

1 Patrice Bishop (SBN 182256)
service@ssbla.com
2 STULL, STULL & BRODY
9430 W. Olympic Boulevard, Suite 400
3 Beverly Hills, California 90212
Tel. (310) 209-2468
4 Fax (310) 209-2087

ENDORSED FILED
SAN MATEO COUNTY

JUL 21 2015
Clerk of the Superior Court
By MADELINE MASTERSON
DEPUTY CLERK

5 Counsel for Plaintiff and the Putative Class

6 *[Additional Counsel Appear on Signature Page]*

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN MATEO**

10 ARTHUR V. CERVANTES, Individually and)
11 On Behalf of All Others Similarly Situated,)

12 Plaintiff,)

13 vs.)

14 CHAD DICKERSON,)
15 KRISTINA SALEN,)
16 JAMES W. BREYER,)
17 M. MICHELE BURNS,)
18 JONATHAN D. KLEIN,)
19 FRED WILSON,)
20 GOLDMAN, SACHS & CO.,)
MORGAN STANLEY & CO. LLC,)
ALLEN & COMPANY LLC,)
LOOP CAPITAL MARKETS LLC,)
THE WILLIAMS CAPITAL GROUP, L.P.,)
21 ETSY, INC., and)
DOES 1 through 25, Inclusive,)

22 Defendants.)

Case No. **CV 534768**

CLASS ACTION

COMPLAINT FOR VIOLATIONS OF:

- 1. SECTION 11 OF THE SECURITIES ACT OF 1933
- 2. SECTION 15 OF THE SECURITIES ACT OF 1933

JURY TRIAL DEMANDED

1 Plaintiff Arthur V. Cervantes (“Plaintiff”), individually and on behalf of all persons similarly
2 situated, by his undersigned attorneys, for his complaint against Defendants alleges the following
3 based upon personal knowledge as to his own acts, and information and belief as to all other matters,
4 based upon, *inter alia*, the investigation conducted by and through his attorneys, which included,
5 among other things, a review of Defendants’ public documents, conference calls, and
6 announcements made by Defendants, United States Securities and Exchange Commission (“SEC”)
7 filings, wire and press releases published by and regarding Etsy, Inc. (“Etsy” or the “Company”),
8 securities analysts’ reports and advisories about the Company, and information readily obtainable
9 from public sources. Plaintiff believes that substantial evidentiary support will exist for the
10 allegations set forth herein after a reasonable opportunity for discovery.

11 **NATURE OF THE ACTION**

12 1. This is a class action on behalf of persons and/or entities who purchased or otherwise
13 acquired the common stock of Etsy pursuant and/or traceable to the Company’s initial public
14 offering (the “IPO” or the “Offering”).

15 2. Etsy operates online and offline marketplaces to buy and sell handmade items,
16 vintage goods, and craft supplies. Its platform connects sellers and buyers to sell or buy products for
17 art, home and living, mobile accessories, jewelry, wedding, and others.

18 3. The Company was founded in 2005, is headquartered in Brooklyn, New York, and its
19 shares trades on the NASDAQ under the ticker symbol “ETSY”. It has additional offices in Berlin,
20 Germany; Dublin, Ireland; Hudson, New York; London, United Kingdom; Melbourne, Australia;
21 Paris, France; San Francisco, California; and Toronto, Canada.

22 4. The claims in this action arise from the materially false and/or misleading
23 Registration Statement and Prospectus issued in connection with the Offering. In the IPO, the
24 Company sold 16,666,666 shares of common stock at a price to the public of \$16.00 per share.
25 According to the Company, it received \$194.2 million in proceeds after deducting underwriting
26 discounts of \$13.9 million and other offering expenses of approximately \$5.2 million. These
27 expenses were recorded against the proceeds received from the IPO.

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1 20. **Defendant Fred Wilson** (“Wilson”) was, at all relevant times, a director of Etsy and
2 signed or authorized the signing of the Company’s Registration Statement filed with the SEC.
3 Wilson is a citizen of New York. Defendant Wilson offered to sell 861,231 privately held shares in
4 the Offering. Further, Union Square Ventures – an entity where Defendant Wilson is a partner –
5 offered to sell 861,231 privately held shares in the Offering.

6 21. **Defendant Goldman, Sachs & Co.** (“Goldman”) served as an underwriter to Etsy in
7 connection with the Offering. Goldman has offices located in California and New York.

