

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JOHN PEREZ GRAPHICS & DESIGN, LLC

PLAINTIFF,

v.

GREEN TREE INVESTMENT GROUP, INC.

DEFENDANT.

§
§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 3:12-CV-4194

PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Plaintiff John Perez Graphics & Design, LLC, by its undersigned attorneys, and files this Plaintiff’s Original Complaint in the above styled action, complaining of Defendant Green Tree Investment Group, Inc., and in support thereof would show the Court as follows:

I. INTRODUCTION

1. This is an action for copyright infringement in willful violation of the United States Copyright Act (17 U.S.C. § 101, et seq.), and for violations of the Digital Millennium Copyright Act (17 U.S.C. § 1202).

II. PARTIES

2. Plaintiff John Perez Graphics & Design, LLC is a Texas limited liability corporation with its principal place of business in Richardson, Texas.

3. Upon information and belief, Green Tree Investment Group, Inc. is a Texas for-profit corporation with its principal place of business in Round Rock, Texas.

III. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over the claims in this action pursuant to 28 U.S.C. §§ 1331 and 1338 because it arises under the U.S. Copyright Act, 17 U.S.C. § 101, et seq. and the Digital Millennium Copyright Act, 17 U.S.C. §1202.

5. This Court has personal jurisdiction over the parties in this action, because Defendant resides in the state of Texas and Defendant's acts of violating federal laws took place, at least in part, within the state of Texas.

6. Venue is proper in this Court under 28 U.S.C. §§ 1391(b).

IV. BACKGROUND

7. Plaintiff John Perez Graphics & Design, LLC operates a studio that produces graphics, illustrations, animations, and other original works of authorship for license to the oil and gas industry, among others.

8. In 2010, Plaintiff incurred substantial time and expense in creating and marketing an original work of authorship, entitled "Eagle Ford Shale Road Sign Graphic" (the "Plaintiff's Registered Work"), and obtained a federal registration (U.S. Copyright Registration No. VA 1-788-563; the "Plaintiff's Copyright") on same, effective January 10, 2011.

9. A true and correct copy of Plaintiff's Registered Work is attached as Exhibit "A."

10. A true and correct copy of Plaintiff's Copyright is attached as Exhibit "B."

11. On information and belief, Defendant is a company that provides a range of professional services and investment products to the energy (oil and gas) sector.

12. On information and belief, on or about September 15, 2011, Defendant or its agent obtained the URL “www.greentreeinvest.com” for use as with a website to advertise its products and services.

13. Defendant used Plaintiff’s Registered Work to advertise Defendant’s products on its website at the URL “http://www.greentreeinvest.com/products/.”

14. A true and correct copy of a screen capture of Defendant’s infringing use of Plaintiff’s Registered Work on its website is attached as Exhibit “C.”

15. This use by Defendant was without license or consent from Plaintiff, thus violating the exclusive rights held by Plaintiff to reproduce, adapt, display, distribute, and/or create derivative works under the U.S. Copyright Act, 17 U.S.C. § 106.

16. Where Plaintiff’s copyrighted works are legitimately available for licensing, they are associated with copyright management information.

17. On information and belief, Defendant intentionally removed Plaintiff’s copyright management information from association with Plaintiff’s Registered Work without the authority of Plaintiff or the law. Compounding the injury, Defendant provided its own false copyright ownership information in association with its unauthorized and unlawful use of Plaintiff’s Registered Work on its website.

18. On or about September 17, 2012 Plaintiff became aware of Defendant’s unauthorized and unlawful use of Plaintiff’s Registered Work, notified Defendant of same, and sought resolution of the matter.

19. Defendant still refuses to be accountable for the financial harm it has caused Plaintiff due to Defendant’s infringement of Plaintiff’s Registered Work.

V. CAUSES OF ACTION

COUNT ONE

COPYRIGHT INFRINGEMENT [17 U.S.C. § 501, ET SEQ.]

