

Approved: _____
JONATHAN E. REBOLD
Assistant United States Attorney

Before: HONORABLE KEVIN NATHANIEL FOX
United States Magistrate Judge
Southern District of New York

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| UNITED STATES OF AMERICA | : | |
| | : | <u>COMPLAINT</u> |
| - v. - | : | |
| | : | Violations of |
| DAYE DONG and | : | 18 U.S.C. §§ 2320 |
| HONGYU CHEN, | : | and 2 |
| | : | |
| Defendants. | : | COUNTY OF OFFENSE: |
| | : | NEW YORK |
| - - - - - | x | |

SOUTHERN DISTRICT OF NEW YORK, ss.:

DAVID B. MONDANARO, being duly sworn, deposes and says that he is a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), and charges as follows:

COUNT ONE
(Conspiracy to Traffic Counterfeit Goods)

1. From at least in or about March 2012 up to and including in or about October 2016, in the Southern District of New York and elsewhere, DAYE DONG and HONGYU CHEN, the defendants, knowingly and intentionally did conspire together and with others, known and unknown, to traffic in counterfeit goods and services and did knowingly use a counterfeit mark on and in connection with such goods and services, to wit, DONG and CHEN agreed to import counterfeit luxury and designer brand goods into the United States.

(Title 18, United States Code, Section 2320.)

COUNT TWO
(Trafficking in Counterfeit Goods)

2. From at least in or about March 2012 up to and including in or about October 2016, in the Southern District of New York and elsewhere, DAYE DONG and HONGYU CHEN, the defendants, did knowingly and intentionally traffic and attempt to traffic in goods and services, and did knowingly use a counterfeit mark on and in connection with such goods and services, to wit, DONG and CHEN imported luxury and designer brand counterfeit goods into the United States.

(Title 18, United States Code, Sections 2320 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

3. I am a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), assigned to General Investigations at John F. Kennedy International Airport. I have been an ICE Special Agent for approximately eight years. I have been personally involved in the investigation of this matter, and I base this affidavit on that personal experience, as well as on my conversations with other law enforcement agents, other persons, and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

4. Since in or about March 2012, I and other law enforcement agents have been investigating the importation of trademark counterfeit ("TMC") designer goods from China into the United States -- including handbags, purses, and wallets -- for distribution by a company incorporated in New York State under the name DNC Fashion USA Incorporated ("DNC Fashion"), with a retail storefront location at 126 West 30th Street, New York, New York.

5. In or about March 2012, I and other law enforcement agents inspected four large packages from China, weighing, in total, approximately 320 pounds, which were instructed to be delivered via United Parcel Service ("UPS") to a residential address in Flushing, New York. The boxes contained a

combination of TMC labels belonging to two luxury brands which are both known, among other things, to manufacture and sell handbags. After inspecting the boxes, I dressed as a UPS agent and delivered the package to the above-mentioned address in Flushing, New York. When I arrived at that location, I was instructed by an Asian female to leave the packages on the ground floor because another individual was expected to arrive at the location shortly thereafter to pick-up and remove the packages to another location. I complied, but remained in the area, where I subsequently observed a white Chevrolet van with blue lettering on the side that read "D&C Trading" and with a particular New York State license plate number arrive (the "Chevy Van"). A second Asian male emerged from the Chevy Van, loaded the packages into the Chevy Van, and drove away.

6. I have reviewed records maintained by the New York States Department of Motor Vehicles ("DMV"), which reveal the following, among other things:

a. At the time of the March 2012 package delivery described above, the Chevy Van was registered to "D&C Trading USA Incorporated," at 126 West 30th Street, New York, New York.

b. In or about January 2015, the Chevy Van was registered to DAYE DONG, the defendant, at an address in Bayside, New York ("DONG's Residence").

c. The Dodge Van is registered to DNC Fashion.

