

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

JIM FRAZIER,

Plaintiff,

v.

ENTREPRENEUR MEDIA, INC.

Defendant.

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Case No.: _____

ORIGINAL COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff Jim Frazier (“Frazier”), by counsel, alleges as follows for his Original Complaint for Copyright Infringement against Defendant Entrepreneur Media, Inc. (“EMI”), and requests relief from this Court based on the following:

THE PARTIES

1. Plaintiff Jim Frazier is a citizen of the State of Texas and resides at 4124 Sherwood Dr., Mesquite, TX 75150-2108.

2. Entrepreneur Media, Inc. is a registered foreign, for-profit California corporation with its principal place of business at 2445 McCabe Way Suite 400, Irvine, CA 92614-5203. EMI has continuous and systematic contacts with the State of Texas: it maintains an office at 5001 Spring Valley Road, Suite 400 East, Dallas, TX 75244, where its registered agent for service of process, Glen Harn, resides and can be served; and its Reprint Licensing representative, Nick Lademarco of Wright’s Media, resides in Texas at 2407 Timberlock Place Suite B, The Woodlands, TX 77380.

JURISDICTION and VENUE

3. This is a suit for copyright infringement under the United States Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

4. This Court has jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a) and TEX. CIV. P. & REM. CODE § 17.042.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(d), and 1400(a).

BACKGROUND

6. Frazier realleges paragraphs 1 through 5 as if fully set forth herein.

7. Frazier is a renowned illustrator whose illustrations have appeared in publications around the world including the Wall Street Journal, The Harvard Business Journal, Forbes, The New York Times, and many others. He has also provided illustrations for companies such as The Ford Motor Company and Microsoft as well as organizations like the Boy Scouts of America.

8. Frazier's works are recognized throughout the illustration industry.

9. In May 2012, Frazier was commissioned by the Wall Street Journal to create an original illustration related to topic of "crowd funding"—a modern financial tool whereby business interests fund their ventures using the Internet to amass small investments from a large number investors.

10. Frazier prepared an original illustration entitled "MoneyPileFolks2." The illustration, shown below, accompanied a May 18, 2012 Wall Street Journal article by Javier

Espinoza titled, “Doing Equity Crowd Funding Right.”¹ Frazier was credited beneath the illustration in the article.²



11. Frazier registered his illustration, “MoneyPileFolks2” with the United States Copyright Office effective May 20, 2012. The Copyright Office assigned the following Registration Number to this illustration: VAu001104460.³

12. Frazier is the sole owner of the copyrighted work in dispute in this case, and has the exclusive rights to license this work.

13. On September 13, 2013, EMI published an article on the website for its magazine, Entrepreneur, by Sally Outlaw titled, “What You Need to Know About the New Equity-

¹ See **Exhibit A**, Wall Street Journal article dated May 18, 2012 by Javier Espinoza titled “Doing Equity Crowd Funding Right.”

² See **Exhibit A** at 2.

³ See **Exhibit B**, U.S. Copyright Certificate of Registration of Frazier’s MoneyPileFolks2 illustration.

Crowdfunding Model.” A true and correct copy of a screenshot of this article is attached hereto as Exhibit C.

14. Accompanying the Entrepreneur article was a copy of Frazier’s illustration, MoneyPileFolks2.⁴ EMI never contacted Frazier for approval to use this image. Instead, EMI simply copied Frazier’s image and published it along side its article. Moreover, EMI did not even attempt to hide its theft. As an admission that EMI acted with full-knowledge of its theft, they actually wrote underneath the illustration, “Image credit: Jim Frazier.”

15. EMI has never been licensed to use the MoneyFolksPile2 illustration at dispute in this case.

16. In fact, Frazier closely guards the distribution and reproduction rights of all of his illustrations. Frazier is a professional illustrator and his livelihood depends, in large part, on the ability to control the licensing of his works. Frazier employs with a licensing-rights agency to assist him with making sure his works only appear in publications with his permission. This is vital for Frazier because misappropriation of his illustrations by one entity can lead to follow-on misappropriation by others.

17. In fact, EMI’s theft of MoneyPileFolks2 directly induced and/or contributed to further infringement by others. For example, on November 11, 2013, the publication Crowd Valley published an article by Rex Kempcke titled, “Will Crowdfunding Dwarf Capital Markets in Importance for the Real Economy.” A true and correct copy of that article is attached hereto as Exhibit D.

18. Like the EMI article, the Crowd Valley article includes Frazier’s MoneyPileFolks2 illustration. And, Crowd Valley freely admits where it obtained the article as

⁴ See **Exhibit C** at 1.

underneath the illustration it states, “Credit to: entrepreneur.com” By stealing Frazier’s image, EMI contributed to and/or induced the infringement of Crowd Valley and further harmed Frazier by republishing his illustration, not only without about proper accreditation (which still would not remedy the copyright infringement), but with improper accreditation.

19. Frazier now seeks relief from this court for EMI’s copyright infringement.

COUNT 1 – COPYRIGHT INFRINGEMENT

20. Frazier realleges paragraphs 1 through 19 as if set fully herein.

21. Frazier alleges EMI is liable for direct copyright infringement pursuant to 17 U.S.C. 501(a).

22. Frazier alleges EMI is liable for contributory infringement. EMI knew (or had reason to know) of its infringing activities and yet intentionally and materially contributed to that infringement by distributing Frazier’s images to others.

23. Frazier alleges EMI is liable for induced infringement. EMI knew (or had reason to know) of its infringing activities and yet intentionally induced others to infringe Frazier’s works.

24. EMI knew (or should have known) that Frazier’s works were copyrighted.

25. EMI knew (or should have known) that their acts constituted copyright infringement.

26. As such, EMI’s conduct was willful within the meaning of the Copyright Act.

27. Frazier has been damaged by EMI’s actions.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff Jim Frazier demands that:

- a. Defendant EMI be enjoined from reproducing, administering, displaying, or publishing Frazier's copyrighted work;
- b. Defendant EMI be ordered to pay statutory damages pursuant to 17 U.S.C. § 504;
- c. In the alternative, Defendant EMI be order to pay actual damages;
- d. Defendant EMI's action be declared willful under 17 U.S.C. § 504(c)(2);
- e. Defendant EMI pay Frazier's reasonable attorney's fees and costs of this action, pursuant to 17 U.S.C. § 505;
- f. Defendant EMI pay pre-judgment and post-judgment interest on any damages awarded; and
- g. The Court award the Plaintiff all other relief it deems justified.

Dated: April 30, 2014

Respectfully submitted,



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**ATTORNEY FOR PLAINTIFF
JIM FRAZIER**