20. The allegations of the preceding paragraphs are incorporated herein by reference.

21. Plaintiff is the owner of all right, title, and interest in the Eagle Ford Shale Road Sign Graphic, which is registered with the U.S. Copyright Office as Registration No. VA 1-788-563, effective January 10, 2011.

22. Defendant infringed Plaintiff's Copyright in violation of 17 U.S.C. § 501, *et seq.* by copying and displaying Plaintiff's Registered Work on Defendant's website without Plaintiff's authorization to do so.

23. Defendant's infringement was willful.

24. Defendant's unlawful use of Plaintiff's Registered Work has diminished the value of the original work by diluting the market and destroying the distinctiveness of the original work and its identity as being Plaintiff's exclusive property.

25. Plaintiff is entitled to recover from Defendant the damages Plaintiff has sustained as a result of these wrongful acts.

26. Plaintiff is further entitled to recover from Defendant any gains, profits, or advantages Defendant has obtained as a result of these wrongful acts.

27. Plaintiff is entitled to elect to recover from Defendant statutory damages for each of these past and/or continuing willful violations of Plaintiff's Copyright.

28. Plaintiff is further entitled to recover from Defendant costs and reasonable attorneys' fees.

COUNT TWO
REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION
DIGITAL MILLENNIUM COPYRIGHT ACT [17 U.S.C. § 1202]

29. The allegations of the preceding paragraphs are incorporated herein by reference.

30. Defendant intentionally removed copyright management information from Plaintiff's Registered Work without the authority of Plaintiff or law, and knowing, or having reasonable grounds to know, that the removal would induce, enable, facilitate, or conceal infringement of copyright.

31. Defendant associated its own false copyright management information with the copyrighted work in question.

32. Defendant's acts constitute a violation under the Digital Millennium Copyright Act, 17 U.S.C. § 1202.

33. Plaintiff is entitled to recover from Defendant statutory damages for each of its past and/or continuing violations of 17 U.S.C. § 1202.

34. Plaintiff is further entitled to recover from Defendant costs and reasonable attorneys' fees.

COUNT THREE
ATTORNEYS' FEES

35. The allegations of the preceding paragraphs are incorporated herein by reference.

36. Plaintiff is entitled to an award of attorneys' fees and costs under federal law, including 17 U.S.C. § 505 and 17 U.S.C. § 1203(b).

VI. PRAYER

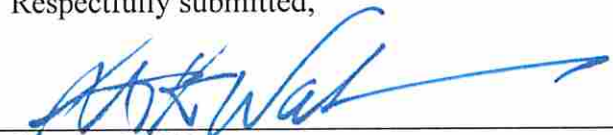
WHEREFORE, Plaintiff respectfully requests that judgment be entered in its favor and against Defendant, granting to Plaintiff the relief as follows:

- A. finding that Defendant has violated 17 U.S.C. § 501 *et seq.* and 17 U.S.C. § 1202;
- B. requiring Defendant to cease infringing Plaintiff's Copyright and to destroy any remaining copies of Plaintiff's Registered Work in Defendant's possession, custody, or control;
- C. awarding Plaintiff its actual damages, or alternatively at Plaintiff's election, statutory damages pursuant to 17 U.S.C. § 504(c) and 17 U.S.C. §1203(c)(3);
- D. awarding Plaintiff treble damages against Defendant because of Defendant's willful infringement;
- E. awarding Plaintiff its costs, reasonable attorney fees, investigatory fees, and expenses to the full extent allowed by law including, but not limited to, all relief provided by 17 U.S.C. § 505 and 17 U.S.C. §1203(b);
- F. awarding Plaintiff pre-judgment interest and post-judgment interest on any monetary award made part of the judgment against Defendant; and
- G. awarding Plaintiff such other and further relief as the Court deems just and proper.

Dated:

10/18/2012

Respectfully submitted,



STEVEN H. WASHAM
STATE BAR NO. 24042821
HARPER WASHAM LLP

1700 PACIFIC AVENUE, SUITE 3600
DALLAS, TEXAS 75201
(214)389-8985 – TELEPHONE
(214) 389-8986 – FACSIMILE
EMAIL: steven.washam@harperwasham.com