

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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Attorneys for Mary Buck Thompson

	X	
MARY BUCK THOMPSON,	:	Case No.:
	:	
Plaintiff,	:	
	:	
v.	:	<b>COMPLAINT AND</b>
	:	<b><u>JURY DEMAND</u></b>
V.E.W. LTD.,	:	
COTY, INC. and	:	
LAIRD + PARTNERS, LLC,	:	
	:	
Defendants.	:	
	X	

## COMPLAINT

Plaintiff, Mary Buck Thompson (“Plaintiff” or “Ms. Thompson”), as and for her Complaint, hereby alleges as follows:

### NATURE OF THE CASE

1. Ms. Thompson is a prominent artist and creator of, among other things, extraordinarily designed gold and silver crown jewelry works. The Defendants in this case include the licensing company of a prominent fashion designer (Vera Wang), a billion dollar fragrance company, and a major New York advertising and branding agency. Together, these Defendants have launched a multi-million dollar advertising campaign for a \$100+ perfume fragrance marketed under the Vera Wang name, which campaign prominently features Ms. Thompson’s works. While Defendants, both individually and collectively, are highly experienced in the nuances of protecting intellectual property rights and the need to obtain the approval and authorization of third-parties when exploiting third-parties’ property for commercial advantage, and first-year perfume sales are anticipated to be \$40 million, they nevertheless have chosen to utilize Ms. Thompson’s distinctive and artistic jewelry in their campaign without obtaining her authority and without compensating her. To make matters even worse, instead of obtaining the requisite approvals to utilize her works and providing her with appropriate credit, Defendants have falsely represented to the public that Plaintiff’s unique works are actually those of Vera Wang, as opposed to Ms. Thompson.

2. By this action, Ms. Thompson seeks to stop Defendants’ unauthorized use and misappropriation of her works and to obtain compensatory, statutory, and punitive damages based on Defendants’ willful misconduct.

### PARTIES, JURISDICTION AND VENUE

3. Ms. Thompson is an individual residing in the state of New Mexico who designs fine jewelry for a living. Among her original artworks are unique, jeweled crowns.

4. Ms. Thompson's jewelry is sold at her gallery in Santa Fe, at high-end boutique stores in New York and California, at private "trunk shows," and via the Internet.

5. Upon information and belief, Defendant V.E.W. Ltd. ("VEW") is a Delaware corporation with a principal place of business at 225 West 39th Street, New York, NY 10018.

6. On information and belief, Defendant VEW is owned and/or controlled by noted fashion designer Vera Wang Becker ("Vera Wang"), whose wedding dresses, fine jewelry and related accessories, are highly sought after by the most discriminating of customers.

7. On information and belief, Vera Wang has authorized VEW as her licensing company to utilize her name in connection with trademarks for the goods owned, controlled and/or marketed to the public, including but not limited to, jewelry products.

8. According to the records at the United States Patent and Trademark Office, VEW has applied for approximate forty (40) federal trademark registrations for goods and services incorporating the name Vera Wang. Among these are VERA WANG FINE JEWELRY (Reg. No. 303263) and VERA WANG PRINCESS (Serial No. 76641944).

9. On information and belief, Defendant Coty, Inc. ("Coty") is a Delaware Corporation with a principal place of business at 237 Park Avenue, New York, NY 10017.

10. On information and belief, Coty, directly or through parent and/or subsidiary entities, is the world's largest manufacturer and/or distributor of perfumes and fragrances for men and women with almost \$3 billion in sales.

11. On information and belief, VEW licensed Coty to produce and/or market a new perfume fragrance called VERA WANG PRINCESS (“Vera Wang Princess” or the “Perfume”).

12. On information and belief, Defendant Laird + Partners, LLC, (“Laird”) is a Delaware limited liability company with its principal place of business at 475 10th Avenue, New York, NY 10018. Laird is a prominent New York-based advertising and branding agency, with over 50 employees and \$20 million in revenues.

13. This Court has personal jurisdiction over Defendants VEW, Coty, and Laird in that they each have their principal place of business in New York County and regularly transact business in this District.

