

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION



Provided by:
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TRADE DESIGN STUDIO LLC,)
)
 Plaintiff,)
)
 v.)
)
 1824 CARROLLTON LLC, T.A.K.E 3)
 INVESTMENTS LLC, and TENA ALLEN,)
)
 Defendants.)

Case No.: 1:19-cv-1770

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff, Trade Design Studio LLC, by counsel and pursuant to Rules 8, 10, and 11 of the Federal Rules of Civil Procedure, for its cause of action against Defendants, 1824 Carrollton LLC, T.A.K.E 3 Investments LLC, and Tena Allen, alleges and states as follows:

Parties, Jurisdiction, and Venue

1. Trade Design Studio LLC (“TDS”) is an Indiana limited liability company with its principal place of business at 1728 N. New Jersey St., Indianapolis, Indiana 46202.
2. Upon information and belief, 1824 Carrollton LLC is an Indiana limited liability company with its principal place of business at 8500 E. 116th St., #924, Fishers, Indiana 46038.
3. Upon information and belief, T.A.K.E. 3 Investments LLC is an Indiana limited liability company with its principal place of business at 9222 Stones Bluff Pl., Camby, Indiana 46113.
4. Upon information and belief, Tena Allen is an Indiana resident, currently residing at 9222 Stones Bluff Pl., Camby, Indiana 46113.
5. This action arises under the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.* (the

“Copyright Act”), the Indiana Crime Victims Recovery Act, I.C. § 34-24-3-1, *et seq.*, and Indiana common law.

6. Subject matter jurisdiction is conferred upon this Court by 28 U.S.C. § 1331, 28 U.S.C. § 1338, and 28 U.S.C. § 1367.

7. This Court may validly exercise personal jurisdiction over Defendants because their respective principal places of business and/or homes are located within the geographic area covered by this Court.

8. Venue is appropriate in this Court under 28 U.S.C. § 1391 and 28 U.S.C. § 1400(a).

Facts Common to All Counts

9. TDS is a residential architectural design firm specializing in custom-designed and built homes.

10. Since 2006, TDS has catered to and designed homes and remodeling projects for clientele primarily in the downtown Indianapolis neighborhoods of Herron Morton Place, Fall Creek Place, and Kennedy King.

11. TDS and its owner and President, Melissa Iannucci, have deep ties to these downtown neighborhoods, and have been instrumental in both their startling revitalization and in maintaining their ongoing vibrancy.

12. Indeed, Herron Morton Place’s current status as one of the most desirable, sought-out neighborhoods in the entire City of Indianapolis is due in no small part to Mrs. Iannucci’s efforts, both professionally and personally, and TDS’s unique, customized home designs have been an indispensable part of this ascendancy.

13. TDS never replicates its designs; no two TDS homes are exactly alike.

14. In 2017, TDS drafted technical architectural drawings for a single-family, new

construction house to be built at 2134 N. New Jersey Street, Indianapolis, Indiana (hereafter, the “Technical Drawings”).

15. The Technical Drawings include foundation and basement plans, first and second floor plans, a roof plan, exterior elevations, wall sections, interior elevations, and electrical plans.

16. A true and accurate copy of TDS’s Technical Drawings for 2134 N. New Jersey Street are attached hereto as **Exhibit A**.

17. TDS hired a local residential construction firm as its general contractor to build and supervise construction on the house at 2134 N. New Jersey Street (hereafter, the “Architectural Work”).

18. Construction was completed in April 2018, and the house sold in May 2018 for \$700,000.

19. TDS subsequently applied for and received Certificates of Copyright Registration for both the Technical Drawings (Registration No. VAu 1-350-598) for, and the Architectural Work (Registration No. VA 2-142-029) at, 2134 N. New Jersey Street. True and accurate copies of the Certificates of Registration are attached hereto as **Exhibit B**.

20. On or around February 28, 2019, TDS was informed that a house was under construction at 1824 Carrollton Avenue, in the Kennedy King neighborhood, that bore a remarkable likeness to the house designed by TDS and built at 2134 N. New Jersey Street.

21. TDS subsequently accessed the publicly available structural construction permits associated with the 1824 Carrollton Avenue project and discovered that the technical drawings submitted to the City of Indianapolis/Marion County permitting authority in support of the project are almost exactly the same as TDS’s Technical Drawings.

22. They are not just similar; they are virtually identical.

23. A true and accurate copy of the technical drawings associated with the structural construction permit (STR18-03659) for the house under construction at 1824 Carrollton Ave. is attached hereto as **Exhibit C**.

