

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

DOW JONES & COMPANY, INC.,

Plaintiff,

-against-

CONTESSA BOURBON,

Defendant.

Index No.

COMPLAINT

Plaintiff, Dow Jones & Company, Inc. (“Plaintiff” or “Dow Jones”), for its Complaint against Defendant, Contessa Bourbon (“Defendant” or “Ms. Bourbon”), alleges as follows:

NATURE OF ACTION

1. This is an action for dilution of trademark arising under the New York General Business Law, N.Y. Gen. Bus. Law § 360-L, and the common law of the State of New York. This action arises from Ms. Bourbon’s pattern of representing that she is a reporter for The Wall Street Journal in order to, *inter alia*, gain admittance to news conferences and other events and to attract followers on social media, when she is not and has never been a reporter for The Wall Street Journal.

PARTIES

2. Plaintiff, Dow Jones, is a Delaware corporation with its principal place of business at 1211 Avenue of the Americas, New York, New York, 10036. Dow Jones owns and publishes The Wall Street Journal newspaper and operates a website at www.wsj.com. Dow Jones does business throughout the United States, including in this county.

3. On information and belief, Ms. Bourbon’s last known permanent address is 9426 57th Ave., 2nd Floor, Elmhurst, New York 11373. Ms. Bourbon also has an active Facebook

account and an active Twitter account, on which she states that she currently lives in New York, New York.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction pursuant to New York Civil Practice Law and Rules (“C.P.L.R.”) § 301, and because the claims and violations in this action arose under the laws of the State of New York.

5. Venue is proper in New York County pursuant to C.P.L.R. § 503(a) and (c), for at least the reason that Dow Jones has its principal place of business in New York County.

6. On information and belief, Ms. Bourbon is subject to personal jurisdiction in this county by virtue of her last known permanent residence in this State, and having engaged in systematic and continuous contacts with the State of New York. Furthermore, throughout her residence in and visits to the State of New York, Ms. Bourbon has committed tortious acts within the state, pursuant to C.P.L.R. § 302(a)(2).

7. Ms. Bourbon is also subject to personal jurisdiction in New York County pursuant to C.P.L.R. § 302(a)(3) by virtue of her having committed tortious acts without the state causing injury to person or property within the state, such that she should reasonably expect the acts to have consequences in the state.

FACTS

8. Ms. Bourbon is not, and has never been, employed by Dow Jones, as a reporter for The Wall Street Journal, or in any other position or capacity. Ms. Bourbon has never, at any time, had any professional or business relationship with Dow Jones.

9. Despite the lack of any employment relationship between Ms. Bourbon and Dow Jones, Ms. Bourbon has repeatedly represented herself as a journalist employed by The Wall

Street Journal since at least February 2015. Ms. Bourbon's false representations that she is a journalist working for The Wall Street Journal include: (1) representations made in person at various press-related events, including to government officials; and (2) representations made on social media.

10. Ms. Bourbon has a Twitter account under the name "@ContessaBourbon," for which she has the caption "Journalist for the Wall Street Journal, London Times, Guardian, Washington Post: Queen of BARCELONA." On this account, she has sent more than 29,000 tweets and has 357 followers. This account has been active since July 2011, and includes numerous posts and photographs of Ms. Bourbon "covering" particular events or "interviewing" certain individuals both in Washington, D.C. and in New York City.

11. For instance, on February 13, 2015, Ms. Bourbon tweeted "I did a Q and A with Apple CEO Tim Cook. Read the New York Times, Wall Street Journal, etc tomorrow."

12. On February 24, 2015, Ms. Bourbon tweeted "Attended Lunar New Year event & covered awards night at Chelsea Pier elegant waterfront, NY," and attached a photo of herself at the event.