14. This case arises under the Copyright Act, 17 U.S.C. §101, *et seq.* and under the Lanham Act, 28 U.S.C. §1125(a). This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§ 1116 and 1121, and 28 U.S.C. §§ 1331, 1338 and 1367, as well as diversity jurisdiction under 28 U.S.C. § 1332 as there exists diversity of citizenship among the parties hereto and the amount of controversy, exclusive of interests and costs, exceeds the sum of \$75,000.

15. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because a substantial part of the actions and wrongful conduct underlying these claims occurred in this District.

#### **FACTUAL ALLEGATIONS RELATING TO ALL CLAIMS**

##### **A. Mary Buck Thompson’s Crown Jewelry**

16. Since 1998, Ms. Thompson (also known artistically as Mary Buck) has been creating crown, necklace and other fine jewelry. She developed an original style for her

jewelry, weaving and molding gold or silver wire into forms that she adorns with jewels, and has been able to accomplish this despite having been diagnosed with Multiple Sclerosis. The weaving and molding were both demanding and therapeutic.

17. Ms. Thompson's jewelry has been featured in national trade and fashion magazines, including *WWD Fast* and *W Magazine*. Ms. Thompson was the subject of a feature article in *Santa Fean*, and her works have also been sold in fashionable boutiques and galleries for contemporary artists in New York and California. In 2005, her works were included in a museum exhibition of fine jewelry and crafts.

18. To Ms. Thompson's knowledge and belief, no other jewelry designer creates artistic and fine jewelry works of similar appearance or style. As a result of its longstanding and exclusive use since 1998, the trade dress of her jewelry has become distinctive of Ms. Thompson's goods and works in commerce.

19. In 2004, an editor of Fairchild Publications became familiar with Ms. Thompson's work. This led to the use of her crowns in two featured articles, first in *WWD Fast* in 2004 and then in *W Magazine* in 2005. In both instances, Ms. Thompson loaned a small number of her crowns to the magazines for a photography session. After the photo shoot, she was advised the images would run in the article, and she was asked by the editor to indicate how she wanted her name and work credited. The agreed-upon credit ran with the articles. Until the events with Defendants, that was Ms. Thompson's principal experience with the fashion trade's use of images of her works. She had no experience with use of her images for a national advertising campaign prior to being contacted by the Defendants.

**B. Defendants' Contacts with Ms. Thompson Arranging for Use of Crown Jewelry for "Secret Photo Shoot"**

20. On information and belief, Laird was retained by Coty and/or VEW to design and/or manage an advertising campaign for the launch of Vera Wang Princess perfume.

21. On information and belief, Defendants retained a New York fashion stylist agency, Lori Goldstein, Ltd. ("LGL") to assist in the styling of a photo shoot for an advertising campaign for Vera Wang Princess fragrance.

22. On information and belief, LGL initially learned about or became interested in Ms. Thompson's work in connection with an article for *W Magazine*. Sometime in or around late 2005, Ms. Thompson was contacted by *W Magazine* and told that her crowns were needed for a photo shoot being arranged by LGL. Ms. Thompson provided several crowns to *W Magazine*, but to Ms. Thompson's knowledge, the planned article either did not run or did not contain an image of her work.

23. In January 2006, an assistant at LGL contacted Ms. Thompson directly and asked her to rent Ms. Thompson's crowns for a photography session in connection with a potential advertising campaign. LGL asked for as many crowns as Plaintiff could spare.

24. In February 2006, Ms. Thompson advised LGL that she was prepared to proceed on a rental fee basis, and that customarily the fee for rental of jewelry is up to 50% of the value per work per week.

25. In February 2006, Ms. Thompson shipped approximately 32 crowns to LGL. On information and belief, LGL also arranged to have several of her crowns picked up from a high-end, trend-setting New York boutique that carried Ms. Thompson's jewelry, Jeffrey's New York.

26. On information and belief, after shipment of the crowns to LGL, the photo shoot was postponed. LGL returned the crowns to Ms. Thompson. No compensation was provided to Ms. Thompson.