7. I have reviewed records obtained from the New York Department of State Division of Corporations which reveal that, at the time of the March 2012 package delivery, D&C Trading Incorporated listed an operating business location at 126A West 30th Street, New York, New York; that on or about August 2, 2012 D&C Trading Incorporated dissolved; that on or about June 8, 2012, DNC Fashion USA Incorporated was created and listed an operating business at the same location; and that the listed Chief Executive Officer of DNC Fashion is the mother of HONGYU CHEN, the defendant.

8. I have reviewed United States passport application records for DAYE DONG, the defendant, which reveal that DONG's employer is DNC Fashion, his home address is DONG's Residence, and his wife is HONGYU CHEN, the defendant.

9. I have reviewed customs import records maintained by Customs and Border Patrol, which show that, since at least in or

about November 2016, up to and including at least in or about June 2016, DNC Fashion has received, on average, one sea freight 40-foot-long shipping container per month, shipped from China to Port Elizabeth, New Jersey.

10. On or about February 23, 2016, I and other law enforcement agents searched a shipping container destined for DNC Fashion at a container examination station in Kearney, New Jersey. The entire container was filled with boxes, which, in turn, were filled with handbags and wallets, each containing a generic round metal label. Based on my training and experience, I know these generic labels serve as a placeholder for trademark counterfeiters, who later remove the generic label and replace it with a TMC label.

11. On multiple occasions between January 2016 and August 2016, I conducted surveillance outside of DONG's Residence. On several occasions I observed the Chevy Van parked outside of that location. The Chevy Van still has remains of the "D&C Trading" lettering I observed on it in 2012. On multiple occasions, I also observed a white Dodge Van containing a unique license plate number parked on the driveway of DONG's Residence. I have also observed DAYE DONG, the defendant, drive the Dodge Van to DONG's Residence, exit the van and enter DONG's Residence.

12. On or about April 7, 2016, I conducted surveillance at a large warehouse complex located on Ingraham Street, Brooklyn, New York (the "Ingraham Street Warehouse"), where I observed the Chevy Van and Dodge Van parked next to one another.

13. On or about May 3, 2016, I returned to the Ingraham Street Warehouse with a detective from the New York City Police Department ("Detective-1"), from whom I learned the following, among other things:

a. Detective-1 entered the warehouse complex through a common corridor and observed that a large warehouse lot appeared to occupy the entire basement floor of the warehouse complex.

b. Detective-1 then observed an Asian male with glasses ("CC-1") in the basement area, and Detective-1 asked CC-1 what company occupied the basement space, to which CC-1 replied, in sum and substance, "This is DNC Fashion."

14. During both the April 7, 2016 and May 3, 2016 visits to the Ingraham Street Warehouse, I observed DAYE DONG, the

defendant, operating, exiting, and entering the Dodge Van, and CC-1 loading boxes and black bags into the Dodge Van and driving the Chevy Van.

15. During the course of this investigation, law enforcement agents placed court-authorized Global Positioning System ("GPS") mobile tracking devices on both the Chevy Van and the Dodge Van. On or about July 1, 2016, a GPS device was placed on the Chevy Van, and on or about August 16, 2016, a GPS device was placed on the Dodge Van. Both vans were monitored, pursuant to Court orders, from the date of their respective installations until late September 2016 (the "Monitoring Period"). I have reviewed GPS records from the Monitoring Period, which indicate the following, among other things:

a. On an almost daily basis during the Monitoring Period, the Chevy Van and the Dodge Van each traveled between some, if not all, of the following locations: the Ingraham Street Warehouse; a second, previously unknown Warehouse at an address on Troutman Street, Ridgewood, New York (the "Troutman Street Warehouse"); DONG's Residence; an address in Fresh Meadows, New York which, City of New York Building and Property Records lists CC-1 as the owner ("CC-1's Residence"); and the DNC Fashion retail storefront location in New York, New York.

b. The Dodge Van and the Chevy Van are frequently parked overnight in front of CC-1's Residence.

