

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA



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Case No. 1:23-CV-1678

DAVID HOFFMAN,

Plaintiff,

v.

LAUTH INVESTIGATIONS
INTERNATIONAL INC.,

Defendant.

COMPLAINT

Plaintiff David Hoffman (“Plaintiff”) sues defendant Lauth Investigations International, Inc. (“Defendant”), and alleges as follows:

THE PARTIES

1. Plaintiff is an individual who is a citizen of the United Kingdom.
2. Defendant is a corporation organized and existing under the laws of the State of Indiana with its principal place of business located at 201 N Illinois Street, 16th Floor South Tower, Indianapolis, IN 46204. Defendant’s agent for service of process is Thomas Lauth, 201 N Illinois Street, 16th Floor South Tower, Indianapolis, IN 46204.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).
4. This Court has personal jurisdiction over Defendant because it has maintained sufficient minimum contacts with Indiana such that the exercise of personal jurisdiction over it would not offend traditional notions of fair play and substantial justice.

5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a) because Defendant or its agents reside or may be found in this district. “A defendant in a copyright action ‘may be found’ in a district where he is subject to the district court's personal jurisdiction.” Martino v. Orchard Enters., No. 20 C 2267, 2020 U.S. Dist. LEXIS 199687, at *18 (N.D. Ill. Oct. 27, 2020); see also Store Decor Div. of Jas Int'l, Inc. v. Stylex Worldwide Indus., Ltd., 767 F. Supp. 181, 185 (N.D. Ill. 1991) (“Thus, if a court has personal jurisdiction over the defendants in a copyright infringement action, venue in that court’s district is proper.”).

FACTS

I. Plaintiff’s Business

6. Plaintiff has been an independent photojournalist for close to 50 years, capturing images of protests surrounding social issues such as policing, homelessness, drugs, racial and social conflict, social exclusion, and environmental protection.

7. Described as “the riot photographer’s riot photographer,” Plaintiff’s work has led to supported legal challenges, brought racist perpetrators to justice, and reached wide audiences through mass media publication. His work brings uncomfortable realities to the forefront in an effort for its viewers to recognize the world as others live it.

8. Based in the UK, he is also a founding member and was, until retiring in 2016, lead moderator of Editorial Photographers UK and Photo-Forum London which have a critical interest in issues relevant to a photographer’s business such as copyright, intellectual property, licensing, fees, and insurance.

9. A sample of Plaintiff’s work is available for viewing on his professional website (at <https://www.hoffmanphotos.com/>) where one can also contact him for more information and pricing.

10. Generally, at the time Plaintiff creates his professional photography, he applies

copyright management information to such photography consisting of “© David Hoffman” (embedded in the file and displayed as an overlay on his website). Plaintiff does this for added protection/assurance to keep unauthorized persons from utilizing/displaying Plaintiff’s work.

II. The Work at Issue in this Lawsuit

11. Between 1990-1992, Plaintiff created a professional photograph of a homeless mentally ill woman pushing a trolley in St. Paul’s, London, UK titled “Homeless Woman 1” (the “Work”).

12. Consistent with Plaintiff’s general practices, the Work contains (in the bottom right corner) Plaintiff’s copyright management information as follows: “© David Hoffman.” A copy of the Work is exhibited below.



13. The Work was registered by Plaintiff with the Register of Copyrights on August 25, 2005 and was assigned Registration No. VA 1-344-035. A true and correct copy of the Certificate of Registration pertaining to the Work is attached hereto as **Exhibit “A.”**