27. In March 2006, LGL renewed its request for the crowns for a rescheduled photo session. Ms. Thompson arranged for a second shipment of 34 pieces of fine jewelry to LGL, insuring the packages for \$79,900, one-half their retail value. Defendant VEW reimbursed Ms. Thompson for the insurance cost associated with the shipment.

28. In response to Ms. Thompson's request to attend the photo session, LGL advised Ms. Thompson that the project was a secret and forbid her from attending the photo shoot. Ms. Thompson was also advised by LGL that it was not certain that the final advertising campaign would even use Ms. Thompson's jewelry.

29. On information and belief, the photo session occurred in late March, 2006 in Hollywood, Florida and was attended by Vera Wang and Lori Goldstein. Ms. Thompson's jewelry was subsequently returned to her after the photo shoot was completed.

30. Defendants never paid Ms. Thompson any amounts for the use of the jewelry, never described to her the advertising campaign or the intended use of the crown images in the media campaign. Defendants never sought nor obtained Ms. Thompson's agreement to utilize her protected works in any advertising campaign.

**C. The VERA WANG PRINCESS Campaign**

31. On information and belief, VEW and Coty commenced a multi-million dollar advertising campaign for Vera Wang Princess on or about August 10, 2006.

32. Vera Wang Princess is a high-end fragrance retailing for over \$130 for just 1.7 fl. oz. According to trade reports, it is anticipated that the Perfume will be sold in 1,500 stores and first year sales are projected to be \$40 million.

33. The Vera Wang Princess advertising campaign consists of, among other things, prominent advertisements running in many national monthly magazines, and in print and on the websites of department stores selling Vera Wang Princess. The campaign continues to the present time.

34. On information and belief, Defendant Coty also created or commissioned the creation of a website, [www.verawangprincessbeauty.com](http://www.verawangprincessbeauty.com). Among other things, the website features still images and videos with female, male and animal models wearing Ms. Thompson's crown jewelry. See Exhibit 1 hereto. Visitors to the website are encouraged to download images containing Ms. Thompson's jewelry and to use the images for computer screen wallpaper, instant messaging icons and their own personal webpages on MySpace.com. See Exhibit 2 hereto. At least one website video features models wearing Ms. Thompson's jeweled crowns in various outdoor scenes. The advertising campaign for Vera Wang Princess utilizing plaintiff's works is hereinafter known as the "Vera Wang Princess Campaign."

35. On or about September 15, 2006, Ms. Thompson discovered the Vera Wang Princess Campaign when she came upon an advertisement for Vera Wang Princess in *Marie Claire* magazine. The advertisement contained a photograph of a model, Camilla Belle, wearing Ms. Thompson's crown jewelry under the caption, "Born to Rule." Shortly thereafter, Ms. Thompson also discovered the [www.verawangprincessbeauty.com](http://www.verawangprincessbeauty.com) website

and saw several more pictures featuring three more pieces of her crown jewelry, and a video showing more of her crown jewelry on the model Camilla Belle and others.

36. Subsequently, through her own research, Ms. Thompson learned that the Vera Wang Princess Campaign was an extensive campaign featuring advertising appearing in many magazines, including such major publications as *Teen People*, *Teen Vogue*, *British Teen Vogue*, *Elle* and *Vogue*.

37. One or more of the advertisements had the following legend on the left side of the page:

Featuring Vera Wang Lavender Label Dress and Vera Wang Fine Jewelry.  
© 2006 Coty Prestige/Vera Wang© and Vera Wang Princess™ owned by  
V.E.W. Ltd.

See Exhibit 3 hereto from *Lucky* Magazine (November 2006 issue at p. 135). The *Lucky* ad contains credit to the department store (Dillard's), which features the Perfume.

38. While Ms Thompson was pleased to have loaned her works for a photo sessions with a potential for inclusion in a potential Vera Wang campaign, Ms. Thompson provided her jewelry items with the reasonable expectation that she would be compensated by a fair payment and that she would receive credit in all advertising and an agreement as to the scope of use. Instead, Defendants proceeded without seeking her authorization, without making any payment and by misappropriating her works as being those of Vera Wang.

39. At no time was Ms. Thompson advised by LGL about the subject matter or nature of the campaign, or the intended use of her crowns other than in a photo shoot. Indeed, prior to discovery of the campaign, Ms. Thompson did not have any contact from or discussion with any of the Defendants regarding the Vera Wang Princess Campaign or the intended use of her crown jewelry in it.

40. Defendants have expended millions of dollars on the Vera Wang Princess Campaign to promote the Vera Wang Princess line of perfume by prominently utilizing Ms. Thompson's works of art among the featured depictions, and Defendants anticipate reaping what has been reported to be upwards of \$40 million of dollars in first year sales. Despite the foregoing, at no time have Defendants paid Ms. Thompson for the use of her works, obtained her approval to utilize them or properly attributed her works in the Vera Wang Princess Campaign.

41. On or about October 3, 2006, within thirty days of discovering the Defendants' use of her artwork, Ms. Thompson applied to register all the jewelry used in the Vera Wang Princess Campaign with the U.S. Copyright Office. See Exhibit 4 hereto.

42. On or about October 9, 2006, Defendants Coty and Vera Wang were notified by letter of counsel that the use of Ms. Thompson's copyrighted jewelry was without authority and that the Vera Wang Princess Campaign falsely credited Vera Wang Fine Jewelry as the source of the Ms. Thompson's jewelry. See Exhibit 5 hereto.

43. Despite Ms. Thompson's express notification of copyright registration and that Defendants' use of her works was unauthorized, Defendants have nevertheless continued utilizing Ms. Thompson's works without authority, continued to encourage the downloading of her images onto users' computers and third-party websites, and continued to falsely credit the works as Vera Wang's.

44. Accordingly, the Defendants have been unjustly enriched by the act of taking Ms. Thompson's distinctive crowns for its multi-million dollar Vera Wang Princess Campaign. Ms. Thompson, on the other hand, has been unfairly injured, because consumers have been led to believe that Vera Wang and Defendant VEW are the source of the crown

jewelry and by implication, that Ms. Thompson's original jewelry is an imitation of Vera Wang Fine Jewelry and/or that she has authorized the use of her works in the Vera Wang Princess Campaign.

**COUNT I**  
**COPYRIGHT INFRINGEMENT**

45. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 44 of its Complaint as though fully set forth herein.

46. By the actions alleged in this Complaint, Defendants have infringed and, unless enjoined by this Court, will continue to infringe Ms. Thompson's copyrights in and relating to her works. Defendants by themselves and/or by authorizing others have engaged in reproducing her works, creating derivative works based on them, displaying her works publicly and distributing her works to the public on an unlimited and unrestricted basis without permission. Plaintiff is entitled to receive all appropriate injunctive relief, including but not limited to the relief available under 17 U.S.C. §§502-503.

47. Plaintiff is further entitled to recover from the Defendants the damages, including attorneys' fees, she has sustained and will sustain, and any gains, profits and advantages obtained by Defendants as a result of Defendants' willful acts of infringement alleged in this Complaint, including but not limited to such damages and awards as are available under 17. U.S.C. §§504-505.

**COUNT II**  
**VIOLATIONS OF THE LANHAM ACT**

48. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 44 of its Complaint as though fully set forth herein.

49. By the actions alleged in this Complaint, Defendants have engaged in false designation of origin and false and misleading description of fact regarding the creation and ownership of Ms. Thompson's crown jewelry. The Defendants have published Ms. Thompson's crown jewelry as part of the Vera Wang Princess Campaign in advertisements appearing in magazines distributed throughout the United States in which false credit as to the source of the jewelry is given to Vera Wang, Vera Wang Fine Jewelry and Defendants Coty and VEW.

50. As a result of Defendants' false designation of origin, and/or false and misleading descriptions, the public has been led to believe that the crown jewelry created by Plaintiff is in fact jewelry originated by Vera Wang and/or Defendant VEW.

51. By their actions, the public has been lead to believe that Plaintiff is imitating Vera Wang, Vera Wang Fine Jewelry and Defendant VEW, when in fact the jewelry is the original creation of Plaintiff and in fact Vera Wang and VEW have nothing to do with its creation or ownership.

52. Consumers are further mistakenly led to believe that Ms. Thompson has authorized the use of her jewelry products in the advertising and promotion of the Vera Wang Princess products when no such authorization has been obtained.

53. By virtue of the conduct described herein, Ms. Thompson's reputation, good will and growth of her business have been irreparably harmed.

54. Defendants' acts, as described above, have caused or are likely to cause confusion, to cause mistake, or to deceive as to the origin, sponsorship or approval of the Ms. Thompson's crowns among the trade or the public and therefore constitute unfair competition in violation of 15 U.S.C. §1125(a).

55. Defendants' acts, as described above violate of 15 U.S.C. §1125(a) as they constitute false or misleading description of fact, and/or false or misleading representation of fact in commercial advertising or promotion, and they misrepresent the nature, characteristics, qualities and origin of Ms. Thompson's goods and of Defendants' commercial activities.

56. Defendants' acts, as described above, constitute misappropriation of Ms. Thompson's rights in and to the distinctive trade dress of her crown jewelry in violation of 15 U.S.C. §1125(a).

57. Plaintiff has suffered and, unless Defendants are enjoined by this Court, will continue to suffer damages as a result of Defendants' false and/or misleading statements and related tortious conduct. Plaintiff has no adequate remedy at law.

58. Pursuant to 15 U.S.C. §1117, when a violation of 15 U.S.C. §1125(a) shall have been established in any civil action, the plaintiff in such action shall, subject to the principles of equity and the statutory limitations set forth therein, be entitled, *inter alia*, to recover Defendants' profits, any damages sustained by the Plaintiff, and the costs of the action, and in exceptional cases the court may award reasonable attorney's fees to the prevailing party.

59. Plaintiff is entitled to recover from Defendant profits, damages, costs, and attorney's fees pursuant to 15 U.S.C. §1117, and is further entitled to the destruction of infringing articles as provided by 15 U.S.C. §1118.

60. This is an exceptional case within the meaning of 15 U.S.C. § 1117(a), because Defendants' conduct has been outrageous and its violation of Plaintiffs rights is and has been willful.

61. Pursuant to 15 U.S.C. § 1117, Plaintiff is entitled to an equitable remedy of an accounting, and a disgorgement of, all such wrongfully derived revenues and/or profits.

**COUNT III**  
**DECEPTIVE PRACTICES UNDER NEW YORK'S GENERAL BUSINESS LAW**

62. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 44 of its Complaint as though fully set forth herein.

63. The acts of Defendants as alleged herein have deceived or misled, or have a tendency to deceive or mislead the public.

64. The acts of Defendants as alleged herein have caused harm to the public.

65. Defendants' false and misleading representations of fact and conduct have influenced the purchasing decisions of the public.

66. By reasons of Defendants' knowingly false and misleading representations of fact and conduct, Defendants have violated New York General Business Law §349.

67. By reason of Defendants' acts herein alleged, Plaintiff, as well as the public, has been injured.

68. Plaintiff has suffered and will continue to suffer substantial irreparable harm unless Defendants are restrained from its wrongful conduct.

69. Plaintiff has no adequate remedy at law.

70. Pursuant to N.Y. Gen. Bus. Law § 349(h), Plaintiff is entitled to enjoin Defendants' unlawful conduct as well as obtain damages, costs, disbursements, and attorney's fees.

**COUNT IV**  
**FALSE ADVERTISING UNDER NEW YORK'S GENERAL BUSINESS LAW**

71. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 44 of

its Complaint as though fully set forth herein.

72. In connection with the marketing and advertising of its Vera Wang Princess perfume line, in violation of N.Y. Gen. Bus. Law § 350, Defendants have intentionally and willfully made, published, disseminated, circulated, and placed before the purchasing public advertisements containing false, deceptive, and misleading statements about both its own products as well as Plaintiff's products in the context of commercial marketing in the State of New York and elsewhere.

73. By reason of Defendants' conduct, Plaintiff has suffered and will continue to suffer damage to its business, reputation and goodwill.

74. Pursuant to N.Y. Gen. Bus. Law § 350(e), Plaintiff is entitled to enjoin Defendants' unlawful conduct as well as obtain damages, costs, disbursements, and attorneys' fees.