13. On May 18, 2015, Ms. Bourbon sent three emails to Gerard Baker, then-Editor in Chief of The Wall Street Journal. In one email, Ms. Bourbon states "[i]f I can't work at the New York Times because of him, I have to fully move to Wall Street Jouran [sic] and London Times. I'm sorry, I may not be able to write news this week..." In another email, Ms. Bourbon submits a "Memorandum" from "Contessa Bourbon, Deputy Managing Editor," and requests to be paid. She further notes "I'm glad that my proposed ads got published in our newspaper, webpage and magazine. Thanks for everyone's cooperation."

14. Upon learning of Ms. Bourbon's activities, on May 22, 2015, Dow Jones contacted Ms. Bourbon via email asking that she immediately cease and desist from claiming that she worked for The Wall Street Journal or identifying herself as a journalist for The Wall Street Journal. A true and correct copy of the letter is attached hereto as Exhibit A. Ms. Bourbon did not respond.

15. When Ms. Bourbon continued to represent that she was a reporter for The Wall Street Journal, Dow Jones again contacted Ms. Bourbon via email and Federal Express mail to her Elmhurst, New York address asking that she immediately cease and desist from claiming that she worked for The Wall Street Journal or identifying herself as a journalist for The Wall Street Journal. A true and correct copy of the letter, sent on November 10, 2017, is attached hereto as Exhibit B. Again, Ms. Bourbon did not respond.

16. On December 7, 2017, Ms. Bourbon sent an email to a congressional staff member, requesting the remarks of Congressman Gregory Meeks from a hearing the previous day. The subject line of the email is "From journalist, a request" and the signature line of the email states "Contessa Bourbon, Freelance for Wall Street Journal."

17. Through her online presence and social media postings, Ms. Bourbon continues to falsely represent that she is a reporter for The Wall Street Journal. On Twitter, Ms. Bourbon's profile caption still includes "Journalist for the Wall Street Journal," and in her tweets she repeatedly asserts that she has reported on various news events and that readers should "Read WSJ" to see her work. For example, on May 27, 2018, she tweeted "NYT and Wall Street Journal Science & technology editors want me to write more technology articles & cover it. I don't know tech events in DC. They have to tell me tech or science events I can cover."

18. As a more recent example, on August 13, 2018, she tweeted “I did a Q & A w new Zimbabwe President Mnangagwa. Read NYT WSJ Washington Post London Times Guardian, La Vanguardia Spain Le Monde France etc tomorrow. Watch TV news tonight.”

19. Similarly, on August 9, 2018, during a visit to New York, Ms. Bourbon tweeted “I’ve lost Gerry Baker’s office number at WSJ, it’s deleted. Bob Thompson changed his meo email. I can’t call. I knew Bob, wife.”

20. Ms. Bourbon’s Twitter caption and her postings suggesting that her work can be read in The Wall Street Journal or on its website are likely to create confusion as to whether her Twitter account represents the work of a journalist for The Wall Street Journal.

21. On December 13, 2017, Dow Jones submitted a complaint to Twitter alleging that, by asserting she was a “Journalist for the Wall Street Journal” on her Twitter profile, that Ms. Bourbon was violating the Twitter Rules. A representative for Twitter responded to Dow Jones via email on December 18, 2017, stating that Ms. Bourbon’s account did not violate Twitter’s impersonation policy. The representative explained that it is up to the user to confirm the information in his or her profile and that Twitter does not mediate disputes, and encouraged Dow Jones to resolve the issue with Ms. Bourbon directly. The representative further stated that “there’s nothing we can do.”

22. Dow Jones submitted two more complaints with Twitter in February 2018 and March 2018, respectively, but was again told that Ms. Bourbon’s account was not in violation of Twitter’s rules and policies. On March 20, 2018, Dow Jones reached out to Twitter via email, asserting that Ms. Bourbon’s account was in violation of Twitter’s trademark policy and requesting that Twitter enforce its policies concerning trademark use and to stop serving as a platform for Ms. Bourbon’s violation of Dow Jones’s trademark rights.

23. Following the email on March 20, 2018, Dow Jones and a legal representative at Twitter spoke over the phone to discuss the matter. The Twitter representative explained to Dow Jones that, in response to Dow Jones's complaints, Twitter had contacted Ms. Bourbon to ask whether she was actually affiliated with The Wall Street Journal and that Ms. Bourbon replied in the affirmative. Despite this investigation, and while Twitter mentioned that it would be willing to contact Ms. Bourbon on behalf of Dow Jones, Ms. Bourbon's Twitter account is still active and she continues to falsely represent that she is a journalist for The Wall Street Journal on her profile page and through her daily tweets.

24. Ms. Bourbon has a Facebook profile under the name "Contessa Bourbon," on which she has 183 Facebook "Friends" and is followed by 79 people.

25. As in her Twitter posts, Ms. Bourbon posts material on her Facebook page concerning her alleged reporting work on behalf of The Wall Street Journal, both in Washington, D.C. and in New York City. For example, on June 23, 2018, Ms. Bourbon posted that she had written on "art of textile w/ a message of anti-violence" and to "Read WSJ" tomorrow. On May 10, 2018, she posted that she had "[c]overed CNBC Capital Exchange at five star elegant hotel Hay Adams in DC this morning" and included photos of herself at the event.

26. Ms. Bourbon also has three separate Instagram profiles. Under the name "bourboncontessa," she has 13 followers; under the name "contessabourbon," she has 25 followers and a caption that states "New York Times, Wall Street Journal, Princess of Barcelona;" and under the name "contessa_bourbon," she has 50 followers.

27. On September 10, 2015, on her "contessabourbon" Instagram account, Ms. Bourbon posted "Dazzling and valuable Gold exhibit at Asia Society NYC that I covered," and attached a photo of herself at the event.

28. On February 8, 2016, on her “contessabourbon” Instagram account, Ms. Bourbon posted “Doing interview with an official at Waldorf Astoria hotel suite,” along with a photo of herself in the New York hotel.

29. On March 2, 2016, on her “contessabourbon” Instagram account, Ms. Bourbon posted “Interviewing Jessica Sanchez, finalist of American Idol, after a concert tonight at Lounge 48 NYC,” and attached a photo of herself with the celebrity singer.

30. On March 10, 2016, from the same Instagram account, Ms. Bourbon posted “At Graduate school of CUNY, covering Spanish classic concert,” and again attached a photo of herself at the event.

31. Ms. Bourbon’s social media postings purporting to be made by a journalist for The Wall Street Journal contain unprofessional and misleading posts that reflect negatively on The Wall Street Journal. Because journalists who work for The Wall Street Journal use Twitter and other social media in their professional capacity, the presence of postings falsely purporting to represent the work of a journalist for The Wall Street Journal harms its reputation.

32. In addition to Ms. Bourbon’s online representations that she is a journalist for The Wall Street Journal, Ms. Bourbon has also falsely claimed to work for The Wall Street Journal in person to gain access to press events and ask questions of event speakers.

33. On March 26, 2018, Ms. Bourbon falsely represented herself as being employed by The Wall Street Journal at an event at the Brookings Institution. When asking a question of the panelists at the event, Ms. Bourbon introduced herself by stating “My name is Contessa Bourbon. I write for the Wall Street Journal and London Times.” She also introduced herself as a reporter for The Wall Street Journal to at least one other attendee who then contacted The Wall Street Journal for clarification as to Ms. Bourbon’s connection to The Wall Street Journal.

34. On May 10, 2018, Ms. Bourbon attended CNBC's sit down interview with Wilbur Ross, United States Secretary of Commerce, and identified herself to Secretary Ross and the other attendees as being "from the Wall Street Journal and London Times" before asking a question.

35. Ms. Bourbon's conduct has caused harm to the reputation of The Wall Street Journal and Dow Jones because her conduct is inaccurately attributed to The Wall Street Journal. Her conduct also creates confusion as to which reporter is representing The Wall Street Journal at an event and as to whether an event or interview is actually being reported for The Wall Street Journal. Ms. Bourbon's false statements to congressional staff members were also inaccurately attributed to The Wall Street Journal, to its detriment.

36. As a result of Ms. Bourbon's actions, and her refusal to cease and desist from these actions despite repeated requests that she do so, Dow Jones has suffered damage to the reputation of its trademark. Dow Jones's trademark is associated with, and depends for its value upon, the quality of the reporting performed by its journalists for The Wall Street Journal. By falsely claiming to be a reporter representing The Wall Street Journal, Ms. Bourbon's conduct has created the likelihood that Dow Jones's trademark will be diluted and tarnished by a false association with Ms. Bourbon's conduct and online writings.

COUNT I

(N.Y. Gen. Bus. Law § 360-L – Injury to Business Reputation; Dilution)

37. Dow Jones re-alleges and incorporates herein by reference the allegations set forth in paragraphs 1-36 of this Complaint.

38. The Wall Street Journal is a global news organization that provides leading news, information, commentary, and analysis. Founded and published by Dow Jones in New York City

since July 8, 1889, The Wall Street Journal engages readers across print, digital, mobile, social, and video. Building on its heritage as the preeminent source of global business and financial news, The Wall Street Journal includes coverage of U.S. and world news, politics, arts, culture, lifestyle, sports, and health. It currently holds 37 Pulitzer Prizes for outstanding journalism.

39. The Wall Street Journal has a global audience of 42.4 million digital readers per month. As of April 2018, The Wall Street Journal had more than 2.4 million print and digital subscribers.

40. Dow Jones owns and has rights to use numerous federally registered trademarks and service marks in connection with its business of news reporting. One such trademark, The Wall Street Journal™ (U.S. Registration No. 408,379), **THE WALL STREET JOURNAL.**, in the Goods and Services Class 38 for “prints and publications,” was registered on August 8, 1944. This particular mark was first used in commerce 128 years ago, in 1889.

41. Dow Jones’s rights in The Wall Street Journal™ trademark and others predate Ms. Bourbon’s use of the marks in connection with her physical impersonations of a reporter for The Wall Street Journal and her online activities where she purports to be the same.

42. Ms. Bourbon’s use of the The Wall Street Journal™ trademark in connection with her physical impersonation of a reporter for The Wall Street Journal and in representing herself online (via her social media accounts including Facebook, Twitter, and Instagram) as the same has caused and will likely continue to cause confusion, or injury to the business reputation of Dow Jones and The Wall Street Journal, or dilution of the distinctive quality of Dow Jones’s trademarks, in violation of Section 360-L of McKinney’s Consolidated Laws of New York Annotated, as amended on January 1, 1997.

43. As a direct and proximate result of Ms. Bourbon's unauthorized use of the The Wall Street Journal™ trademark in falsely representing herself as a reporter for the famous newspaper, Dow Jones and The Wall Street Journal have suffered and will continue to suffer substantial injury and irreparable damage to their business, reputation and goodwill.

44. By using the The Wall Street Journal™ trademark without Dow Jones's approval or consent, and with knowledge of Dow Jones's rights in its The Wall Street Journal™ trademark, Ms. Bourbon has willfully infringed upon the rights of Dow Jones, with intent to trade upon the goodwill associated with The Wall Street Journal™ and other trademarks.

45. Dow Jones has been, is now, and will continue to be irreparably harmed by Ms. Bourbon's aforementioned wrongful acts, unless enjoined by this Court. There is no adequate remedy at law for the harm caused by the wrongful acts alleged herein.

46. Wherefore, Dow Jones prays for the relief requested below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Dow Jones & Company, Inc., prays that the Court enter judgment against Ms. Bourbon, as follows:

- A. ordering preliminary and permanent injunctive relief restraining and enjoining Ms. Bourbon pursuant to N.Y. Gen. Bus. Law § 360-L;
- B. awarding Dow Jones its costs and attorneys' fees; and
- C. awarding Dow Jones such other and further relief as this Court deems just and proper.

Dated: September 6, 2018

Respectfully submitted,

By: /Steven Lieberman/

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