

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**



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AMY HAEHL,

Plaintiff,

v.

DR. BRITE, LLC

Defendant.

Civil Action No. 1:21-cv-2072

Jury Trial Demanded

**COMPLAINT**

Plaintiff Amy Haehl (“Plaintiff”) files this Complaint against Defendant Dr. Brite, LLC (“Defendant”) for copyright infringement arising under the U.S. Copyright Act, 17 U.S.C. § 101, et seq.

**THE PARTIES**

1. Plaintiff is a resident of Indiana with an address at 2959 N. Little Blue Rd., Shelbyville, IN 46176.
2. Defendant is a California limited liability company with a principal address at 1536 Kimberly Ave., Fullerton, CA 92831.

**JURISDICTION AND VENUE**

3. Plaintiff brings this action for copyright infringement under the U.S. Copyright Act, 17 U.S.C. § 501, et. seq. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).
4. This Court has personal jurisdiction over Defendant because it does business in this judicial district, has committed statutory torts within this judicial district, and/or has sufficient contacts to subject it to personal jurisdiction in this judicial district.

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(a) because Defendant may be found in this judicial district since it does business in this judicial district, has committed statutory torts within this judicial district, and/or has sufficient contacts to subject it to personal jurisdiction in this judicial district.

### **FACTUAL BACKGROUND**

6. Plaintiff is a nationally renowned photographer who owns copyrights in the photographs she creates. Plaintiff promotes her work through her photography studio, Coffee Creek Studio.

7. Plaintiff first gained national notoriety in 2018 when she recreated scenes from the iconic Christmas movie, “A Christmas Story,” featuring a baby wearing pink bunny pajamas. Plaintiff appeared on “Fox & Friends” to discuss the photographs and her creative process.

8. The official websites for the “Today” show and “Good Morning America” featured articles on November 21, 2019, and November 25, 2019, respectively, about Plaintiff using babies as models to recreate scenes from another iconic Christmas movie, “National Lampoon’s Christmas Vacation.”

9. Plaintiff established a Facebook page called “Coffee Creek Studio by Amy Haehl.” That Facebook page currently has more than 23,000 followers.

10. Drawing inspiration from her previous success modeling babies in famous movie scenes, Plaintiff used photo editing software to add teeth to her infant subjects.

11. A series of images that she created with this theme is protected with the U.S. Copyright Office as Group Reg. No. VA0002191510. A copy of the certificate of registration for U.S. Copyright Registration No. VA0002191510, which is in full force and effect, is filed herewith as **Exhibit A**. The effective date of Reg. No. VA0002191510 is July 28, 2019.

12. A photograph of one image that is protected as part of U.S. Copyright Registration No. VA0002191510 is displayed below (the “Subject Photo”):



13. Plaintiff deliberately and prominently asserts her exclusive copyrights on her Coffee Creek Studio webpage and Facebook account.

14. Plaintiff posted the Subject Photo to her Facebook account alongside a prominent notice of copyright. A screen capture of Plaintiff’s Facebook account at the time she posted the Subject Photo is as follows:



15. For convenience, the above screen capture isolated to the copyright notice located at the upper righthand portion is as follows:



16. Plaintiff also posted the following to her Facebook account at the time she first published the collection, including the Subject Photo.

**If babies had teeth!**

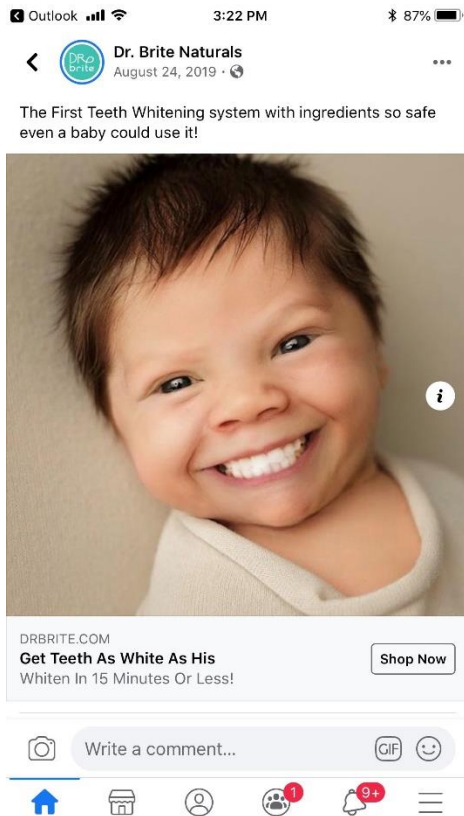
16 Photos · Updated 7 months ago

OMG guys...I decided to have some fun and give babies teeth. HAHAHHA I haven't laughed this hard in a long time. I could have gone back and done this to every single baby that has ever come in my studio. Can't. Stop. Laughing. So I just thought I'd share and give you all a good laugh too! All images © Coffee Creek Studio. Do not share, download, screenshot, or publish without permission. Please contact [info@coffeecreekstudio.com](mailto:info@coffeecreekstudio.com) for licensing and sharing requests. After creating these, I have spoken with all parents regarding the use of these photos. All of these babies get a free photo session as a thank you ;)

17. Defendant is in the business of selling teeth whitening products and other oral care products.

18. Defendant’s products are offered and sold throughout the United States, including to residents of the State of Indiana.