**COUNT V**  
**COMMON LAW UNFAIR COMPETITION**

75. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 44 of its Complaint as though fully set forth herein.

76. As described above, Defendants have engaged in false and misleading representations and omissions and engaged in deceptive conduct.

77. Defendants' conduct deceived or is likely to deceive the purchasers and potential purchasers of jewelry products.

78. Defendants' false and misleading representations and deceptive conduct are material in that the same were and are likely to affect purchasers and potential purchasers of jewelry products.

79. Defendants have engaged in unfair competition under the common law of the

State of New York.

80. As a direct result of said deceptive conduct, Plaintiff has sustained and is likely to continue to sustain damages.

81. Plaintiff has no adequate remedy at law.

82. Plaintiff is entitled to exemplary and punitive damages by reason of Defendants' willful, reckless, deliberate and intentional conduct.

**COUNT VI**  
**UNJUST ENRICHMENT**

83. Plaintiff repeats and re-alleges the allegations of paragraphs 1 through 44 of its Complaint as though fully set forth herein.

84. As a consequence of Defendants' actions, Plaintiff has been denied any financial compensation and credit in connection with her loan of jeweled artworks to Defendants.

85. Defendants have been enriched by the use of the Ms. Thompson's crowns in connection with the Vera Wang Princess Campaign at Plaintiff's expense. The circumstances are such that equity and good conscience require the defendants to make restitution in an amount to be proven at trial.

**WHEREFORE**, Plaintiff demands judgment:

A. Preliminarily and permanently enjoining and restraining Defendants, their officers, directors, shareholders, agents, employees, and attorneys and all those acting in concert with them from:

1. Utilizing or depict Plaintiff's work in any medium;

2. Stating directly or by implication that Plaintiff's works are those of Vera Wang, VEW or those of any other person or entity or that the depiction or use of Plaintiff's works has been authorized;

B. Requiring Defendants to affirmatively disclose to the public that the crown jewelry utilized in the Vera Wang Princess Campaign was that of Ms. Thompson and not Vera Wang.

C. Requiring Defendants to take corrective action to correct all erroneous impressions that have been created concerning the nature, characteristics, ownership or authorization regarding Plaintiff's crown jewelry products, including without limitation, the placement of corrective advertising and sending of corrective notifications.

D. Ordering that Defendants file with this Court and serve upon Plaintiff within twenty (20) days after the service of such injunction, an affidavit sworn to under penalty of perjury, setting forth in detail the manner and form in which Defendants have complied with such injunctions.

E. Ordering an accounting of all revenues received by Defendant as a result of its unlawful conduct.

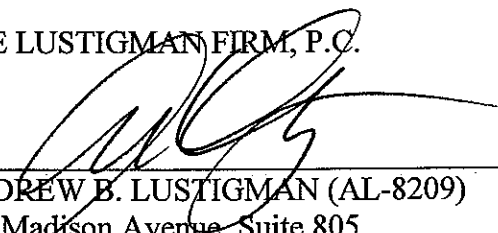
F. Awarding Plaintiff: 1) Defendants' profits realized as a result of the copyright infringement, false advertising, unfair competition, unjust enrichment, and/or its deceptive practices, or in the Court's discretion, such sum as the Court finds to be just; 2) damages sustained by Plaintiff; and 3) the costs of this action.

G. Awarding Plaintiff statutory damages and attorney's fees pursuant to 17 U.S.C. §§ 504-505;

- H. Awarding Plaintiff treble damages or profits and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a-b);
- I. Awarding Plaintiff punitive damages in an amount to be determined;
- J. Awarding Plaintiff prejudgment and post-judgment interest on any monetary award in this action;
- K. Awarding Plaintiff reasonable attorney's fees;
- L. Ordering the destruction of all infringing articles pursuant to 15 U.S.C. §1118; and
- M. Granting such other and further relief as to this Court deems just and proper.

Dated: New York, New York  
December 20, 2006

THE LUSTIGMAN FIRM, P.C.

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ATTORNEYS FOR MARY BUCK THOMPSON

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated: New York, New York  
December 20, 2006

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