

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

| | | |
|----------------------------|---|-----------------------------|
| XCLUSIVE-LEE, INC., | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | Civil Action No.: 19-cv-520 |
| | : | |
| JELENA NOURA “GIGI” HADID, | : | COMPLAINT AND JURY |
| | : | DEMAND |
| Defendant. | : | |
| | : | |
| | : | |

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff, XCLUSIVE-LEE, INC. (“Xclusive” or “Plaintiff”), brings this complaint in the United States District Court for the Eastern District of New York against JELENA NOURA “GIGI” HADID (“Hadid” or “Defendant”), alleging as follows:

PARTIES

1. Xclusive is a New York Domestic Business Corporation with a principal place of business in Rego Park, New York.
2. Hadid is an American fashion model. 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, 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 and is personally responsible for her official Instagram account, which has over 44 million followers worldwide. Hadid resides in New York, New York.

JURISDICTION AND VENUE

3. 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.).
4. 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).
5. Defendant is subject to personal jurisdiction in New York.
6. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendant engaged in infringement in this district, Plaintiff resides in this district, and Defendant is subject to personal jurisdiction in this district.
7. This Court also has personal jurisdiction over Defendant, and venue in this District is proper under 28 U.S.C. § 1400(a). This Court also has personal jurisdiction over Defendant, and venue in this District is proper under 28 U.S.C. § 1400(a).

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

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

8. Xclusive is the copyright holder of “Gigi Hadid on Oct 11, 2018” (“Copyrighted Photograph”), which was captured on October 11, 2018 in New York City. [Exhibit 1].
9. On October 12, 2018, Hadid copied and uploaded Copyrighted Photograph to Hadid’s Instagram account.
10. As a result of Hadid’s actions described in Paragraph 11, Copyrighted Photograph was posted and publicly displayed to the following URLs:
 - www.instagram.com/gigihadid/?hl=en. (Last visited October 15, 2018) [Exhibit 3]
 - www.instagram.com/p/Boz7ASBHBDt/?hl=en&taken-by=gigihadid (Last visited October 15, 2018). [Exhibit 4]. (together “Instagram Posts”)
11. Hadid copied and posted Copyrighted Photograph to Hadid’s Instagram account without license or permission from Xclusive.
12. Hadid’s Instagram account is followed by more than forty-three million (43,000,000) individuals throughout the world. [Exhibit 4].
13. More than 1.6 million (1,600,00) followers commented on Instagram Posts within four days of October 12, 2018. [Exhibit 4].
14. Prior to October 12, 2018, Hadid had first-hand knowledge that copying and posting photographs, of herself or other subject matters, to her Instagram or other social media accounts that she did not properly license or otherwise receive permission from the copyright holder constituted copyright infringement.
15. Specifically, Hadid was named as a defendant and served with a copy of a complaint and summons in a suit alleging copyright infringement, *Peter Cepeda v. Jelena Noura “Gigi” Hadid and IMG Worldwide, Inc.*, 1:17-cv-00989-LMB-MSN (E.D. Va.) (2017).

16. Although the case was settled prior to the discovery stage of litigation, the facts alleged in *Cepeda* are nearly identical to the facts alleged in the present case, including the allegation Hadid copied and posted Plaintiff Cepeda's copyrighted photograph (of Hadid on a public street in New York City) to Hadid's Instagram and Twitter accounts without license or permission from Cepeda.
17. As of the date of this filing, Hadid's Instagram account includes at least fifty (50) examples of uncredited photographs of Hadid in public, at press events, or on the runway. [Exhibit 5]. Most if not all of these photographs were posted by Hadid without license or permission from the copyright holder.

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

18. Xclusive incorporates herein by this reference each and every allegation contained in each paragraph above.
19. Xclusive is the copyright owner or licensee of exclusive rights under United States copyright with respect to 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.
20. Among the exclusive rights granted to each Xclusive under the Copyright Act are the exclusive rights to reproduce and distribute the Copyrighted Photograph to the public.
21. Xclusive is informed and believes Hadid, without the permission or consent of Xclusive, copied and used Copyrighted Photograph on Hadid's Instagram account. In doing so, Hadid violated Xclusive's exclusive rights of reproduction and distribution. Hadid's actions constitute infringement of Xclusive's copyright and exclusive rights under copyright.
22. Xclusive is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Xclusive.
23. As a result of Hadid's infringement of Xclusive's copyright and exclusive rights under copyright, Xclusive is entitled to statutory damages, including any profits realized by Hadid attributable to the infringement, pursuant to 17 U.S.C. § 504 for Hadid's infringement of Copyrighted Photograph.

COUNT II: CONTRIBUTORY INFRINGEMENT

24. Xclusive is informed and believes that Hadid, without the permission or consent of Xclusive, knowingly made available Copyrighted Photograph to innumerable individuals and media outlets by posting Copyrighted Photograph to Hadid's 43 million (43,000,000) Instagram followers.
25. Xclusive is informed and believes that Hadid, without the permission or consent of Xclusive, had knowledge or reason to know of such contributory infringement.
26. As a result of Hadid's actions, Xclusive is entitled to actual damages or such other and further relief as is just and proper.

PRAYER FOR RELIEF

WHEREFORE, Xclusive prays for judgment against Hadid as follows:

- A. Declaring that Hadid's unauthorized conduct violates Xclusive's rights under the Federal Copyright Act;
- B. Immediately and permanently enjoining Hadid, its 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 Xclusive's Copyrighted Photograph without consent or otherwise infringing Xclusive's copyright or other rights in any manner;
- C. Ordering Hadid to account to Xclusive for all gains, profits, and advantages derived by Hadid by their infringement of Xclusive's copyright or such damages as are proper, and since Hadid intentionally infringed Xclusive's copyright, for the maximum allowable statutory damages for each violation;

- D. Awarding Xclusive actual and/or statutory damages for Hadid's copyright infringement in an amount to be determined at trial;
- E. Awarding Xclusive his costs, reasonable attorney's fees, and disbursements in this action, pursuant to 17 U.S.C. § 505; and
- F. Awarding Xclusive such other and further relief as is just and proper.

JURY DEMAND

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

Respectfully submitted,

Dated: January 28, 2019

REESE LLP

/s/ Michael R. Reese

Michael R. Reese
100 West 93rd Street, 16th Floor
New York, New York
Telephone: (212) 643-0500
Facsimile: (212) 253-4272
Email: mreese@reesellp.com

- and -

David C. Deal
The Law Office of David C. Deal, P.L.C.
P.O. Box 1042
Crozet, VA 22932
Telephone: (434) 233-2727
Facsimile: (888) 965-8083
Email: david@daviddeal.com

Counsel for Plaintiff

EXHIBIT 1



EXHIBIT 2

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Case Summary:

Case #: 1-7053724741 Type of Case: Work of the Visual Arts Opened: 10/19/2018
 Title: Gigi Hadid on Oct 11, 2018 Contact Name: I-Sheng Li
 Fee Due: \$5.00 Service Fee Paid: \$5.00 Claim Status: Pending

Submit Your Work(s)

To complete your submission, please submit the required copy(ies) of your work. You may (1) upload electronic files if the work meets the requirements; otherwise, you must (2) send the work by mail (do not do both).

[1] Upload your work(s): 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" button. Files cannot be uploaded later than 5 days after your first file is received.

Please note: Files cannot be returned or deleted once uploaded. To avoid delays and/or a later effective date of registration, please verify the following before uploading a copy of your work(s):

- It is a category of work that may be uploaded
- It is an acceptable file type
- It is an acceptable file size

Upload Your Work(s)

| Case Details | Step 1: Select & Upload Files | Step 2: Complete Your Submission |
|---|-------------------------------|--|
| Case #: 1-7053724741 Title: Gigi Hadid on Oct 11, 2018 Volume: Number: Issue Date: Type of Work: Work of the Visual Arts | | Claim submission completed; no further action required. Click here for more information View Uploaded File Names |
| Updates | | |
| Comments | Activity Type | Status |
| Submitted by GR08NGES on 10/19/2018 | Upload Deposit | Received |
| | | Created 10/19/2018 11:10:37 AM |

2) 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 slips to the corresponding copies.
- Mail the deposit copy(ies) within 30 days to the Copyright Office address at the bottom of the slip. Note: Your effective date of registration will be based on the date on which we receive the copies with corresponding shipping slips attached.

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

Send Your Work(s) by Mail

| Attachment Name | File Type | Size | Date and Time | Comments |
|----------------------|-----------|------|---------------|----------|
| Create Shipping Slip | | | | |
| No Records | | | | |

