

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION



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CASE NO.: 4:23-CV-00183

ALEXANDER BAYONNE STROSS,

Plaintiff,

v.

HOMESTEAD PROPERTIES, INC. dba
TINY TIMBERS,

Defendant,

COMPLAINT FOR COPYRIGHT INFRINGEMENT

(INJUNCTIVE RELIEF DEMANDED)

Plaintiff ALEXANDER BAYONNE STROSS by and through his undersigned counsel, brings this Complaint against Defendant HOMESTEAD PROPERTIES, INC. dba TINY TIMBERS for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff ALEXANDER BAYONNE STROSS (“Stross”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106 and 1202, to copy and distribute Stross' original copyrighted Work of authorship and remove copyright management information from the Work.

2. Stross is the owner and principal photographer of Stross Stock. After traveling the world with his camera, creating thousands of high-quality photographs, the natural next step was to offer the public means to license his Work. Each photo on Stross Stock is shot with top-quality equipment, thoughtfully produced, hand selected, and tastefully edited before being made available to the public.

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3. Stross is a native of Austin, Texas, and watched the small city grow and develop into an urban hot spot. This served as his inspiration to become a photographer, centering his expertise on complicated architectural photography and landscape photography. In 2016, Stross was nominated and accepted as a professional member of the American Society of Media Photographers, which is a high honor. Stross received a B.S. in Computer Science at the University of Texas at Austin and has since combined his love for the photographic arts and computer science by building an online system to help protect artists' works on the internet.

4. Defendant HOMESTEAD PROPERTIES, INC. DBA TINY TIMBERS (“Tiny Timbers”) is a manufacturer and distributor of fine hardwood products out of locally grown Indiana timber. Tiny Timbers responsibly harvests, meticulously mills and kiln dries its hardwood products from over 100 acres of farmland. At all times relevant herein, Tiny Timbers owned and operated the internet website located at the URL www.tinytimbers.com (the “Website”).

5. Stross alleges that Defendant copied Stross’ copyrighted Work from the internet in order to advertise, market and promote its business activities. Tiny Timbers committed the violations alleged in connection with Defendant's business for purposes of advertising and promoting sales to the public in the course and scope of the Tiny Timbers' business.

JURISDICTION AND VENUE

6. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

8. Defendant is subject to personal jurisdiction in Indiana.

9. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Tiny Timbers engaged in

infringement in this district, Tiny Timbers resides in this district, and Tiny Timbers is subject to personal jurisdiction in this district.

DEFENDANT

10. Homestead Properties Inc dba Tiny Timbers is an Indiana Corporation, with its principal place of business at 10214 West Deputy Pike Road, Deputy, Indiana, 47230, and can be served by serving its Registered Agent, Ms. Sherry J. Chapo, at the same address.

THE COPYRIGHTED WORK AT ISSUE

11. In 2010, Stross created the photograph entitled “cv_240310_19,” which is shown below and referred to herein as the “Work”.



12. Stross registered the Work with the Register of Copyrights on April 9, 2010, and was assigned registration number VAu 1-103-498. The Certificate of Registration is attached hereto as **Exhibit 1**.

13. Stross' Work is protected by copyright but was not otherwise confidential, proprietary, or trade secrets.

14. Stross' Work contains his watermark as seen in the lower right-hand corner of the Work.

15. At all relevant times Stross was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY TINY TIMBERS

16. Tiny Timbers has never been licensed to use the Work at issue in this action for any purpose.

17. On a date after the Work at issue in this action was created, but prior to the filing of this action, Tiny Timbers copied the Work.

18. On or about February 10, 2021, Stross discovered the unauthorized use of his Work on the Website as one of the images shown on the "Southern Bald Cypress" information page.

19. Tiny Timbers copied Stross' copyrighted Work without Stross' permission.

20. After Tiny Timbers copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its hardwood manufacturing and sales business.

21. Tiny Timbers copied and distributed Stross' copyrighted Work in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

22. Tiny Timbers committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

23. Stross never gave Defendant permission or authority to copy, distribute or display the Work at issue in this case.

24. When Tiny Timbers used the Work, it cropped out Stross' watermark containing his copyright notice.

25. Stross notified Tiny Timbers of the allegations set forth herein on October 15, 2021, and November 29, 2021. To date, the parties have failed to resolve this matter.

COUNT I
COPYRIGHT INFRINGEMENT

26. Stross incorporates the allegations of paragraphs 1 through 25 of this Complaint as if fully set forth herein.

27. Stross owns a valid copyright in the Work at issue in this case.

28. Stross registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

29. Tiny Timbers copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Stross' authorization in violation of 17 U.S.C. § 501.

30. Tiny Timbers performed the acts alleged in the course and scope of its business activities.

31. Defendant's acts were willful.

32. Stross has been damaged.

33. The harm caused to Stross has been irreparable.

COUNT II
REMOVAL OF COPYRIGHT MANAGEMENT INFORMATION

34. Stross incorporates the allegations of paragraphs 1 through 25 of this Complaint as if fully set forth herein.

35. The Work contained copyright management information (CMI) as defined by 17 U.S.C. § 1202 including the © symbol and Stross' signature "A3S".

36. Tiny Timbers knowingly and with the intent to enable or facilitate copyright infringement, removed CMI from the works at issue in this action in violation of 17 U.S.C. § 1202(b).

37. Defendant committed these acts knowing or having reasonable grounds to know that they will induce, enable, facilitate or conceal infringement of plaintiff's rights in the works at issue in this action protected under the Copyright Act.

38. Defendant caused, directed and authorized others to commit these acts knowing or having reasonable grounds to know that they will induce, enable, facilitate or conceal infringement of plaintiff's rights in the works at issue in this action protected under the Copyright Act.

39. Stross has been damaged.

40. The harm caused to Stross has been irreparable.

WHEREFORE, the Plaintiff ALEXANDER BAYONNE STROSS prays for judgment against the Defendant HOMESTEAD PROPERTIES, INC. DBA TINY TIMBERS that:

a. Tiny Timbers and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501, 1202;

b. Tiny Timbers be required to pay Stross his actual damages and Defendant's profits attributable to the infringement, or, at Stross' election, statutory damages, as provided in 17 U.S.C. § 504, 1203;

- c. Stross be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Stross be awarded pre- and post-judgment interest; and
- e. Stross be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Stross hereby demands a trial by jury of all issues so triable.

DATED: November 9, 2023

Respectfully submitted,

/s/ J. Campbell Miller

J. CAMPBELL MILLER

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