

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**



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THE ART OF DESIGN, INC.,)
)
Plaintiff,)
)
v.)
)
SHARPLINE CONVERTING, INC.,)
)
Defendant.)

Case No.: 3:19-cv-702

JURY DEMANDED

COMPLAINT

Plaintiff The Art of Design, Inc. (“TAOD”), by counsel, files its Complaint against Defendant Sharpline Converting, Inc. (“Sharpline”), as follows:

NATURE OF THE ACTION

1. This is a civil action for copyright infringement arising under the copyright laws of the United States, 17 U.S.C. §101 et seq., as amended (the “Copyright Act”).

PARTIES, JURISDICTION, AND VENUE

2. TAOD is a corporation organized under the laws of the State of Indiana with its principal office located at 104 Rush Court, Elkhart, Indiana 46516.

3. Sharpline is a corporation organized under the laws of the State of Kansas with its principal office located at 1520 S. Tyler, Wichita, Kansas 67209. Sharpline also has a design and manufacturing facility located at 800 County Road 15, Elkhart, Indiana 46516. Sharpline may be served through its registered agent, Sharpline Converting, Inc., 1520 S. Tyler, Wichita, Kansas 67209.

4. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. §§ 1331, and 1338(a) and (b).

5. Venue of this action in the Northern District of Indiana, South Bend Division, is based on 28 U.S.C. § 1391(b) and (c).

FACTUAL ALLEGATIONS

TAOD's Original Designs

6. TAOD is and for many years has been among the most successful and highly respected companies in the United States engaged in the business of custom airbrushing and fine art. Among other things, TAOD designs custom artwork for corporate and personal clients, and has done specialty work for most major motorcoach and boat companies. TAOD markets its designs and ability to create custom designs throughout the United States via the internet, magazines, and direct to clients.

7. TAOD's success is due in no small measure to its employment, at great cost to TAOD, of highly talented individuals who create for TAOD original and attractive two-dimensional designs ("TAOD Designs") that are often reproduced and/or applied to boats, recreational vehicles, airplanes, automobiles, and helicopters.

8. TAOD Designs are applied by TAOD to any "canvas" in TAOD's 15,000-square-foot, state-of-the-art design and paint studio.

9. The TAOD Designs are created by TAOD's employees and constitute copyrightable subject matter under the Copyright Act.

10. TAOD owns all right, title, and interest in and to the TAOD Designs.

The Shatter Graphics

11. TAOD created and is the author of, or is the assignee and owner of, designs known as the "Shatter Graphics". TAOD owns all right, title, and interest in and to the Shatter Graphics. The Shatter Graphics are works of visual art pursuant to Section 106A of the Copyright Act.

12. The Shatter Graphics are registered in the United States Copyright Office under registration numbers VA 1-979-388 & 2-149-309 (the “ ‘388 Design”) and 1-982-002 & 2-149-316 (the “ ‘002 Design”). The certificates of registration and deposit materials for the ‘388 Design are attached as ***Exhibit A***. The certificates of registration and deposit materials for the ‘002 Design are attached as ***Exhibit B***.

13. Dean Loucks, author of the ‘002 design, has assigned his right, title, and interest in the ‘002 Design and the copyrights thereon to TAOD.

Sharpline’s Infringing Activities

14. Sharpline is in the business of designing and manufacturing vinyl graphic image products for a diverse range of markets worldwide, including the marine industry.

15. One of Sharpline’s customers is Pontoon Boat, LLC, which does business as Bennington and Bennington Marine (“Bennington”).

16. Sharpline has sold, reproduced, and distributed—and continues to sell, reproduce, and distribute—vinyl graphic image products to Bennington, which Bennington then affixes to boats and boat motors to be sold to Bennington dealers and customers.

17. Sharpline has sold, reproduced, and distributed—and continues to sell, reproduce, and distribute—vinyl graphic image products to Bennington using designs that are copied from TAOD’s Shatter Graphics, without authorization from TAOD.

18. Sharpline obtained access to the Shatter Graphics from Bennington in 2012, when Bennington provided Sharpline with several unauthorized copies of TAOD’s Shatter Graphics. Sharpline then copied the Shatter Graphics, created vinyl graphic image products copied or derived from the Shatter Graphics, and distributed to Bennington the

vinyl graphic image products for application onto Bennington pontoon boats and boat motors.

19. The Shatter Graphics provided by Bennington to Sharpline clearly stated that the images may be subject to copyright. One of the images provided by Bennington to Sharpline was a photograph of a boat painted by TAOD for Bennington with Dean Loucks' signature on the design.

CLAIMS FOR RELIEF

Count I – Copyright Infringement

20. TAOD incorporates by reference all preceding allegations as if fully set forth in this paragraph.

21. Sharpline, without license, permission, or consent from TAOD, has sold, distributed, copied, and reproduced—and continues to sell, distributed, copy, and reproduce—vinyl graphic image products using a design that is copied from the Shatter Graphics.

22. Sharpline has thereby infringed TAOD's copyrights in the Shatter Graphics.

23. Sharpline's infringing acts were committed with knowledge and/or in reckless disregard of TAOD's exclusive rights in the Shatter Graphics under Sections 106 and 106A of the Copyright Act.

24. By the acts complained of, Sharpline has made substantial profits and gains which they are not in law or in equity entitled to retain, and TAOD has been and continues to be damaged by Sharplines actions.

Count II – Inducing Copyright Infringement

25. TAOD incorporates by reference all preceding allegations as if fully set forth in this paragraph.

26. As described above, Sharpline has knowingly and/or recklessly caused, urged, encouraged, or aided Bennington and Bennington's dealers and customers in infringing TAOD's copyrights in the Shatter Graphics.

27. In doing so, Sharpline had the specific intent to infringe TAOD's copyrights in the Shatter Graphics and Sharpline knew that it was inducing activity that infringed TAOD's copyrights.

28. As a result of Sharpline's inducing copyright infringement, TAOD has been damaged in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, TAOD requests that the Court:

1. Enter judgment that Sharpline has infringed upon TAOD's copyrights in the Shatter Graphics in violation of Sections 106 and 106A of the U.S. Copyright Act;
2. Order the impoundment of the infringing products pursuant to 17 U.S.C. § 503;
3. Order Sharpline, its officers, directors, agents, partners, employees, and related companies, and all persons acting for, with, by, through, or under it, to destroy all products or articles infringing upon the TAOD designs, including the Shatter Graphics, as well as all other infringing materials;
4. Award to TAOD its actual damages incurred as a result of Sharpline's acts of copyright infringement, and all profits Sharpline realized as a result of their acts of copyright infringement, in amounts to be determined at trial; and
5. Award to TAOD such other and further relief as the Court deems just and proper.

JURY DEMAND

TAOD requests a trial by jury on all claims so triable.

Respectfully submitted,

/s/ Sean J. Quinn

John D. LaDue (19039-71)

Sean J. Quinn (29441-71)

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