<< Back

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EXHIBIT 3

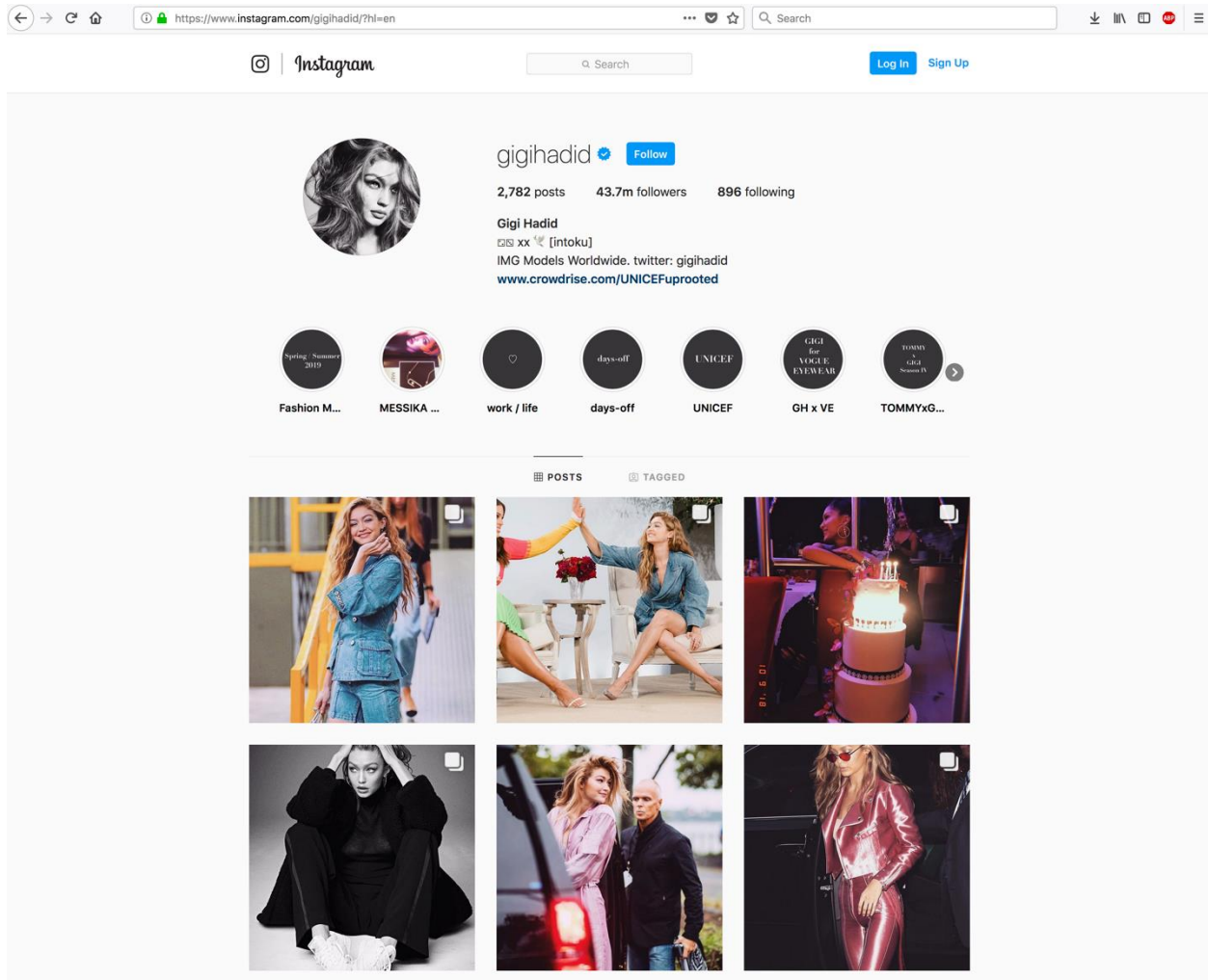


EXHIBIT 4

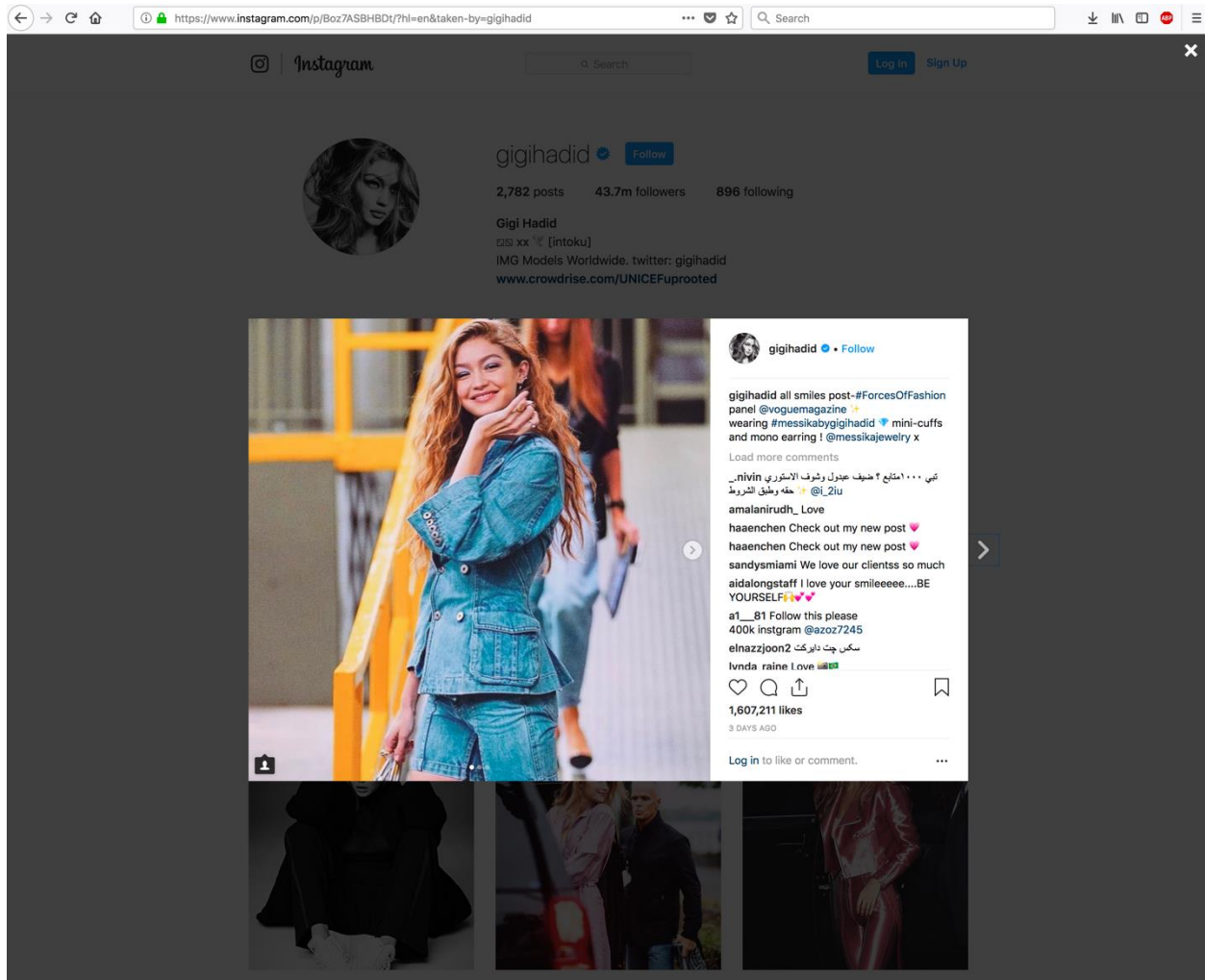
