

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

HUGO BOSS RETAIL, INC.,

Plaintiff,

-against-

A/R RETAIL, LLC

Defendant.

Index No.: 655166/2020

**REPLY TO
COUNTERCLAIMS**

Plaintiff, Hugo Boss Retail, Inc. (“Plaintiff” or “Tenant”), by and through its attorneys, Davidoff Hutcher & Citron LLP, as and for its Reply to the Counterclaims of Defendant A/R Retail, LLC (“Defendant” or “Landlord”), which Defendant has alleged in its Answer with Counterclaims, dated December 14, 2020 (the “Answer”), alleges as follows:

FIRST COUNTERCLAIM

1. Denies the allegations set forth in paragraph 17 of the Answer, except admits that Plaintiff is a Delaware corporation authorized to do business in the State of New York.
2. Denies the allegations set forth in paragraph 18 of the Answer.
3. Denies the allegations set forth in paragraph 19 of the Answer.
4. Denies the allegations set forth in paragraph 20 of the Answer.
5. Denies the allegations set forth in paragraph 21 of the Answer.

FIRST AFFIRMATIVE DEFENSE

6. The Counterclaim fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

7. The Counterclaim is barred, in whole or in part, based on the doctrine of equitable estoppel, waiver, and laches.

THIRD AFFIRMATIVE DEFENSE

8. The Counterclaim is barred, in whole or in part, based on the doctrine of frustration of purpose.

FOURTH AFFIRMATIVE DEFENSE

9. The Counterclaim is barred, in whole or in part, based on the doctrine of impossibility of performance.

FIFTH AFFIRMATIVE DEFENSE

10. The Counterclaim is barred, because to the extent that Defendant has suffered any damages, it has failed to mitigate such damages.

SIXTH AFFIRMATIVE DEFENSE

11. The relief Defendant requests would result in unjust enrichment.

SEVENTH AFFIRMATIVE DEFENSE

12. The Counterclaim is barred by reason of Defendant’s failure to deliver performance that served as a condition for the contract.

WHEREFORE, Plaintiff demands judgment as follows:

- (a) Dismissing the Counterclaim with prejudice and denying each and every request for relief set forth therein;
- (b) Awarding Plaintiff judgment against the Defendant for all the relief sought in the Complaint; and
- (c) Granting Plaintiff such other and further relief as the Court deems just and proper.

Dated: January 4, 2021
New York, New York

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