8 22. **Defendant Morgan Stanley & Co., LLC** (“Morgan Stanley”) served as an
9 underwriter to Etsy in connection with the Offering. Morgan Stanley’s principal executive office is
10 located in New York, but it also maintains an office in this County located at 2725 Sand Hill Road,
11 Suite 200, Menlo Park, CA 94025.

12 23. **Defendant Allen & Company LLC** (“Allen & Company”) served as an underwriter to
13 Etsy in connection with the Offering. Allen & Company’s principal executive office is located in
14 New York.

15 24. **Defendant Loop Capital Markets LLC** (“Loop Capital”) served as an underwriter to
16 Etsy in connection with the Offering. Loop Capital’s principal executive office is located in Illinois.

17 25. **Defendant The Williams Capital Group, L.P.** (“Williams Capital”) served as an
18 underwriter to Etsy in connection with the Offering. Williams Capital’s principal executive office is
19 located in New York.

20 26. Defendants named above in ¶¶ 15-20 are referred to herein as the “Individual
21 Defendants.”

22 27. Defendants named above in ¶¶ 21-25 are referred to herein as the “Underwriter
23 Defendants.”

24 28. The true names and capacities of defendants sued herein under California Code of
25 Civil Procedure §474 as Does 1 through 25, inclusive, are presently not known to Plaintiff, who
26 therefore sue these defendants by such fictitious names. Plaintiff will seek to amend this Complaint
27 and include these Doe defendants’ true names and capacities when they are ascertained. Each of the
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1 fictitiously named defendants is responsible in some manner for the conduct alleged herein and for
2 the injuries suffered by the Company.

3 **MATERIALLY FALSE AND MISLEADING PROSPECTUS**

4 29. On April 16, 2015, Etsy filed a final prospectus (the “Prospectus”) on Form 424B4
5 with the SEC in connection with its IPO. The Prospectus was part of a registration statement, filed
6 on Form F-1 with the SEC on March 4, 2015, and declared effective by the SEC on Apr 15, 2015
7 (the “Registration Statement”). The Registration Statement was signed by the Individual
8 Defendants.

9 30. In the Prospectus, the Company reported its financial and operating results for the
10 year ending 2014. Net loss was \$15.2 million or \$0.38 per diluted share on revenue of \$195.6
11 million, compared to a net loss of \$0.8 million or \$0.2 per diluted share on revenue of \$125 million
12 for the prior year.

13 31. The Prospectus falsely touted Etsy as a market place for unique homemade goods:

14 Whether crafted by an Etsy seller herself, with the assistance of her
15 team or with an outside manufacturer in small batches, handmade
16 goods spring from the imagination and creativity of an Etsy seller and
17 embody authorship, responsibility and transparency. We believe we
18 are creating a new economy, which we call the Etsy Economy, where
19 creative entrepreneurs find meaningful work and both global and
20 local markets for their goods, and where thoughtful consumers
21 discover and buy unique goods and build relationships with the
22 people who sell them.

19 Prospectus at p. 58.

20 32. Louis Vuitton, Chanel and Michael Kors, Disney and NFL brands cannot be mistaken
21 for unique homemade goods. Unbeknownst to buyers in the IPO, Etsy was “a go-to destination for
22 counterfeits” which gladly listed obvious counterfeit products in order to earn a wide variety of fees:

23 Marketplace revenue includes the fee an Etsy seller pays for each
24 completed transaction and the listing fee an Etsy seller pays for each
25 item she lists. Seller Services revenue includes fees an Etsy seller
26 pays for services such as prominent placement in search results via
27 Promoted Listings, payment processing via Direct Checkout and
28 purchases of shipping labels through our platform via Shipping
29 Labels. Other revenue includes the fees we receive from a third-party
30 payment processor.

28 Prospectus at p. 2.

1 important to promote confidence in our marketplace. We follow these procedures to review
2 complaints and relevant facts to determine whether to take the appropriate action, which may include
3 removal of the item from our marketplace and, in certain cases, closing the shops of Etsy sellers who
4 repeatedly violate our policies.” Prospectus at p. 30.

5 38. With millions of counterfeit items listed for sale, Etsy did not have the manpower to
6 review complaints and relevant facts to determine whether to take the appropriate action, including
7 removal of the counterfeit items or closing the shops of Etsy sellers who repeatedly violate Etsy’s
8 policies.