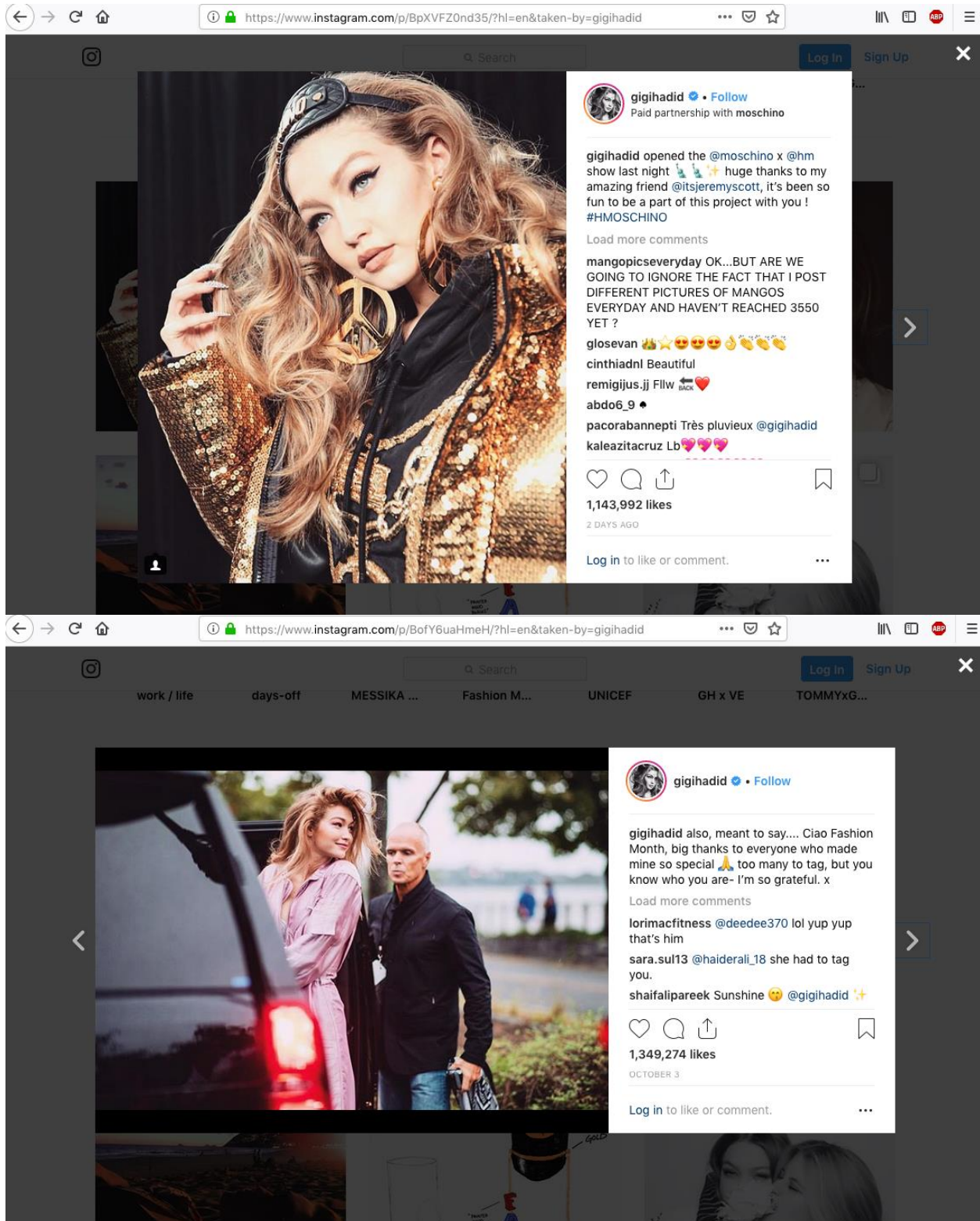
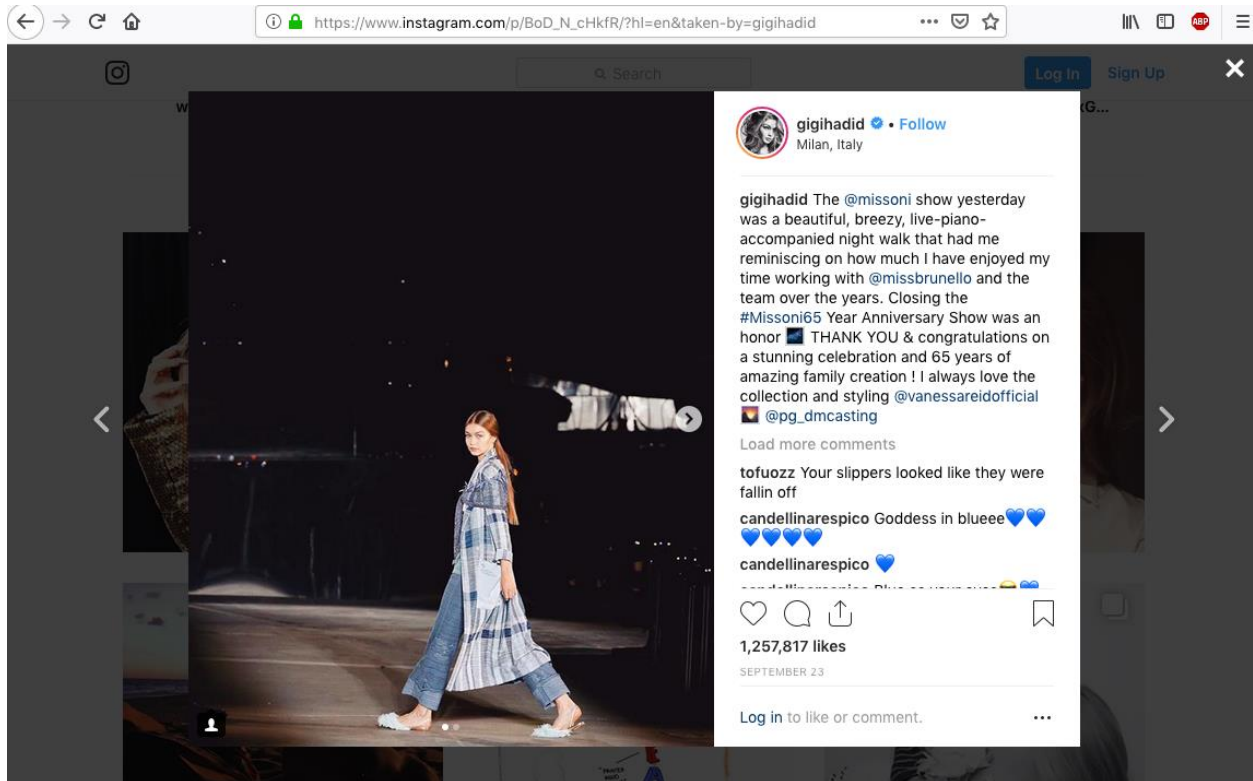
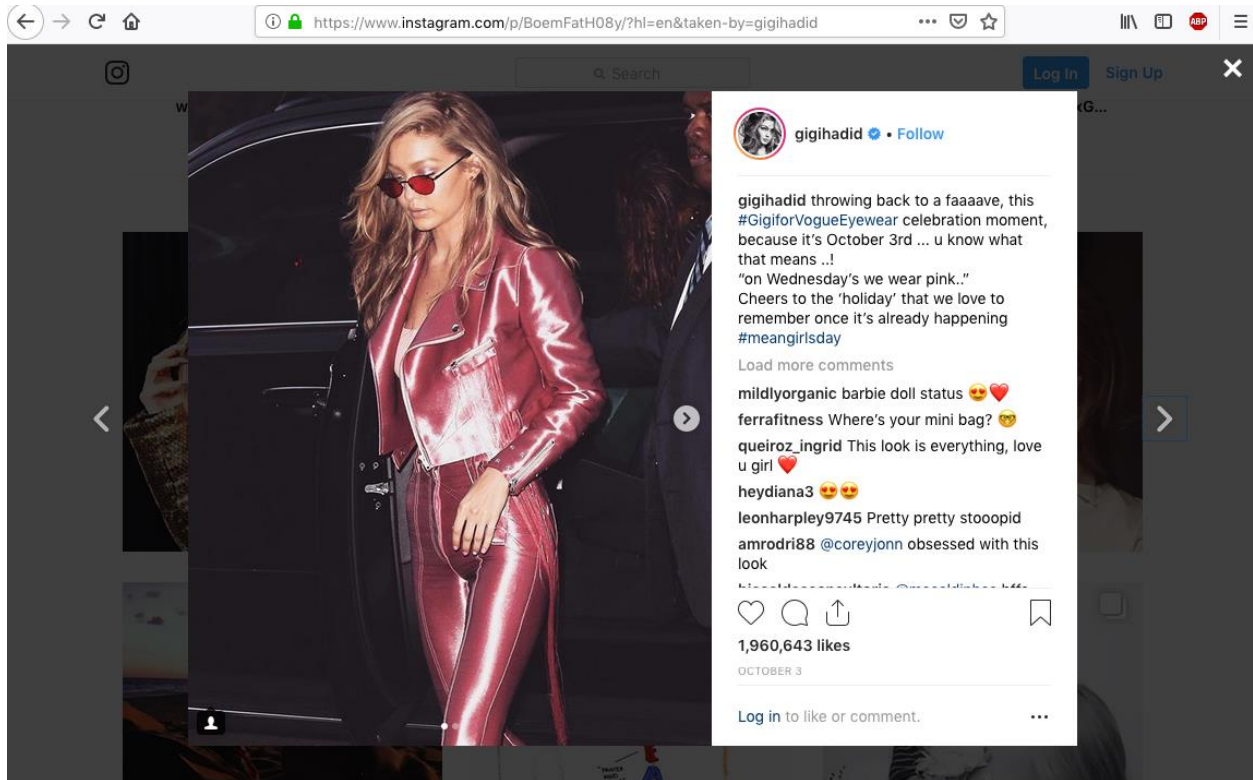
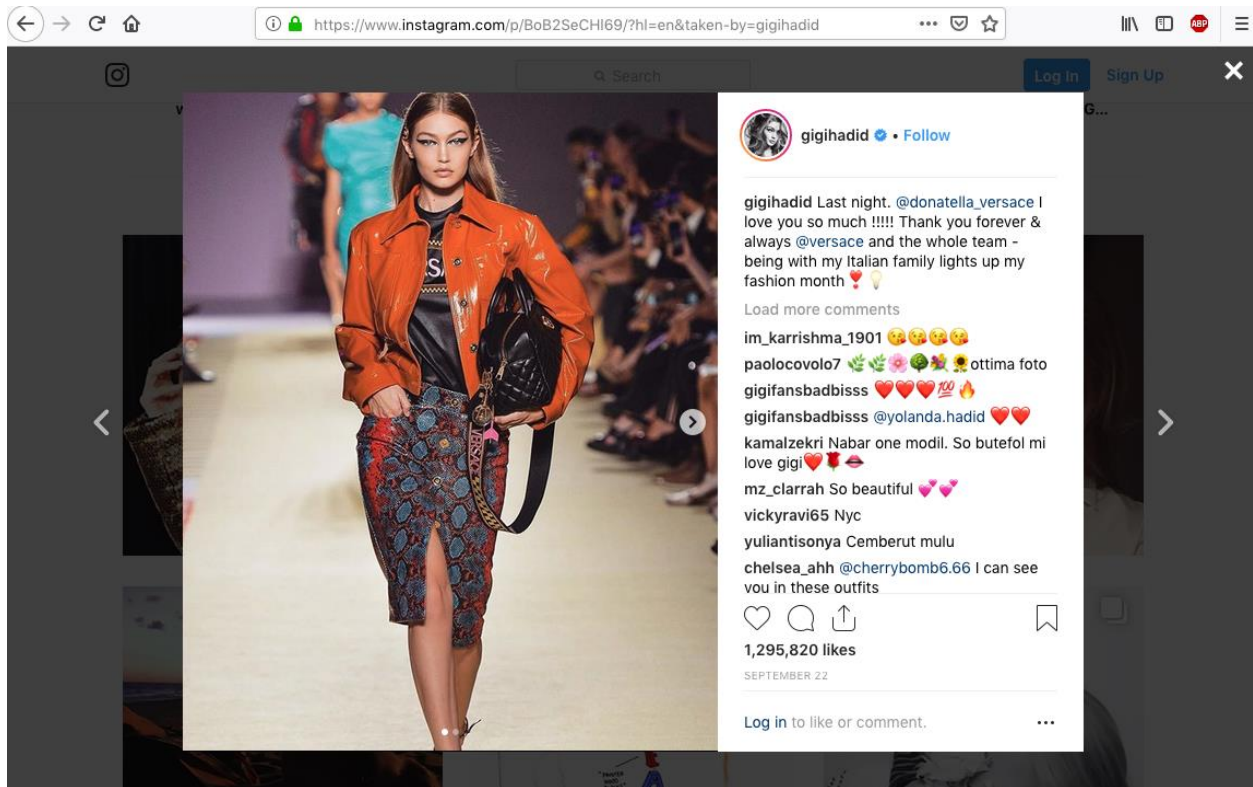