24. The City of Indianapolis/Marion County permitting authority website provides the following applicant information for the structural construction permits for the house under construction at 1824 Carrollton Avenue:

Location:

1824 CARROLLTON AVE
INDIANAPOLIS IN 46202

Case Details

Applicant

TENA ALLEN
TAKE 3 INVESTMENTS LLC
9222 STONES BLUFF PL
CAMBY, IN, 46113
Primary Phone: 3174103034
Fax: 3174559658
TDT1993@SBCGLOBAL.NET

Licensed Professional:

TENA ALLEN
TAKE 3 INVESTMENTS LLC
9222 STONES BLUFF PL
CAMBY, IN, 46113
Fax: 3174559658
Gen. Contractor GL1600035

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25. Accordingly, upon information and belief, Defendants Tena Allen and T.A.K.E. 3 Investments LLC applied for the structural construction permits for 1824 Carrollton Avenue and submitted the technical drawings attached as **Exhibit C** in support of the application(s).

26. The only differences between the technical drawings for the 1824 Carrollton Avenue project (**Exhibit C**) and TDS's copyrighted Technical Drawings (**Exhibit A**) are the replacement of the addresses—with "2134 N. New Jersey" swapped out for "1824 Carrollton"—and the removal of the TDS logo from the top-right corner of the drawings.

27. The duplication is so crude and obvious that the 1824 Carrollton Avenue technical

drawings (**Exhibit C**) still contain several lingering references to “North New Jersey Street,” “2134,” and the addresses and properties to the north and south of 2134 N. New Jersey St.

28. According to publicly available and accessible property records, the current owner of the real estate located at 1824 Carrollton Avenue is Defendant, 1824 Carrollton LLC.

29. On March 28, 2019, TDS, by counsel, sent Defendants (through their registered agents) a cease and desist letter demanding that they immediately halt construction on the house at 1824 Carrollton Avenue, and notifying them that their theft of TDS’s Technical Drawings violated state and federal law, including but not limited federal copyright law; and that their public display of TDS’s Technical Drawings, preparation of derivative works based on those Technical Drawings, and reproduction of TDS’s Architectural Work constituted copyright infringement.

30. After initially refusing to stop construction, Defendant 1824 Carrollton LLC eventually agreed to a brief suspension of construction while the parties explored a negotiated resolution.

31. Those negotiations failed, and Defendants resumed construction on the house at 1824 Carrollton Avenue on April 8, 2019, if not before.

Count I – Copyright Infringement

32. TDS realleges and incorporates by reference the allegations of paragraphs 1 through 31 of this Complaint.

33. TDS is the author and copyright owner of the Technical Drawings under the Copyright Act.

34. TDS also owns copyright on the Architectural Work.

35. Defendants and/or Defendants’ agents, employees, or representatives obtained a copy of TDS’s Technical Drawings without TDS’s permission.

36. Defendants have engaged in various acts of copyright infringement under the Copyright Act, including but not necessarily limited to the following:

a. Defendants and/or Defendants' agents, employees, or representatives publicly displayed the Technical Drawings when they submitted **Exhibit C** to the City of Indianapolis/Marion County permitting authority, in violation of TDS's exclusive rights under the Copyright Act;

b. Defendants and/or Defendants' agents, employees, or representatives prepared a derivative work—**Exhibit C**—of the Technical Drawings, in violation of TDS's exclusive rights under the Copyright Act; and

c. Defendants and/or Defendants' agents, employees, or representatives are currently building a reproduction of the Architectural Work at 1824 Carrollton Avenue, in violation of TDS's exclusive rights under the Copyright Act.

37. TDS has notified Defendants of their various acts of copyright infringement and demanded that they halt construction on the house at 1824 Carrollton Avenue, but Defendants have refused.

38. Defendants and/or Defendants' agents, employees, or representatives have intentionally and willfully violated, and are continuing to intentionally and willfully violate, TDS's exclusive rights under the Copyright Act.

39. As a direct, proximate, foreseeable, and consequential result of Defendants' copyright infringements, TDS has suffered harm and will continue to suffer irreparable harm if Defendants' conduct is not enjoined.

40. To the extent calculable, TDS has suffered damages entitling it to an award of damages under the Copyright Act, including but not limited to TDS's actual damages and

Defendants' profits, statutory damages for all post-registration infringing acts, pre-judgment and post-judgment interest, costs of this lawsuit, attorney's fees, and any other just and proper relief.