9 39. The statements referenced above were materially false and/or misleading because
10 they misrepresented and failed to disclose the following adverse facts, including that: (a) more than
11 5% of all merchandise for sale on Etsy’s website may be either counterfeit or constitute trademark or
12 copyright infringement; (b) Brands are increasingly pursuing sellers on Etsy for trademark or
13 copyright infringement, jeopardizing listing fees and commissions; and (c) as a result of the
14 foregoing, Etsy’s public statements were materially false and misleading at all relevant times.

15 **THE TRUTH EMERGES**

16 40. On May 11, 2015, before the market opened for trading, numerous news outlets,
17 including *Bloomberg* and the *Associated Press*, reported that Gil Luria, an equity analyst at Wedbush
18 Securities, issued a note downgrading Etsy to “Underperform.” In the note, Luria stated, in part:

19 [O]ur analysis and discussions with IP lawyers lead us to believe
20 questionable seller practices may draw increased scrutiny, eventually
21 limiting volume growth. Considering a limited TAM and shares
trading at nearly double the most expensive comparable at 66x
EBITDA we are downgrading to Underperform from Neutral.

22 Our research indicates as many as 2 million items on Etsy (>5% of all
23 merchandise) may potentially be either counterfeit or constitute
24 trademark or copyright infringement. We believe the share of GMS
25 may be greater considering Etsy has become a go-to destination for
counterfeits. Counterfeit candidates include items infringing on Louis
Vuitton, Chanel and Michael Kors, as well as a wide range of Disney
and NFL brands.

26 41. As a result of this news, shares of Etsy fell \$1.86 or over 8%, on unusually heavy
27 volume, to close at \$20.85 on May 11, 2015.

1 47. Common questions of law and fact exist as to all members of the Class and
2 predominate over any questions solely affecting individual members of the Class. Among the
3 questions of law and fact common to the Class are:

4 (a) whether the Securities Act was violated by Defendants' acts as allege herein;

5 (b) whether statements made by Defendants to the investing public in connection
6 with the Company's IPO omitted and/or misrepresented material facts about the business,
7 operations, and prospects of Etsy; and

8 (c) to what extent the members of the Class have sustained damages and the
9 proper measure of damages.

10 48. A class action is superior to all other available methods for the fair and efficient
11 adjudication of this controversy since joinder of all members is impracticable. Furthermore, the
12 damages suffered by individual Class members may be relatively small, the expense and burden of
13 individual litigation make it impossible for members of the Class to individually redress the wrongs
14 done to them. There will be no difficulty in the management of this action a class action.

15 **FIRST CLAIM**

16 **Violation of Section 11 of The Securities Act**
17 **(Against All Defendants)**

18 49. Plaintiff repeats and re-alleges each and every allegation contained above, except any
19 allegation of fraud, recklessness or intentional misconduct.

20 50. This Count is brought pursuant to Section 11 of the Securities Act, 15 U.S.C § 77k,
21 on behalf of the Class, against all Defendants.

22 51. The Registration Statement for the IPO was inaccurate and misleading, contained
23 untrue statements of material facts, omitted to state other facts necessary to make the statements
24 made not misleading, and omitted to state material facts required to be stated therein.

25 52. Etsy is the registrant for the IPO. Defendants named herein were responsible for the
26 contents and dissemination of the Registration Statement.

27 53. As issuer of the shares, Etsy is strictly liable to Plaintiff and the Class for the
28 misstatements and omissions.

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(b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees;

(d) Awarding rescission or a rescissory measure of damages; and

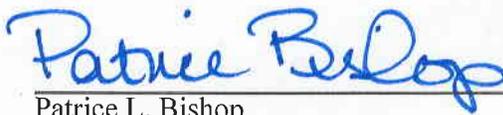
(e) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

STULL, STULL & BRODY

Dated: July 21, 2015

By: 

Patrice L. Bishop
9430 West Olympic Boulevard
Suite 400
Beverly Hills, CA 90212
Tel: (310) 209-2468
Fax: (310) 209-2087
Email: service@ssbla.com

Thomas J. McKenna
Gregory M. Egleston
GAINNEY McKENNA & EGLESTON
440 Park Avenue South, 5th Floor
New York, NY 10016
Tel: (212) 983-1300
Fax: (212) 983-0383
Email: jmckenna@gme-law.com
gegleston@gme-law.com