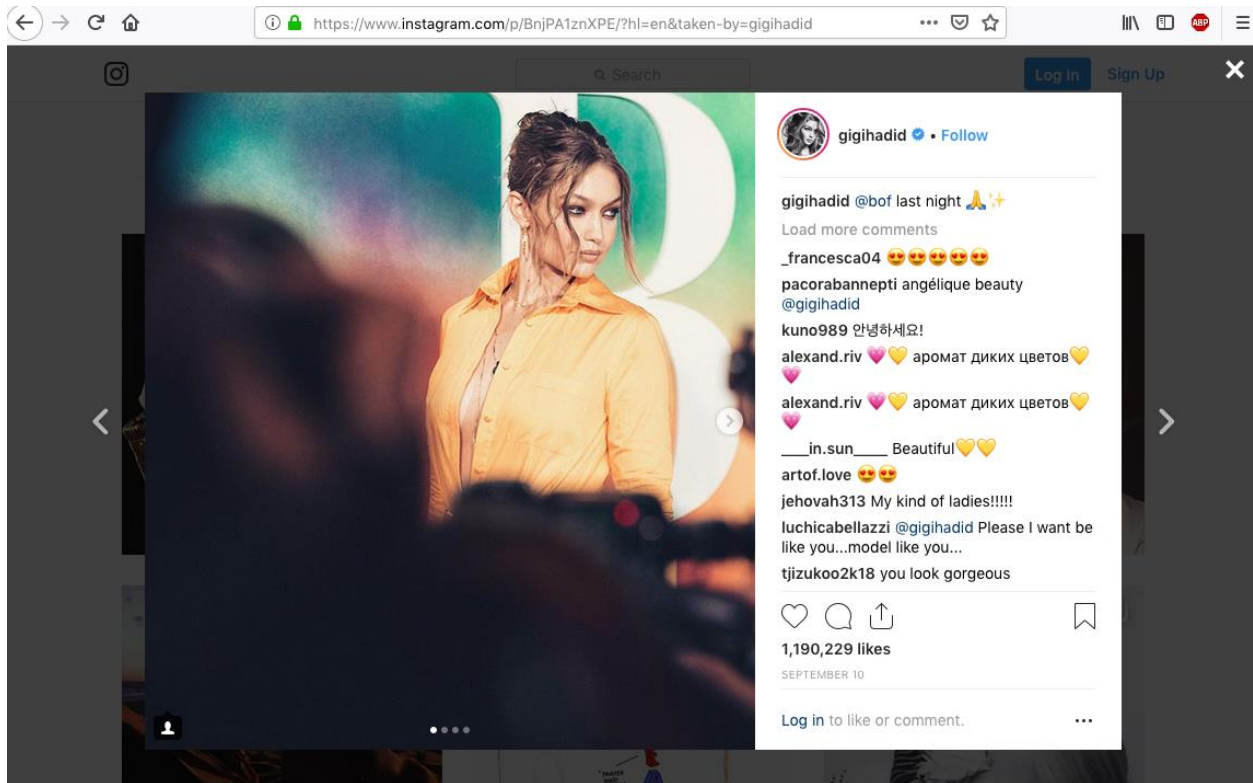
EXHIBIT 5

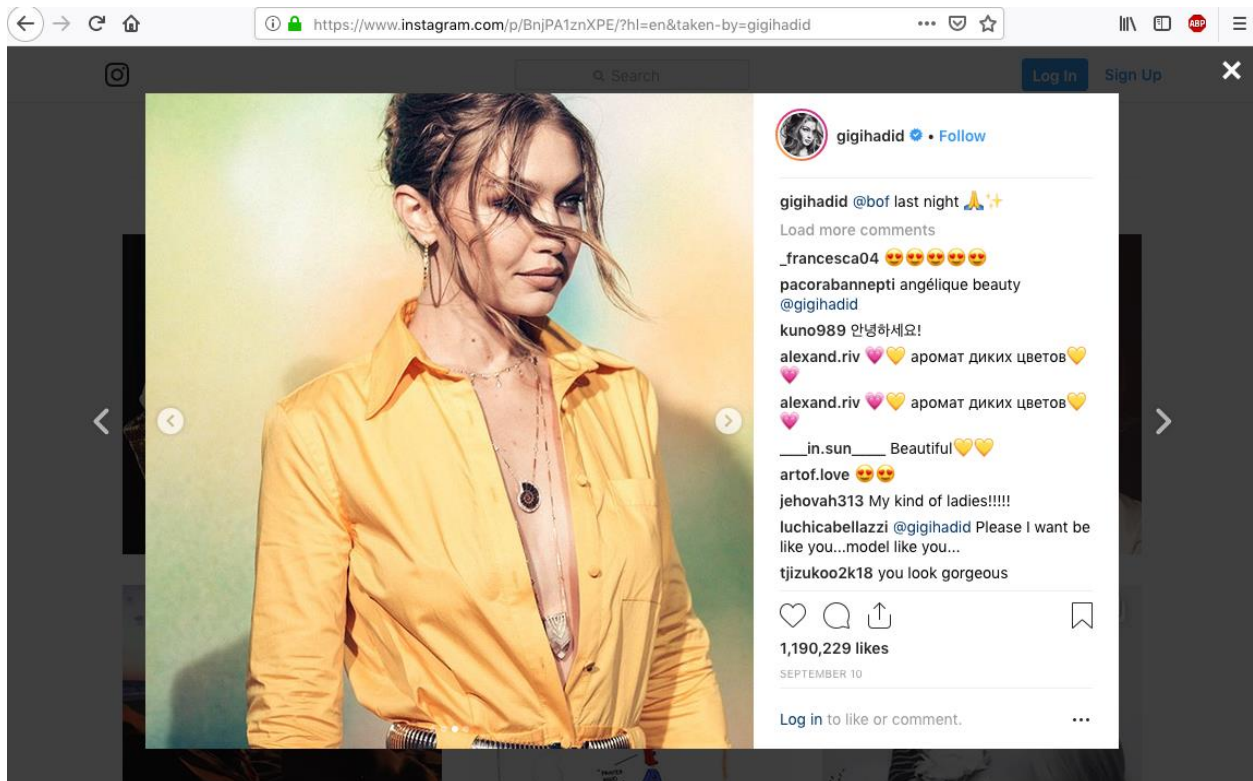
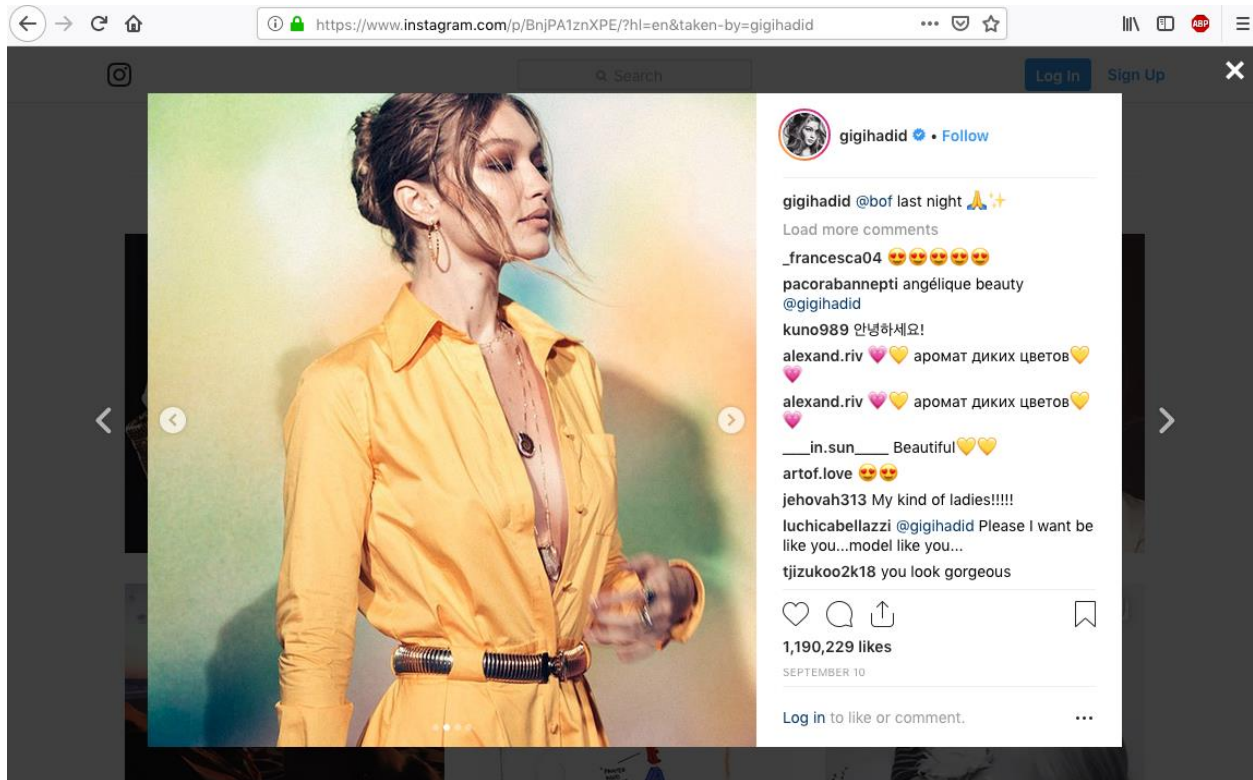


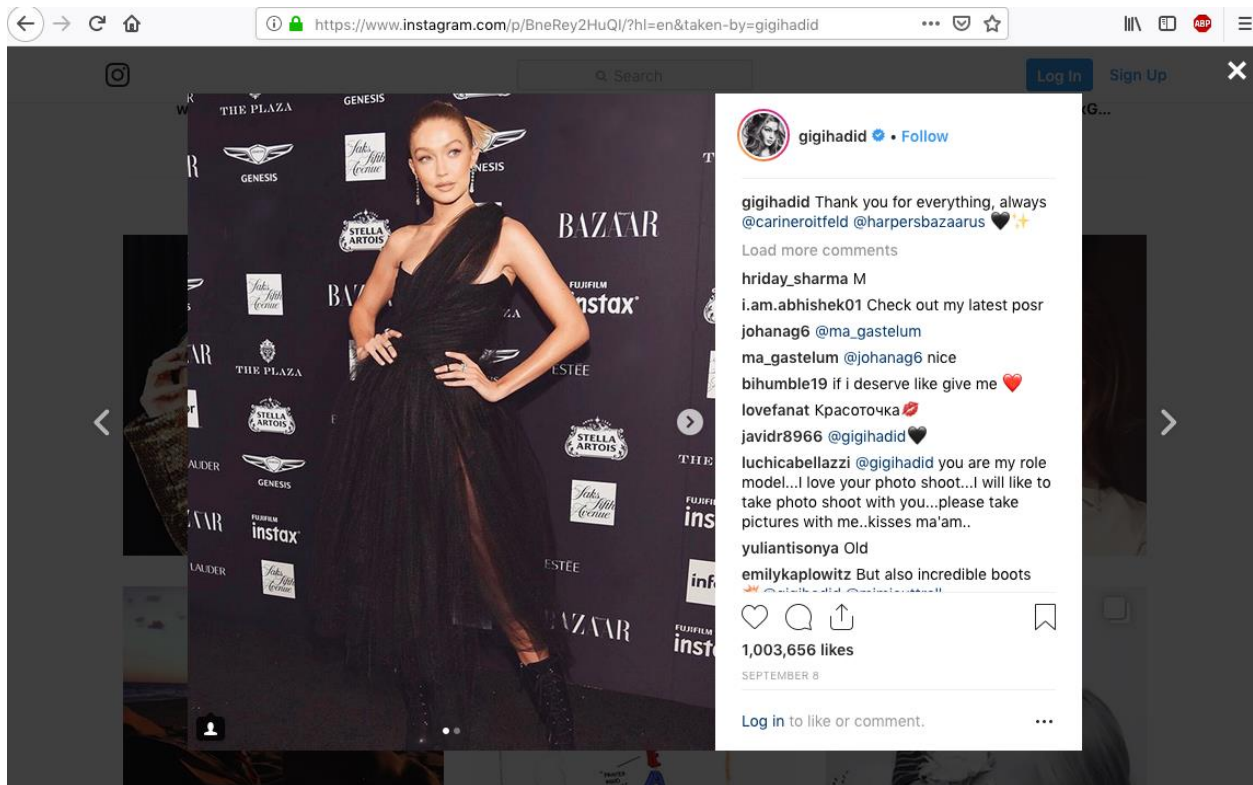
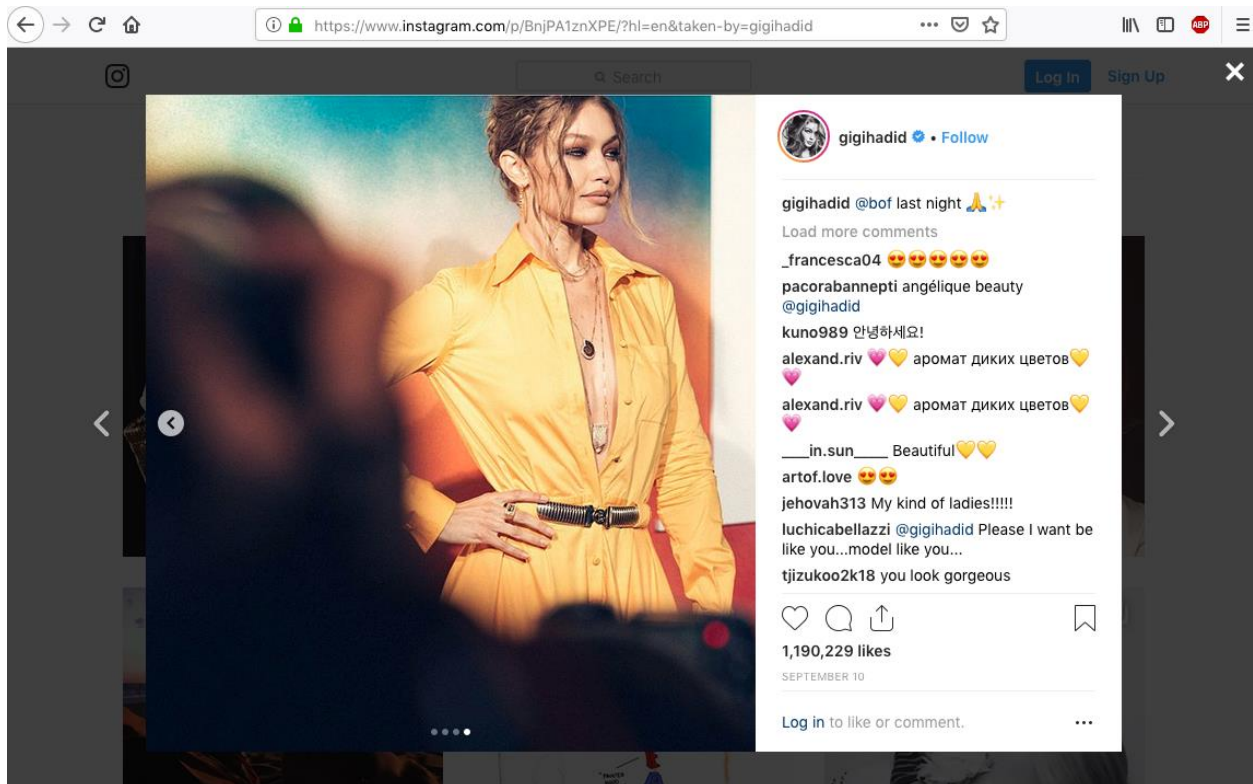


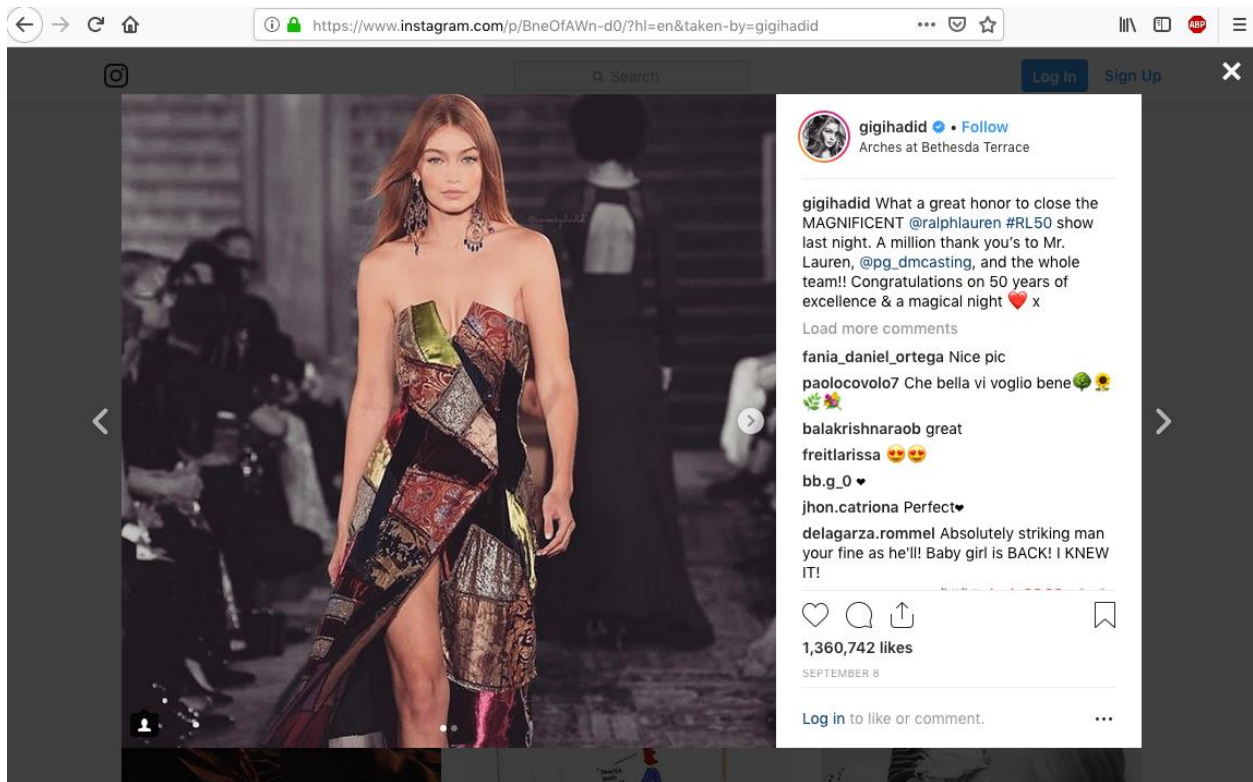


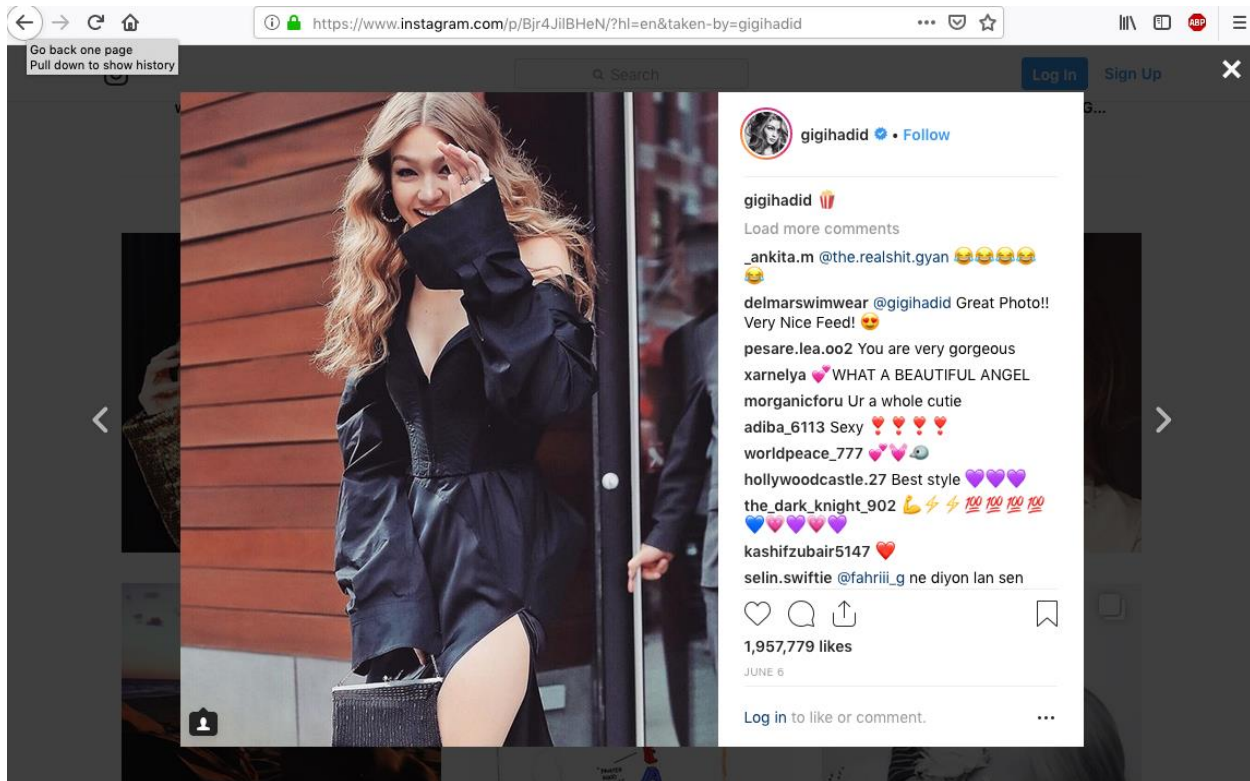
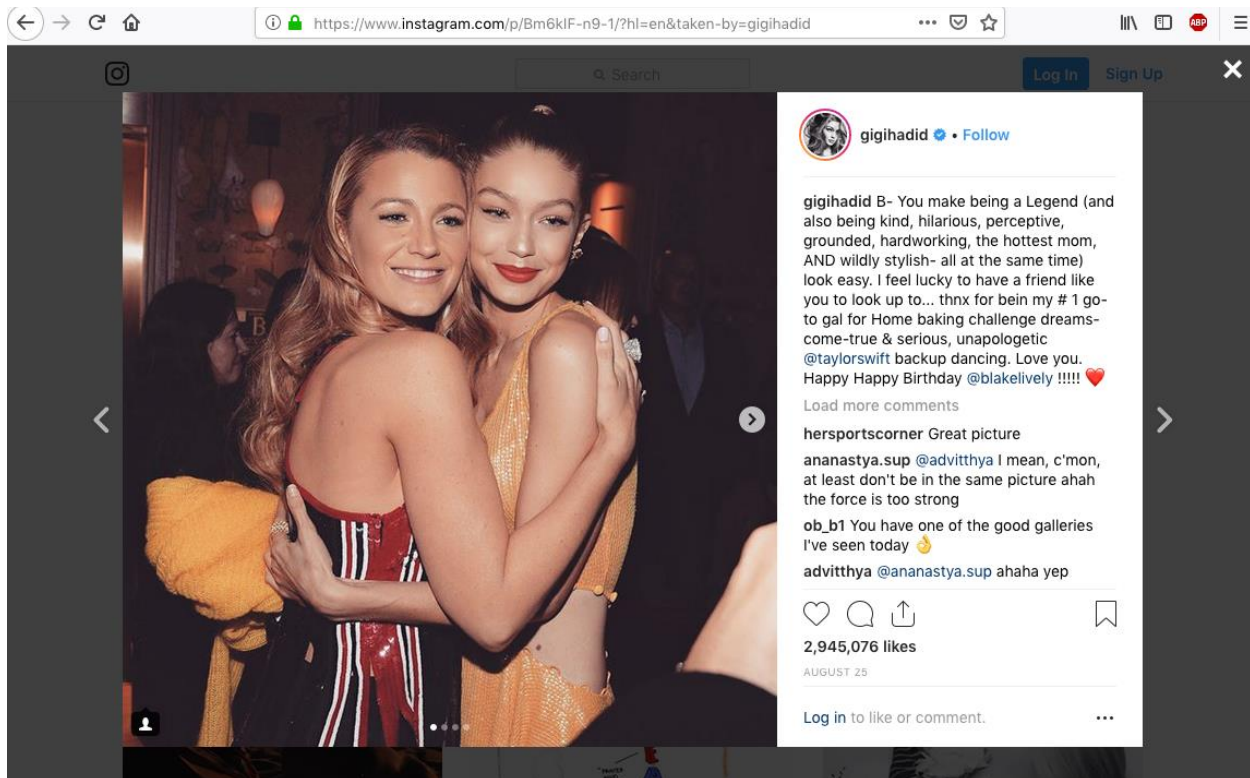