WHEREFORE, TDS respectfully requests judgment in its favor and against Defendants, and that this Court:

(A) enter preliminary and permanent injunctions against Defendants pursuant to 17 U.S.C. § 502 to enjoin any and all infringing acts, including but not limited to: (i) any further use of the infringing plans; (ii) creation or use of derivative plans; and (iii) further construction, sale, or rental of infringing structures such as the house under construction at 1824 Carrollton Avenue;

(B) issue an order pursuant to 17 U.S.C. § 503 directing the United States Marshal's Service to (i) impound all copies of the Technical Drawings in possession of Defendants or their agents or contractors in violation of TDS's exclusive rights, and (ii) upon final disposition of this case, to destroy or otherwise dispose of those copies;

(C) entry of judgment for damages, statutory damages, pre-judgment and post-judgment interest, costs, and/or attorney's fees; and

(D) for such further and additional relief as may be just and appropriate.

Count II – Conversion

41. TDS realleges and incorporates by reference the allegations of paragraphs 1 through 31 of this Complaint.

42. Defendants and/or Defendants' agents, employees, or representatives obtained TDS's Technical Drawings without TDS's authorization or permission.

43. Defendants and/or Defendants' agents, employees, or representatives then made minor changes to the Technical Drawings, such as removing the address "2134 N. New Jersey"

and replacing it with “1824 Carrollton,” and removing the TDS logo from the top-right corner of the drawings.

44. Defendants and/or Defendants’ agents, employees, or representatives submitted TDS’s cosmetically-altered Technical Drawings to the City of Indianapolis/Marion County permitting authority in support of their application for structural construction permits for the house to be built at 1824 Carrollton Avenue.

45. In doing so, Defendants exercised unauthorized dominion and control over TDS’s property to the exclusion of TDS, its true owner, under a claim of title inconsistent with TDS’s title.

46. In this way, Defendants committed the tort of conversion.

47. Defendants’ conversion of TDS’s property has proximately caused damages to TDS.

WHEREFORE, TDS respectfully requests judgment in its favor and against Defendants, for an award of damages in an amount to be proven at trial, costs of this action, and for all other just and appropriate relief.

Count III – Criminal Conversion

48. TDS realleges and incorporates by reference the allegations of paragraphs 1 through 31 of this Complaint.

49. Defendants and/or Defendants’ agents, employees, or representatives knowingly or intentionally obtained TDS’s Technical Drawings without TDS’s authorization or permission.

50. Defendants and/or Defendants’ agents, employees, or representatives then knowingly or intentionally made minor changes to the Technical Drawings, such as removing the address “2134 N. New Jersey” and replacing it with “1824 Carrollton,” and removing the TDS

logo from the top-right corner of the drawings.

51. Defendants and/or Defendants' agents, employees, or representatives knowingly or intentionally submitted TDS's cosmetically-altered Technical Drawings to the City of Indianapolis/Marion County permitting authority in support of their application for structural construction permits for the house to be built at 1824 Carrollton Avenue.

52. In doing so, Defendants knowingly or intentionally exercised unauthorized dominion and control over TDS's property to the exclusion of TDS, its true owner, under a claim of title inconsistent with TDS's title.

53. In this way, Defendants committed the tort of criminal conversion within the meaning of the Indiana Crime Victims Recovery Act, I.C. § 34-24-3-1.

54. Defendants' criminal conversion of TDS's property has proximately caused damages to TDS.

WHEREFORE, TDS respectfully requests that the Court award it: (A) judgment in its favor and against Defendants for criminal conversion; (B) an award of damages in an amount to be proved at trial; (C) an award of three times the actual damages suffered by TDS, in accordance with I.C. § 34-24-3-1(1); (D) costs of this action, in accordance with I.C. § 34-24-3-1(2); (e) a reasonable attorney's fee, in accordance with I.C. § 34-24-3-1(3); and (F) all other just and appropriate relief.

Jury Trial Request

TDS hereby respectfully demands a trial by jury on all issues so triable, in accordance with Fed. R. Civ. P. 38.

VERIFICATION

I affirm under the penalties of perjury that the foregoing representations of fact are true and accurate to the best of my information, knowledge, and belief.



Melissa Iannucci
President and Owner
TRADE DESIGN STUDIO LLC

Respectfully submitted,

BORING + TAYLOR, P.C.

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