14. Plaintiff is the owner of the Work and has remained the owner at all times material

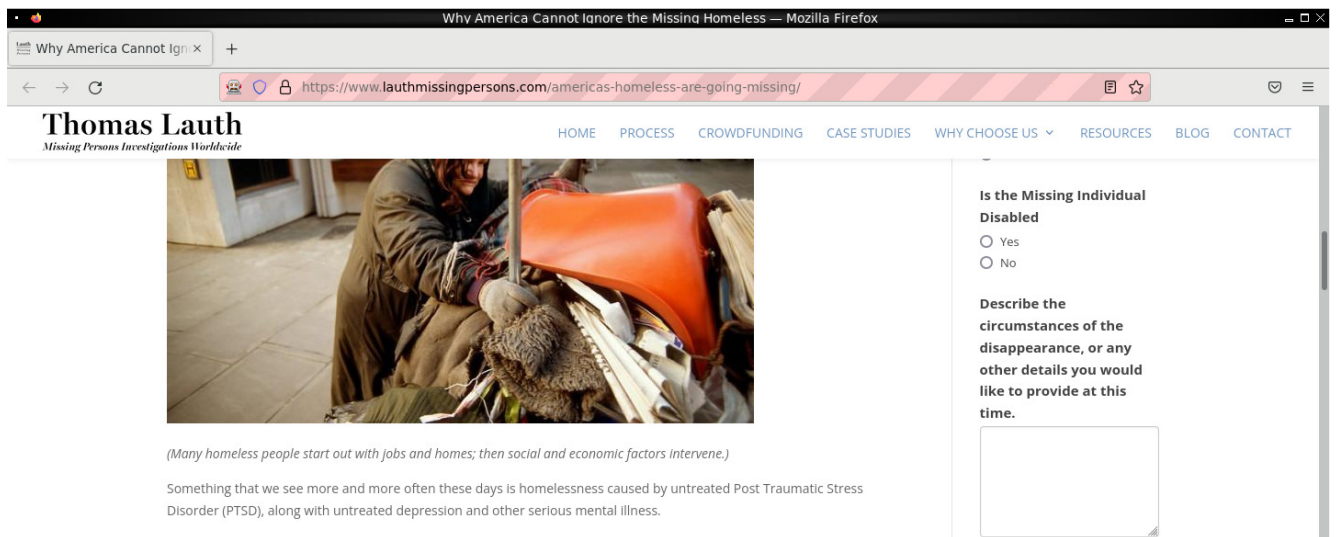
hereto.

III. Defendant's Unlawful Activities

15. Defendant is an independent investigation firm whose clientele includes corporations, law firms, and individuals. It specializes in investigating cases of missing adults and children.

16. Defendant primarily advertises/markets its services through its website (<https://www.lauthmissingpersons.com/> and <https://lauthinvestigations.com/>) and social media (e.g., <https://www.facebook.com/LauthInvestigationsInt/> and <https://twitter.com/Lauthinv/>).

17. On August 21, 2019 (after Plaintiff's above-referenced copyright registration of the Work), Defendant published the Work on its website (at <https://www.lauthmissingpersons.com/americas-homeless-are-going-missing/>) in connection with an article titled "America's Homeless Are Going Missing":



18. In publishing the Work online, Defendant cropped the Work so as to remove Plaintiff's copyright management information. The remaining details of the photograph, however, unequivocally show the two photographs to be the same. A true and correct copy of screenshots of Defendant's website, displaying the copyrighted Work, is attached hereto as **Exhibit "B."**

19. Defendant is not and has never been licensed to use or display the Work. Defendant never contacted Plaintiff to seek permission to use the Work in connection with its business or for any other purpose – even though the Work that was copied clearly displayed Plaintiff’s copyright management information and put Defendant on notice that the Work was not intended for public use.

20. Defendant utilized the Work for commercial use.

21. Upon information and belief, Defendant located a copy of the Work on the internet (with the copyright management information still intact) and, rather than contact Plaintiff to secure a license, simply copied the Work for its own commercial use.

22. Through his ongoing diligent efforts to identify unauthorized use of his photographs, Plaintiff discovered Defendant’s unauthorized use/display of the photograph in May 2022. Following Plaintiff’s discovery of the photograph, Plaintiff notified Defendant in writing of such unauthorized use. To date, Plaintiff has been unable to negotiate a reasonable license for the past/existing infringement of his Work.

23. All conditions precedent to this action have been performed or have been waived.

COUNT I – COPYRIGHT INFRINGEMENT

24. Plaintiff re-alleges and incorporates paragraphs 1 through 23 as set forth above.

25. The Work is an original work of authorship, embodying copyrightable subject matter, that is subject to the full protection of the United States copyright laws (17 U.S.C. § 101 *et seq.*).

26. Plaintiff owns a valid copyright in the Work, having registered the Work with the Register of Copyrights and owning sufficient rights, title, and interest to such copyright to afford Plaintiff standing to bring this lawsuit and assert the claim(s) herein.

27. As a result of Plaintiff’s reproduction, distribution, and public display of the Work,

Defendant had access to the Work prior to its own reproduction, distribution, and public display of the Work on its business website.

28. Defendant reproduced, distributed, and publicly displayed the Work without authorization from Plaintiff.

29. By its actions, Defendant infringed and violated Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501, by reproducing, distributing, and publicly displaying the Work for its own commercial purposes.

30. Defendant's infringement was willful as it acted with actual knowledge or reckless disregard for whether its conduct infringed upon Plaintiff's copyright. Defendant clearly understands that professional photography such as the Work is generally paid for and cannot simply be copied from the internet.

31. Plaintiff has been damaged as a direct and proximate result of Defendant's infringement.

32. Plaintiff is entitled to recover his actual damages resulting from Defendant's unauthorized use of the Work and, at Plaintiff's election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant's profits from infringement of the Work, which amounts shall be proven at trial.

33. Alternatively, and at Plaintiff's election, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed proper by the Court.

34. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover his costs and attorneys' fees as a result of Defendant's conduct.

35. Defendant's conduct has caused, and any continued infringing conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction

prohibiting infringement of Plaintiff's exclusive rights under copyright law.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- a. A declaration that Defendant has infringed Plaintiff's copyrights in the Work;
- b. A declaration that such infringement is willful;
- c. An award of actual damages and disgorgement of profits as the Court deems proper or, at Plaintiff's election, an award of statutory damages for willful infringement up to \$150,000.00 for each infringement of the Work;
- d. Awarding Plaintiff his costs and reasonable attorneys' fees pursuant to 17 U.S.C. § 505;
- e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing amounts;
- f. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with Defendant, from directly or indirectly infringing Plaintiff's copyrights or continuing to display, transfer, advertise, reproduce, or otherwise market any works derived or copied from the Work or to participate or assist in any such activity; and
- g. For such other relief as the Court deems just and proper.

COUNT II – REMOVAL OF COPYRIGHT MANAGEMENT INFORMATION

36. Plaintiff re-alleges and incorporates paragraphs 1 through 23 as set forth above.

37. As evidenced above, the Work contains copyright management information identifying Plaintiff as the owner/creator of the Work.

38. Defendant knowingly and with the intent to enable or facilitate copyright infringement, removed the copyright management information from the Work in violation of 17 U.S.C. § 1202(b). Defendant did not simply recklessly copy the Work in a pre-altered state – Defendant itself deliberately caused the copyright management information to be removed.

39. Defendant committed these acts knowing or having reasonable grounds to know

that it will induce, enable, facilitate, or conceal infringement of Plaintiff's rights in the Work.

40. If Defendant did not remove the copyright management information itself, Defendant caused, directed, and authorized others to commit these acts knowing or having reasonable grounds to know that it will induce, enable, facilitate, or conceal infringement of Plaintiff's rights in the Work.

41. As a direct and proximate result of Defendant's conduct in removing the foregoing copyright management information, Plaintiff has been damaged.

42. Defendant's conduct has caused and any continued infringing conduct will continue to cause irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 1203(b), Plaintiff is entitled to a permanent injunction prohibiting any further violation of 17 U.S.C. § 1202 by Defendant.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- a. A declaration that Defendant has violated Plaintiff's copyrights in the Work by removing or causing to be removed Plaintiff's copyright management information displayed thereon;
- b. A declaration that such violation is willful;
- c. An award of actual damages and disgorgement of profits as the Court deems proper or, at Plaintiff's election, an award of statutory damages for willful infringement up to \$25,000.00 for each infringement of the Work;
- d. Awarding Plaintiff his costs and reasonable attorneys' fees pursuant to 17 U.S.C. § 1203(b)(5);
- e. Awarding Plaintiff interest, including prejudgment interest, on the foregoing amounts;
- f. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and

participation with Defendant, from directly or indirectly further violating Plaintiff's copyrights by further displaying or distributing the Work with its copyright management information removed; and

g. For such other relief as the Court deems just and proper.

Demand For Jury Trial

Plaintiff demands a trial by jury on all issues so triable.

Dated: September 18, 2023.

Respectfully submitted,

MAGINOT, MOORE & BECK, LLP

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