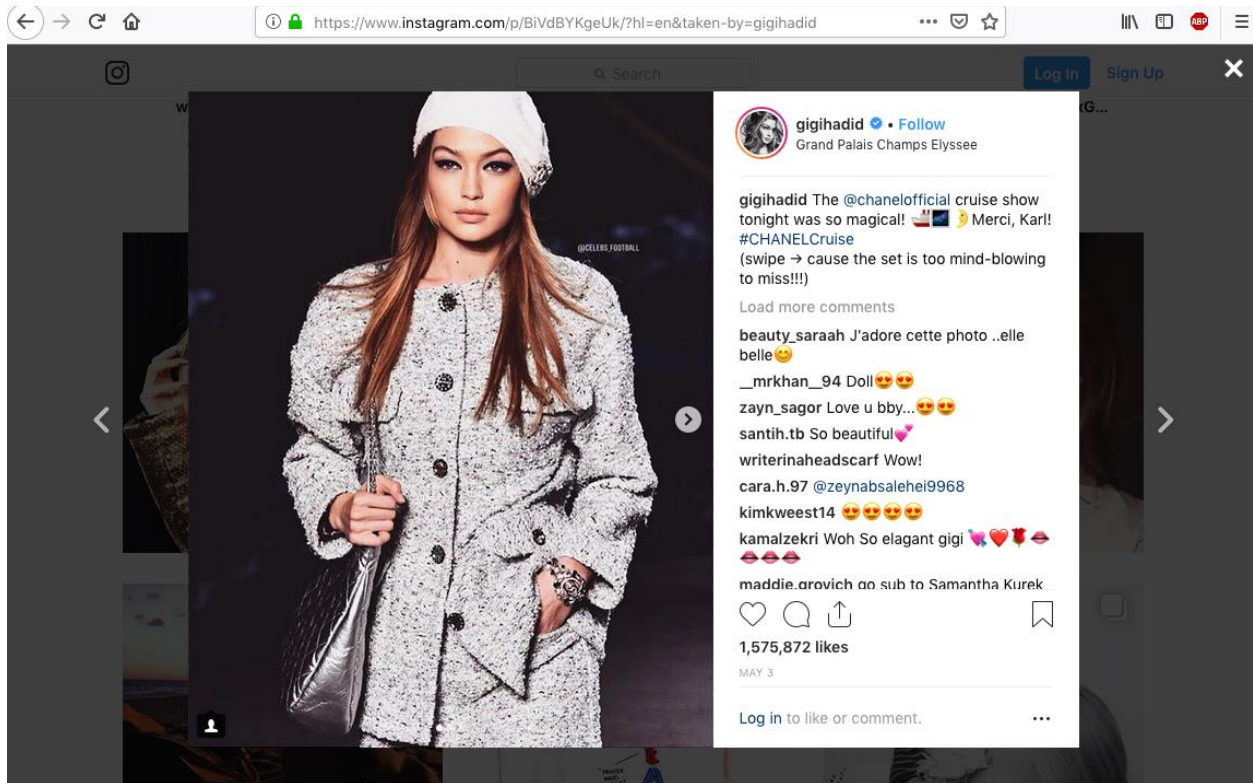
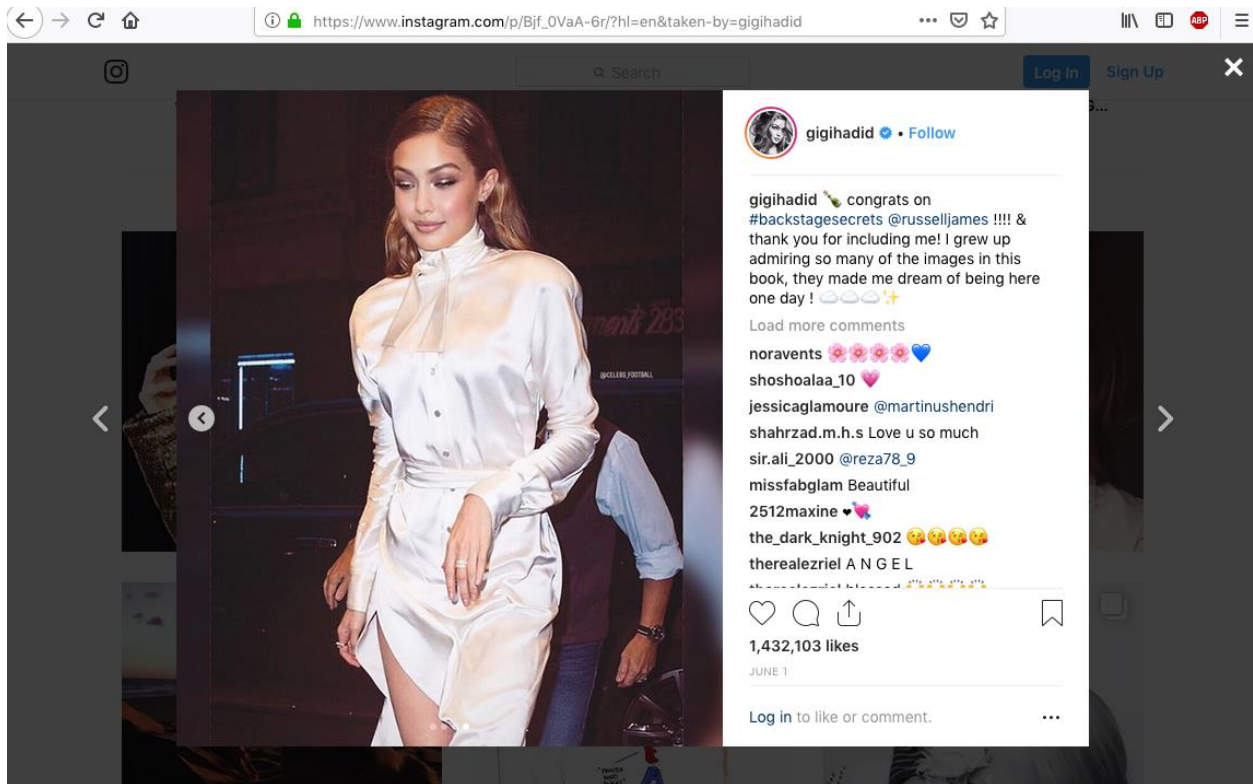