c. On at least one occasion during the Monitoring Period, the Chevy Van travelled from the Troutman Street Warehouse to a package handling company located in Flushing, New York ("Handling Company-1"), and that on at least one additional occasion the Chevy Van travelled from the Ingraham Street Warehouse to Handling Company-1.¹

16. I and other law enforcement agents conducted surveillance on multiple occasions during the Monitoring Period, during which we observed the following, among other things:

¹ I have reviewed ICE records which reveal that, on or about September 24, 2013, members of DHS, Customs and Border Protection seized a quantity of counterfeit goods that were shipped from China to Handling Company-1.

a. On at least three occasions the Chevy Van traveling between the Ingraham Street Warehouse and the Troutman Street Warehouse.

b. On at least four occasions DAYE DONG, the defendant, and CC-1, bringing items into and out of the Troutman Street Warehouse, including boxes and large garbage bags², and loading those items into the Chevy Van and the Dodge Van.

c. On or about July 14, 2016, at the Ingraham Street Warehouse, CC-1 loading the Dodge Van with boxes and large garbage bags. Another Asian male then drove the Dodge Van from the Ingraham Street Warehouse to the DNC Fashion retail store location in New York, New York, where the Asian male and a Hispanic male removed from the Dodge Van what appeared to be the same boxes and garbage bags, and brought those items into DNC Fashion.

17. I have reviewed records obtained from Chase Bank relating to an account held in the name of DNC Fashion for the period from in or about 2012 through in or about early 2016. During that time period, multiple checks made payable to both DAYE DONG and HONG YU CHEN, the defendants, were issued from this account. The signatory on these checks was CHEN's mother.³

18. I have also reviewed records obtained from Capital One Bank relating to an account held in the name of DNC Fashion for the period from in or about 2012 through in or about early 2016. Among other things, during that time period, DNC Fashion issued multiple checks to both DAYE DONG and HONG YU CHEN, the defendants, in identical aggregate amounts in excess of \$59,000.

19. I have spoken with a representative ("Representative-1") from a company that represents various trademark holders and that protects those trademarks by conducting private investigations on the trademark holders' behalf, from whom I have learned the following, among other things:

a. On or about September 27, 2016, Representative-1 purchased multiple purses and handbags from a

² Based on my training and experience, boxes and garbage bags are commonly used to store TMC goods and materials.

³ I have reviewed DHS records which indicate that CHEN's mother left the United States for China in or about 2011 and has not returned since that time.

female salesperson at the DNC Fashion retail storefront location in New York, New York.

b. Each purse and handbag had a generic metal label affixed to the outside, but contained inside each purse and handbag were TMC emblems of a known luxury designer, such that Representative-1 could then easily affix the TMC emblem to the purse or handbag, to make it appear as if it was a genuine, completed designer product.

20. I have reviewed photographs taken by Representative-1 at the DNC Fashion retail store on or about September 27, 2016 during the transaction described above in Paragraph 19 and believe that the salesperson depicted in the photographs is HONGYU CHEN, the defendant, based on my previous opportunities to observe CHEN during the course of the investigation.

Executed Search Warrants

21. On or about October 27, 2015, pursuant to court-authorized search warrants, I and other law enforcement agents conducted a search of the DONG's Residence, CC-1's Residence, the Ingraham Street Warehouse, the Troutman Street Warehouse, DNC Fashion, the Chevy Van and the Dodge Van. Based on my conversations with other law enforcement agents I know the following:

a. At least 30,000 TMC luxury and designer labels and corresponding generic handbags and wallets were found in the Troutman Street Warehouse.

b. At least 2,000 handbags and wallets and corresponding attachable TMC luxury and designer labels were found at DNC Fashion. At the time the warrant was executed, HONGYU CHEN, the defendant, was working inside DNC Fashion.

WHEREFORE, I respectfully request that DAYE DONG and HONGYU CHEN, the defendants, be imprisoned or bailed, as the case may be.

DAVID B. MONDANARO
Special Agent
Department of Homeland Security
Immigration and Customs Enforcement

Sworn to before me this
27th day of October, 2016

HONORABLE KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK