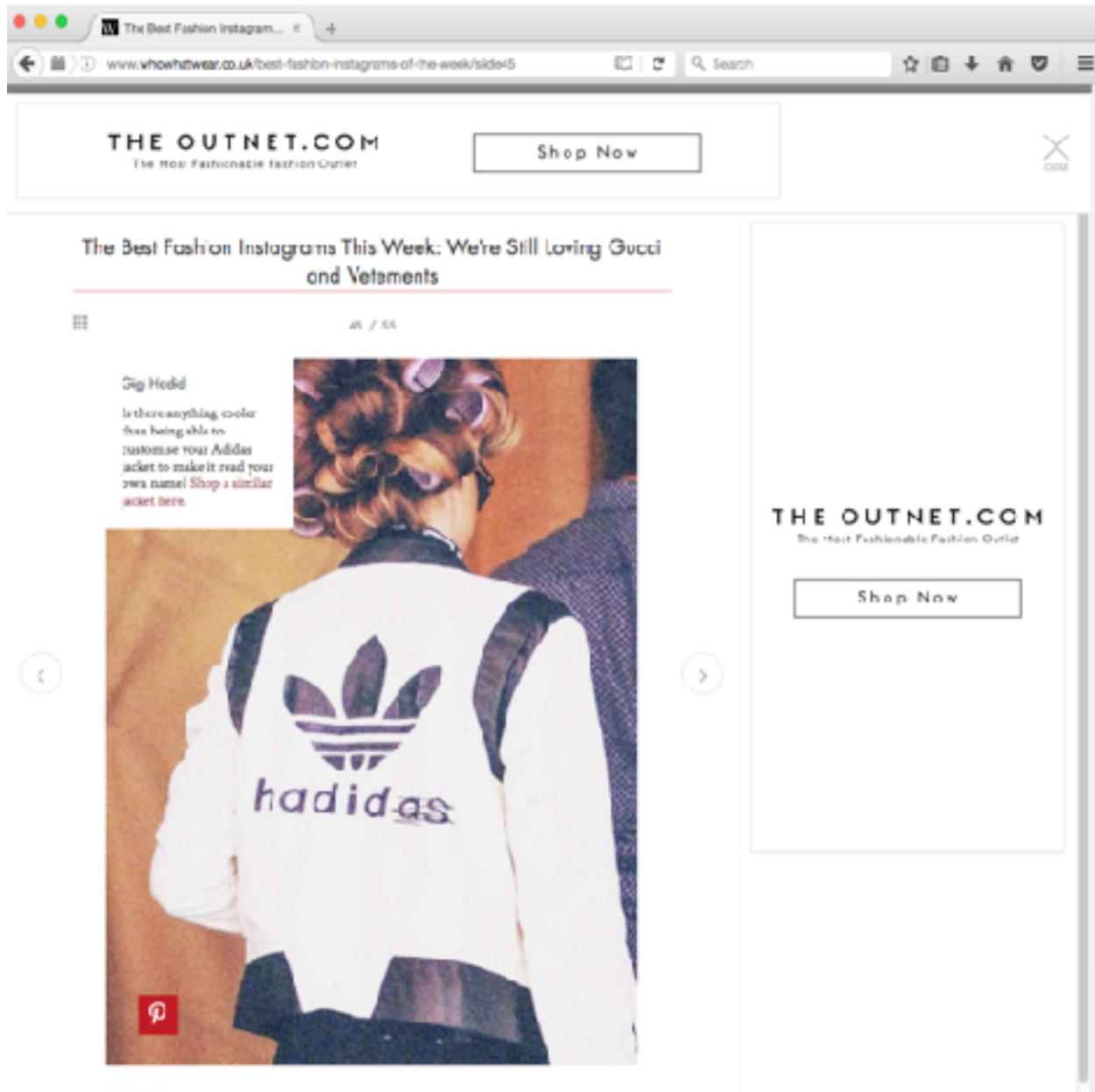
