

Architectural Works Copyright Protection Act of 1990, both codified at 17 U.S.C. § 101 et seq.) and technical drawings depicting such architectural works.

3. Westport Homes of Fort Wayne, Inc., is a corporation organized under the laws of the State of Indiana with its principal place of business in Allen County, Indiana. Westport Homes of Fort Wayne, Inc., may be served through its registered agent, Steven M. Dunn, 9210 N. Meridian Street, Indianapolis, Indiana 46260.

4. Westport Homes, Inc., is a corporation organized under the laws of the State of Indiana with its principal place of business in Marion County, Indiana. Westport Homes, Inc., may be served through its registered agent, Steve Humke, Ice Miller, One American Square, Suite 2900, Indianapolis, Indiana 46260.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction of this case under 28 U.S.C. § 1338 because this action arises under federal copyright law, 17 U.S.C. § 101 et seq.

6. Venue is proper in this District under 28 U.S.C. § 1400(a) because Defendants may be found in this District. Furthermore, or in the alternative, venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims at issue occurred in this District; and Defendants reside and do business in this District.

Factual Background

7. Design Basics is a building design firm which creates, markets, and licenses the use of “architectural works” (as that term is defined in the Copyright Act and the Architectural Works Copyright Protection Act of 1990 (the “AWCPA”)) and technical drawings depicting architectural works. Design Basics owns copyrights protecting the architectural works and technical drawings it has created.

8. Design Basics is the author and the owner of all copyrights in the following work, which has been registered with the United States Copyright Office:

Title	Registration Certificate No.
Plan No. 3090 – Jarrett	VA 624-154 & 624-153

9. The foregoing work described in paragraphs 8 above will be referred to as the “Copyrighted Work.”

10. The Copyrighted Work has been published in various Design Basics plan books and publications. The Copyrighted Work has also been published by Design Basics on the internet at www.designbasics.com.

11. The Copyrighted Work constitutes original material that is copyrightable under federal law.

12. Design Basics is currently, and at all relevant times has been, the sole owner of all right, title and interest in and to the work described in paragraph 8 above.

13. Westport Homes has been engaged, at least in part, in the business of creating, publishing, distributing and advertising residential home designs through traditional print media, on the internet on sites such as www.westport-home.com, and in marketing, advertising, constructing and selling homes built according to such designs.

14. Westport Homes has published, distributed, marketed and advertised certain architectural designs for single family residential homes, each consisting of a floor plan and exterior elevations, that Westport Homes has identified and marketed under the following model names: Fairfield and Fairmont.

15. Design Basics’ home designs, including the Copyrighted Work, have been marketed for years on a nationwide basis, including in this District, by means of plan books and other publications and also on the internet, including many websites.

16. Westport Homes has been actually aware of Design Basics and the works that Design Basics markets. At all times material to this case, Westport Homes has had a reasonable opportunity to have viewed the Copyrighted Work.

17. Westport Homes has violated and continues to violate Design Basics' exclusive rights in the Copyrighted Work (including the right to reproduce, the right to prepare derivative works and the right to sell), by copying, publishing, distributing, advertising, marketing, selling and/or constructing in the marketplace, plans, drawings and houses which were copied or otherwise derived from the Copyrighted Work, as detailed below:

- a. Westport Homes' "Fairfield" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 3090 – Jarrett (and any predecessor or derivative thereof).
- b. Westport Homes' "Fairmont" (and any predecessors, copies or derivatives of that model under the same name or a different name) infringes the Design Basics Plan No. 3090 – Jarrett (and any predecessor or derivative thereof).

Cause of Action
Copyright Infringement

18. Design Basics complains of Westport Homes for copyright infringement and incorporates paragraphs 1 through 17 above by reference.

19. Westport Homes' construction and sale of houses, and creation of associated design and construction drawings based on Design Basics' Copyrighted Work has infringed and continues to infringe Design Basics' copyrights in the Copyrighted Work.

20. Westport Homes' creation and publication of non-pictorial representations based on Design Basics' Copyrighted Work have infringed and are infringing Design Basics' copyrights in the Copyrighted Work.

21. Design Basics is entitled to recover the actual damages it suffered as a result of the foregoing infringement, and all of Westport Homes' profits from such infringement, pursuant to 17 U.S.C. § 504(b).

22. In the alternative to the actual damages and infringer profits sought above, Design Basics is entitled to an award of statutory damages for all infringements of Design Basics' Copyrighted Work, as permitted by 17 U.S.C. § 504(c).

23. Pursuant to 17 U.S.C. § 505, Westport Homes is liable for plaintiff's costs and reasonable attorneys' fees incurred in this action.

24. In addition, Design Basics is entitled to preliminary and permanent injunctions pursuant to 17 U.S.C. § 502 prohibiting Westport Homes from further infringement of their copyrights, including but not limited to the further use of infringing plans, creation or use of derivative plans, and construction, sale or rental of infringing structures.

25. Furthermore, this Court should issue an order pursuant to 17. U.S.C. § 503 directing the United States Marshal's Service to (a) impound all copies of the Copyrighted Work, in possession of Westport Homes or its agents or contractors in violation of plaintiff's exclusive rights, and (b) upon final hearing of this case, to destroy or otherwise dispose of those copies.

Conditions Precedent

26. With respect to all counts, Design Basics generally avers that all conditions precedent to their rights of recovery have occurred or been performed, or have been waived or excused by Westport Homes.

Jury Demand

27. Pursuant to Federal Rule of Civil Procedure 38, Design Basics respectfully demands a trial by jury of all issues so triable.

WHEREFORE, Design Basics, LLC, prays that Defendants, be cited to appear and answer; and that upon final trial have and recover from Defendants as set forth above, that they have permanent injunctive relief against Defendants as requested herein, and that they have such and other relief as they may show themselves to be entitled.

Respectfully submitted,

/s/ Sean J. Quinn

John D. LaDue (19039-71)

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