

Forever 21 and Ariana Grande “Face-Off” Over Lookalike Images

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Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation

Ariana Grande, identified in a recent [complaint](#) filed in federal court as an “internationally renowned singer, songwriter and actress,” is challenging struggling retailer Forever 21’s use of images that allegedly mimic Ms. Grande’s likeness and persona.

This is no small matter—Ms. Grande alleges that she has 160 million Instagram followers, and 64 million Twitter followers, giving her “the largest social media following of *any* female celebrity in the world.” On the strength of that influence, Ms. Grande alleges that the market value for “even a single Instagram post” by her is “well into the six figures,” and that she commands in the “mid-seven figures to over eight figures” for longer-term endorsement deals for use of her name and likeness. Ms. Grande alleges that Forever 21 used a look-alike model for a social media marketing campaign after negotiations fell through between the parties for the use of Ms. Grande’s image.

According to Ms. Grande’s complaint, Forever 21 used 30 photos and videos in which a look-alike model is portrayed to resemble Ms. Grande as she appears in her music videos. The complaint focuses on details including the model’s hairstyle, clothing, accessories, poses, and choice of background. Although the complaint asserts several claims, including Lanham Act for false endorsement and trademark infringement as well as claims under the Copyright Act, Ms. Grande’s lawsuit is ultimately grounded in the concept of “right of publicity.” Right-of-publicity laws prohibit the use of a name, image, or likeness to advertise a product, and have been interpreted to prohibit the false impression that a celebrity endorses a product. In her lawsuit, Ms. Grande is claiming at least \$10 million in damages.

Courts have famously grappled with similar allegations in the past. In 1990, musician Tom Waits won \$2.475 million in damages, including punitive damages, from Frito-Lay Inc. after the food giant hired a voice actor to mimic Mr. Waits’ distinctive voice. And in 1994, Vanna White won a right-of-publicity lawsuit against Samsung after it advertised a robot dressed in a gown and wig, turning letters on a TV set that resembled the “Wheel of Fortune” game show in which she stars.

Ms. Grande filed suit against the retailer in the Central District of California on September 2, 2019, and Forever 21 announced it is filing for bankruptcy on September 29, 2019. Forever 21’s answer to Ms. Grande’s complaint is expected on November 8, 2019.