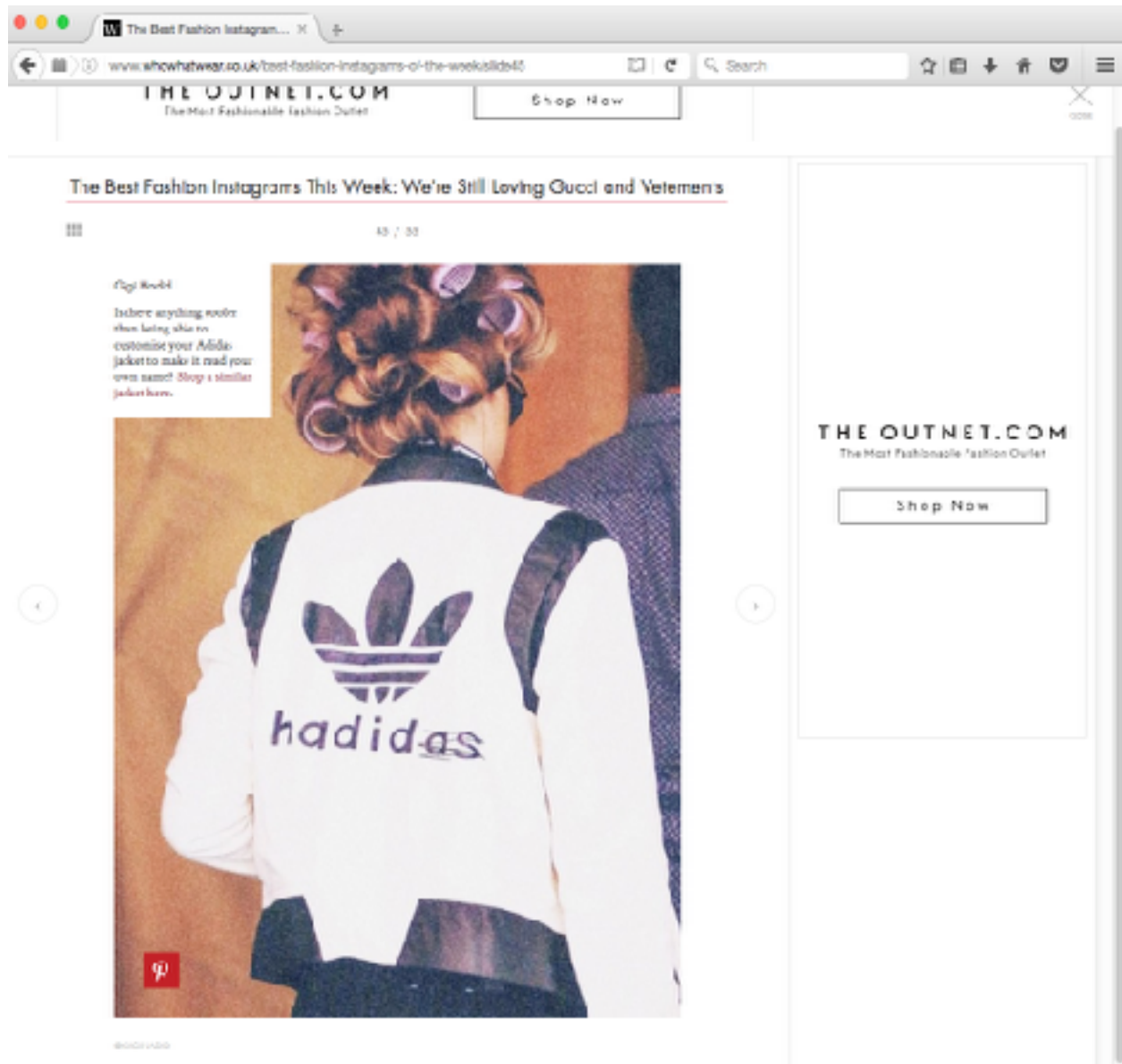