19. As part of the advertising for Defendant’s products, the following post incorporating the Subject Photo was made to Defendant’s Facebook page on or about August 24, 2019 (the “Infringing Post”):



20. In the Infringing Post, the teeth were whitened and the Subject Photo was cropped to remove Plaintiff’s watermark, but it clearly incorporates the Subject Photo.

21. The Infringing Post contained an interactive “shop now” button allowing a consumer to purchase Defendant’s products.

22. Plaintiff is not currently aware whether Defendant used the Subject Photo on other occasions or on other websites.

23. As the copyright owner of the Subject Photo, Plaintiff has the exclusive rights to: (a) reproduce the Subject Photo; (b) prepare derivative works based upon the Subject Photo; (c) distribute copies of the Subject Photo; and (d) publicly perform/display the Subject Photo.

24. Defendant has clearly used, copied, displayed, and/or created derivative works based upon the Subject Photo.

25. Defendant's use of the Subject Photo is without the permission or consent of Plaintiff.

26. Defendant's use, copying, distribution and/or display of the Subject Photo infringes the copyright in the Subject Photo and violates Plaintiff's exclusive rights therein.

#### **COUNT I: DIRECT COPYRIGHT INFRINGEMENT**

27. Plaintiff incorporates by reference paragraphs 1-26 and re-alleges them as if stated herein.

28. Without consent, authorization, approval, or license, Defendant (directly or through intermediaries) knowingly, willingly, and unlawfully copied, published, and distributed the Subject Photo in order to promote Defendant's products.

29. Defendant's (and/or its intermediaries') copying, use, distribution and display of the Subject Photo violates Plaintiff's exclusive rights under 17 U.S.C. § 106.

30. The infringement of the copyright in the Subject Photo was knowing and willful, as is evident because the watermark identifying the owner of the Subject Photo was intentionally removed in creating the Infringing Post.

31. Defendant has realized unjust profits, gains, and advantages as a proximate result of the infringement.

32. The infringement of the copyright in the Subject Photo has caused Plaintiff damages.

**COUNT II: VICARIOUS COPYRIGHT INFRINGEMENT**

33. Plaintiff incorporates by reference paragraphs 1-32 and re-alleges them as if stated here.

34. To the extent that the Infringing Post was created and/or published by an intermediary, such as an advertising agency or other third party, Defendant is, at a minimum, vicariously liable for the infringement of the Subject Photo.

35. The Infringing Post was published on Defendant's Facebook page.

36. Upon information and belief, Defendant has the right and obligation to supervise and control all advertising created on its behalf, including all posts on its Facebook page and other websites and social media channels.

37. Defendant's Facebook page and the posts thereon are made for the purpose of promoting Defendant and its products and driving revenue to Defendant.

38. The Infringing Post was made for the express purpose of selling products and creating a financial or commercial benefit for Defendant.

39. Because Defendant had the right to control the Infringing Post and the Infringing Post was made for the purpose of financially benefitting Defendant, Defendant is, at a minimum, vicariously liable for the infringement of the copyright in the Subject Photo.

**COUNT III: REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION**

40. Plaintiff incorporates by reference paragraphs 1-39 and re-alleges them as if stated here.

41. Defendant or its intermediary intentionally removed copyright notices from the Subject Photo and cropped the Subject Photo to remove its watermark.

42. Defendant knew or had reasonable grounds to know that removing copyright management information from the Subject Photo concealed its infringing activities.

43. Defendant's intentional removal of copyright management information from the Subject Photo violates 17 U.S.C. § 1202(b).

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays for judgment in her favor granting the following relief:

- a. A finding that Defendant has directly infringed and/or vicariously infringed Plaintiff's copyright in the Subject Photo;
- b. A finding that Defendant's infringement of the Subject Photo was willful;
- c. An award of maximum statutory damages pursuant to 17 U.S.C. § 504(c);
- d. An award of maximum statutory damages pursuant to 17 U.S.C § 1203(c)(3)(B);
- e. An award of full costs and attorneys' fees pursuant to 17 U.S.C. § 505;
- f. An order permanently enjoining Defendant and its respective officers, agents, servants, employees, and attorneys, and those persons acting in privity or concert with them, from committing further acts of infringement of the Subject Photo;  
and
- g. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,

s/Bradley M. Stohry  
Bradley M. Stohry



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