

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

GOOD SPORTSMAN MARKETING, LLC)	
and MAESTRO GAME CALLS, LLC,)	
)	
Plaintiffs,)	Civil Action No. _____
)	
v.)	JURY DEMANDED
)	
HUNTER’S SPECIALTIES, INC.,)	
)	
Defendant.)	

PLAINTIFF’S COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs Good Sportsman Marketing, LLC (“GSM”) and Maestro Game Calls, LLC (“MGC”) (GSM and MGC are referred to collectively as “Plaintiffs”) file this complaint for declaratory judgment against Defendant Hunter’s Specialties, Inc. (“Hunter’s”).

NATURE OF ACTION

1. Plaintiffs GSM and MGC seek a declaratory judgment of non-infringement of alleged copyrights asserted by Defendant Hunter’s against them. Hunter’s claims it owns certain copyrighted sound recordings of animal game calls used by hunters and outdoor enthusiasts, including what Hunter’s calls “Johnny Stewart Wildlife Calls.” Hunter’s has asserted that Plaintiffs have infringed these alleged copyrights. GSM markets a line of animal game calls through an affiliate MGC. Plaintiffs deny that they have infringed any valid copyrights owned by Hunter’s regarding animal game calls, and seek a declaratory judgment of non-infringement of any copyrights to animal game calls owned by Hunter’s.

THE PARTIES

2. GSM is a limited liability company organized and existing under the laws of the State of Texas and has a principal place of business located in Grand Prairie, Texas.

3. MGC is a limited liability company organized and existing under the laws of the State of Texas and has its principal place of business located in Grand Prairie, Texas.

4. Upon information and belief, Defendant Hunter's is a corporation organized and existing under the laws of Iowa and has its principal place of business at 6000 Huntington Court NE, Cedar Rapids, Iowa.

JURISDICTION AND VENUE

7. This is an action for declaratory judgment arising under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et. seq.* (the "Copyright Act"). Thus, this Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. Plaintiffs GSM and MGC are citizens of the State of Texas and Defendant Hunter's is a citizen of the State of Iowa. Thus, this Court has original diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332.

9. This Court has personal jurisdiction over Hunter's under the Texas long-arm statute, TEX. CIV. PRAC. & REM. CODE § 17.042. In particular, this Court has personal jurisdiction over Hunter's under the doctrines of both general jurisdiction and specific jurisdiction.

10. Hunter's has a designated agent for service of process in the State of Texas – Gerald Stewart ("Stewart"). Stewart resides in Waco, Texas, within this district. Stewart is held out by Hunter's as an expert in the field of predatory calling. Gerald Stewart is the son of

Johnny Stewart, whose sound recordings of animal game calls Hunter's asserts are protected by copyrights it owns and that have been infringed by GSM. Johnny Stewart marketed his animal game calls through Johnny Stewart Game Calls, Inc., a Texas corporation. Gerald Stewart acquired the Johnny Stewart Game Calls company after the death of his father and continued the operation of the company in Texas.

11. In 1999, Hunter's acquired the Johnny Stewart Game Calls company. Since then, Hunter's and Gerald Stewart have joined forces in connection with the promotion, sale and policing for copyright infringement relating to Johnny Stewart animal game calls. Stewart serves as a consultant to Hunter's. Hunter's involves Stewart in product development, appearances in hunting DVDs, conducting Outdoor Writer hunts and, importantly for this action, policing the industry for sound piracy or infringement of copyrights Hunter's claims to own.

12. Hunter's has over 160 dealers in the State of Texas, including over a dozen dealers located in the Northern District of Texas. Hunter's is engaged in continuous and systematic activities in the State of Texas and in this district.

13. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b), and (c) and 1400(a).

FIRST CLAIM FOR RELIEF
(Non-infringement of Copyrights)

14. On February 18, 2013, Hunter's sent to GSM a letter accusing Plaintiffs of infringing copyrighted sound recordings of Johnny Stewart animal game calls. Hunter's expressly asserted that GSM "is distributing infringing copies of Johnny Stewart sound recordings on its own website and through its subsidiary Western Rivers."

15. On March 5, 2013, GSM's counsel responded to Hunter's letter, pointing out that the Western Rivers entity is not a subsidiary or otherwise an affiliate of GSM, and that there was no basis for Hunter's accusations of copyright infringement by Plaintiffs.

16. On May 28, 2013, Hunter's sent GSM another letter, again asserting that "GSM's own website provides several infringing copies" of Hunter's alleged copyrights relating to sound recordings of Johnny Stewart animal game calls.

17. A case or controversy exists between GSM and MGC on the one hand, and Hunter's on the other hand, concerning the non-infringement of Hunter's asserted copyrights relating to sound recordings of animal game calls.

18. GSM and MGC are entitled to declaratory judgment that they are not infringing, have not infringed, and are not liable for infringing any valid copyright owned by Hunter's, either directly or by inducing others to infringe or by contributing to infringement by others.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs seek judgment awarding it the following relief:

- (a) That neither GSM nor MGC infringe any valid copyright owned by Hunter's relating to sound recordings of animal game calls;
- (b) That GSM and MGC be awarded their attorneys' fees, costs, and expenses incurred in connection with this action; and
- (c) That the Court awards such other and further relief as the Court deems just.

DEMAND FOR JURY TRIAL

Plaintiffs demand trial by jury on all claims and issues so triable.

Dated: June 13, 2013

Respectfully submitted,

BUETHER JOE & CARPENTER, LLC

By: /s/ Eric W. Buether
Eric W. Buether (Lead Attorney)
State Bar No. 03316880
Eric.Buether@BJCIPLaw.com
Christopher M. Joe
State Bar No. 00787770
Chris.Joe@BJCIPLaw.com

1700 Pacific Avenue
Suite 4750
Dallas, Texas 75201
Telephone: (214) 466-1271
Facsimile: (214) 635-1827

**ATTORNEYS FOR PLAINTIFFS
GOOD SPORTSMAN MARKETING,
LLC and MAESTRO GAME CALLS,
LLC**