EXHIBIT 9










Gigi Hadid Turns Hair Curlers Into A New Fashion Statement

www.mswoman.co.nz/gigi-hadid-turns-hair-curlers-into-a-new-fashion-statement/

ABOUT CONTACT TERMS & CONDITIONS PRIVACY

Instagram

I honestly don't know how Gigi can make an outfit like this look so good? Curless, thick choker, Y2K style jacket and slip on sport sneakers. She's stepped up her fashion game and shown people a unique but throw back look by also changing the Adidas logo on the back of her jacket to "Hadid" by crossing out the 'as' at the end and adding an "H".



Instagram

Reveals the Secret to Making...

4 Bizarre Things That Will Make You Happy According to

According To Researchers, This High-Fat Food Is the Secret To...

Science Reveals This Fruit Can Literally Press Pause On Aging

This is The Popular Health Food Trend That Your Nutritionist...

Experts Say That This Common Mealtime Habit Could Be The...

Airline Secrets No One Wants You To Know About

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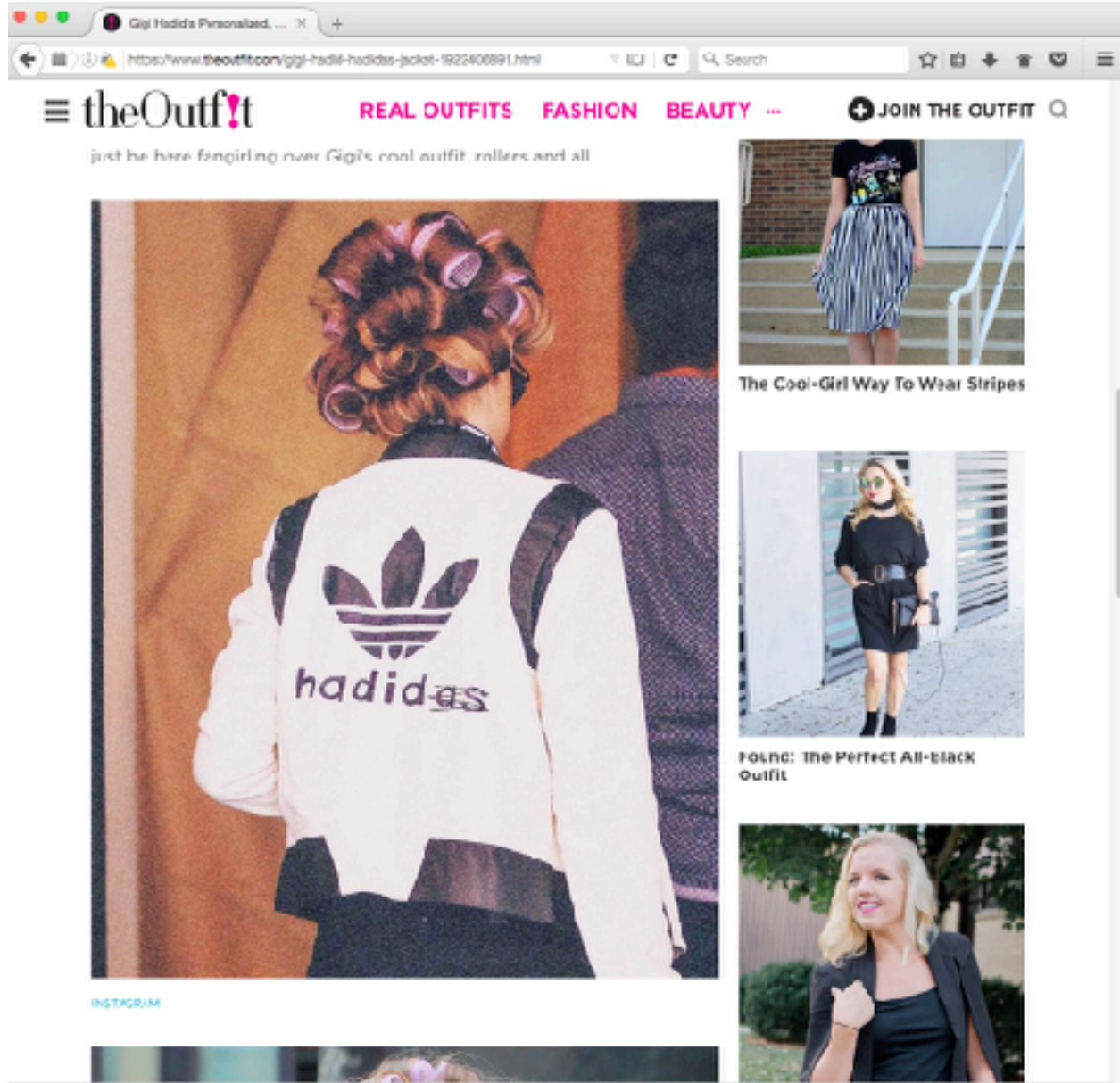


EXHIBIT 10

9/1/2017

Electronic Copyright Office (eCO)

Copyright

LAWRENCE, KENNETH J. APPROVED: 09/01/2017

Submit Your Work(s)To complete your submission, please email the document(s) of your work (<http://www.copyright.gov/electronicupload.asp>) You may (1) upload electronic files if the work meets the req(1) Upload your work(s) (<http://www.copyright.gov/electronicupload.asp>) Please perform the following steps for the case(s) in the table below:

Step 1: Click the "Select files to upload" button. Using your computer's browser, select your files for the corresponding work then click the "Start upload" button.

Step 2: After uploading all files for this work, click the corresponding "Complete Your Submission" (<http://www.copyright.gov/electronicupload/complete.htm>) button. Files cannot be uploaded later.

Please note: Files cannot be revised and no deleted cases are allowed. To avoid delays and/or a later effective date of registration, please verify the following before uploading a copy of y

- It is a category of work that may be uploaded (<http://www.copyright.gov/electronicupload-category.html>)
- It is an acceptable file type (<http://www.copyright.gov/electronicupload/acceptable-file-types.html>)
- It is an acceptable file size (<http://www.copyright.gov/electronicupload/acceptable-file-sizes.html>)

Upload Your Work(s)

Case Details	Step 1: Select & Upload Files
Case #: 1-278412000 Title: God Father/Don't Get Licked Author: Number: From: Peru Type of Work: Musical (see above)	

(7) Send Your Work(s) by Mail:

- Click the "Create Shipping Slip" button in the table below; a Shipping Slip link will appear in the Attachments column.
- Click the Shipping Slip link and print out and attach the shipping slip(s) to your deposit copy(ies). For multiple cases, be sure to attach shipping slip to the corresponding copy.
- Mail the deposit copy(ies) within 30 days to the Copyright Office address at the bottom of the slip. Note, the effective date of registration will be based on the date on which we receive the copies with corresponding shipping slip(s) attached.

CLICK "Home" after uploading files(s) or printing shipping slip(s). You may verify the submission in the open Cases table on your eCO

Homepage

Send Your Work(s) by Mail**Create Shipping Slip**[Download: SWGSubstFormDocumentSWGForm 3.1 2's 5 2 11 2''''](#)Attachment: [Download: SWGSubstFormDocumentSWGForm 3.1 1's 5 2 11 2''''](#) File: [Download: SWGSubstFormDocumentSWGForm 3.1 1's 5 2 11 2''''](#) Map: [Download: SWGSubstFormDocument](#)

Please Note: The Copyright Office is not responsible for identifying information reported on this form in order to process the application for copyright registration. By providing this information you are agreeing that you warrant the accuracy of the information and you warrant that the information is not false, misleading, or otherwise in violation of the Copyright Act.

Case One (2017) (page 27) <http://www.copyright.gov/electronicupload/>