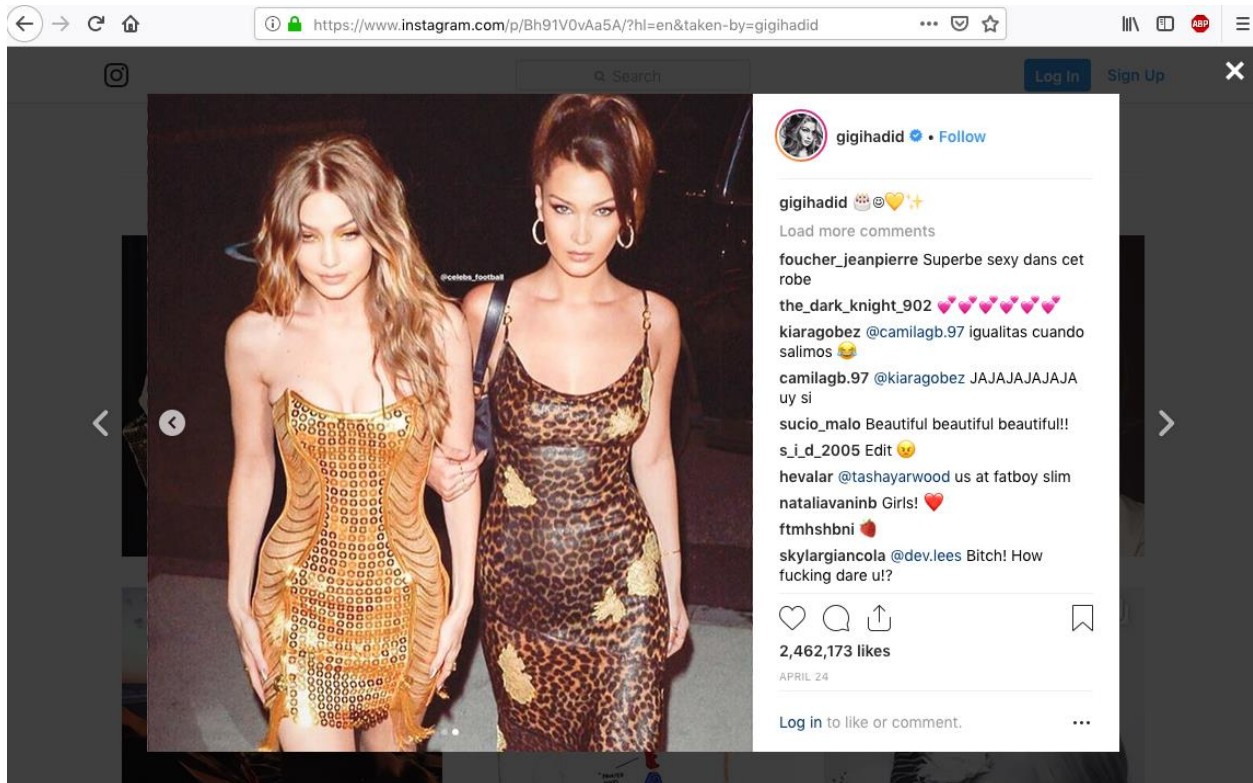
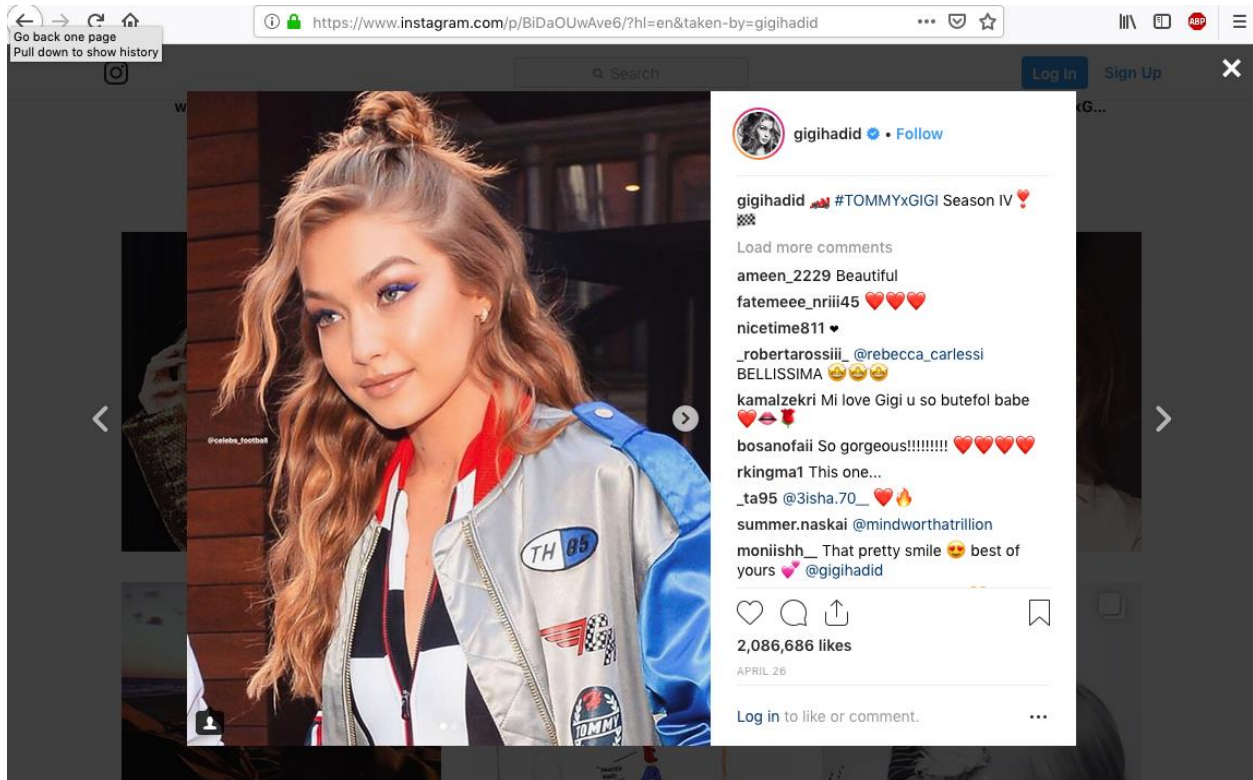


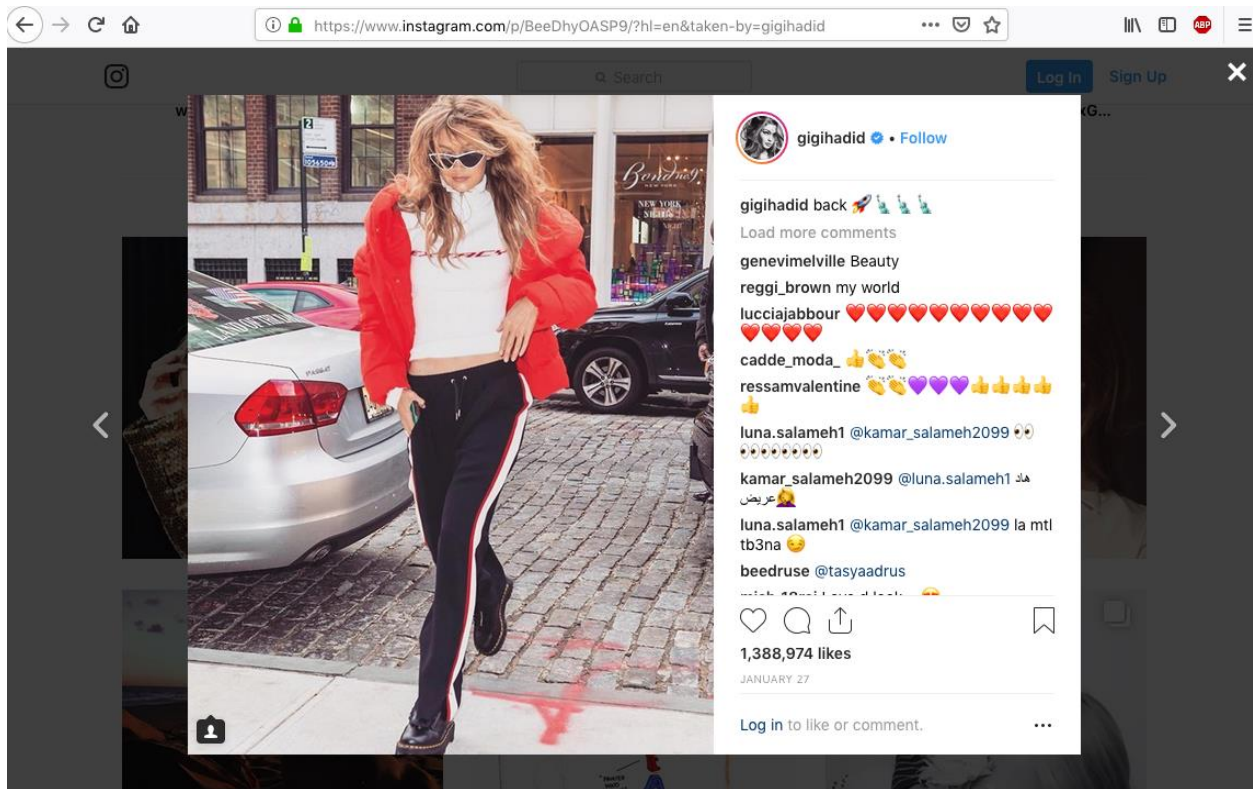


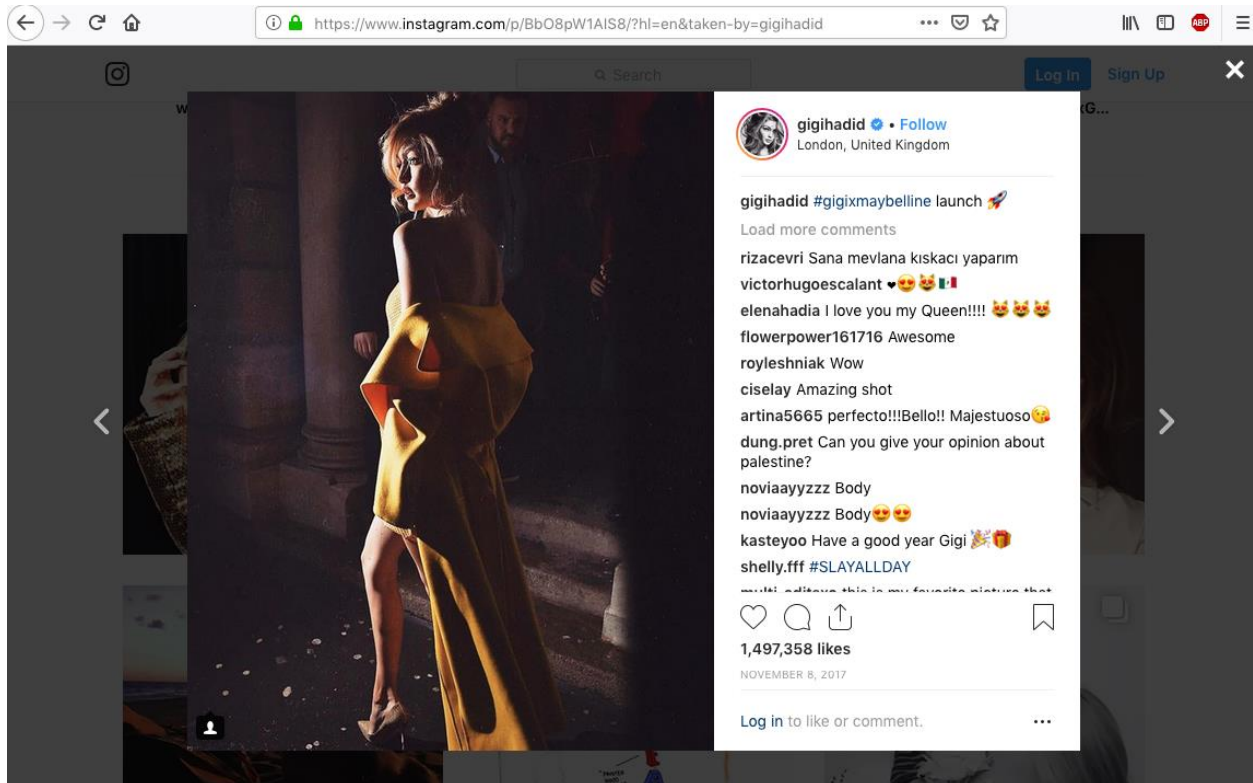
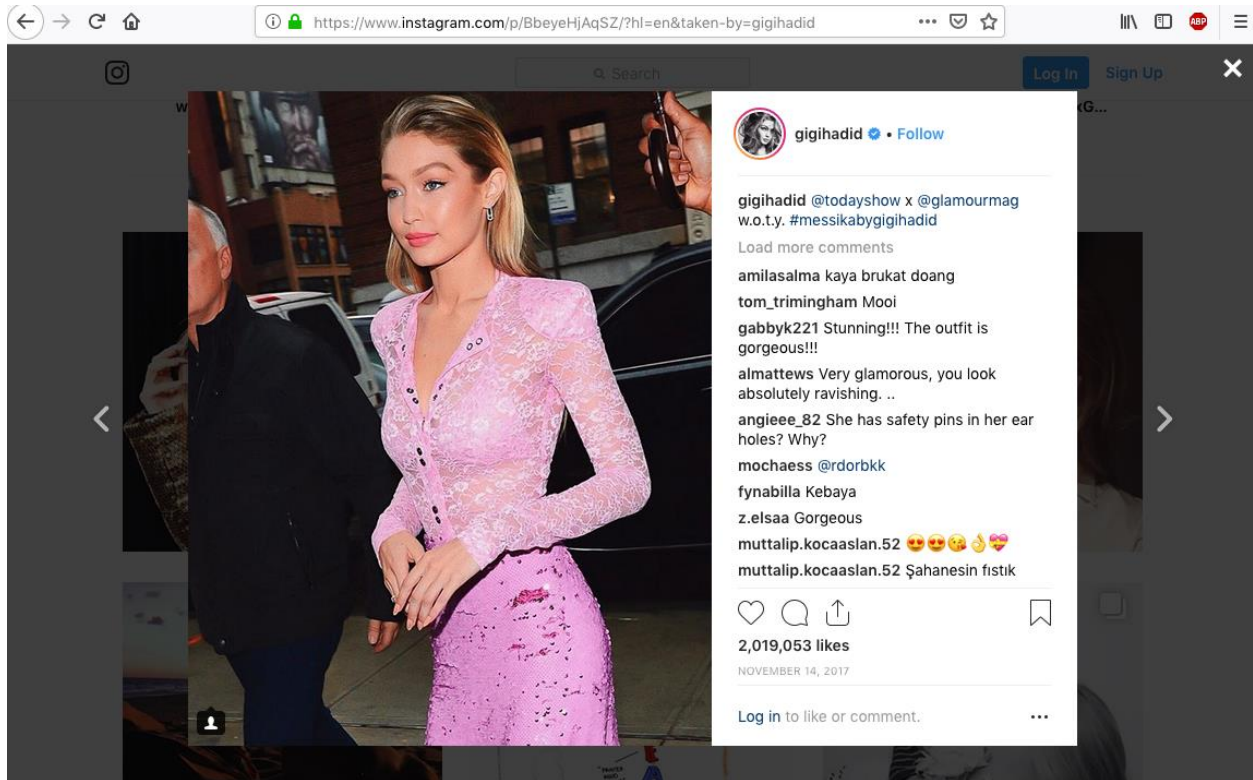


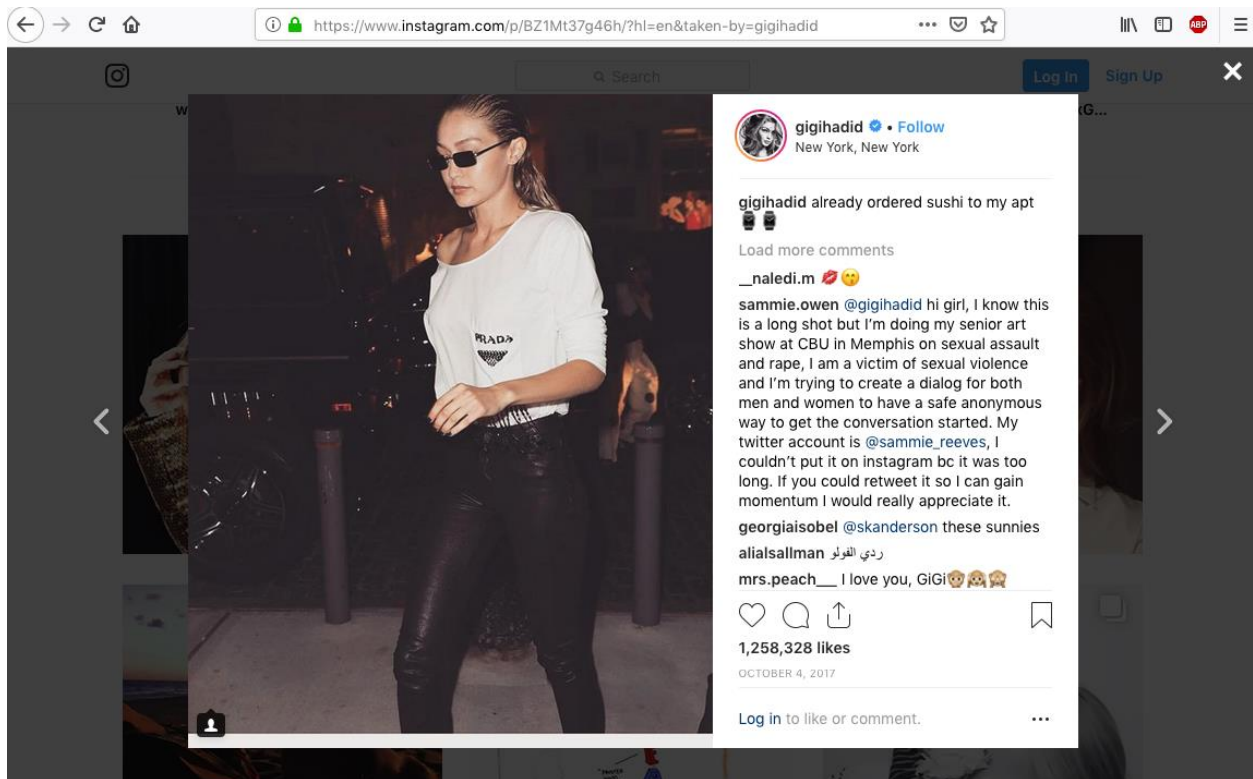
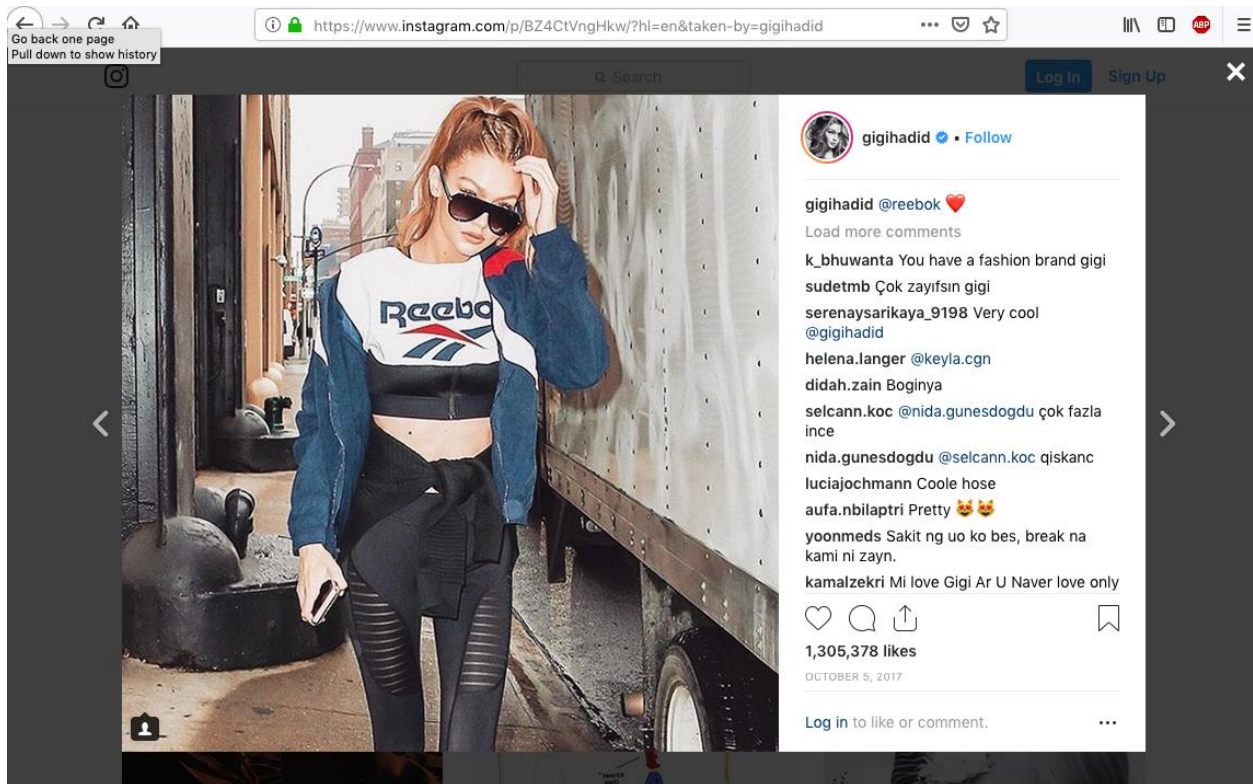












CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) _____

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, _____, counsel for _____, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
the complaint seeks injunctive relief,
the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:_____.

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: _____

Eastern District of New York

Xclusive-Lee, Inc.

Plaintiff(s)

V.

Jelena Noura "Gigi" Hadid

Defendant(s)

Civil Action No. 19-cv-520

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Jelena Noura "Gigi" Hadid
10 Bond Street
New York, New York 10012

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Michael R. Reese
REESE LLP
100 West 93rd Street, 16th Floor
New York, New York 10025

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk