

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DAVID J. HENLEIN, on behalf of	:	CIVIL ACTION NO.
himself and all others similarly situated,	:	
	:	2:12-cv-00386
Plaintiff,	:	
	:	CLASS ACTION COMPLAINT
V.	:	
	:	JURY TRIAL DEMANDED
WEST PUBLISHING CORPORATION,	:	
	:	
Defendant.	:	MARCH 14, 2012

CLASS ACTION COMPLAINT

The plaintiff, David J. Heinlein, on behalf of himself and all others similarly situated, hereby brings this Class Action Complaint and states as follows:

PARTIES

1. The plaintiff, David J. Heinlein (“Heinlein”), is a resident of West Hartford, Connecticut and a member of the bar of the State of Connecticut.
2. The defendant, West Publishing Corporation (“West”), is a Minnesota corporation with a place of business in Eagan, Minnesota. The defendant is authorized to do business in the state of Connecticut and has an agent for service in this state. The defendant is in the business of selling and

marketing online legal research services to legal professionals through its products, Westlaw and WestlawNext (collectively “Westlaw”).

JURISDICTION AND VENUE

3. The court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1338(a) because this is an action arising under the Copyright Act of 1976, 17 U.S.C. § 101 et seq.

4. The court has personal jurisdiction over the defendant because the defendant solicits, transacts, and does business in this district, and because a substantial part of the relevant events occurred in this district.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1400(a) because the defendant or its agent resides in or may be found in this district.

NATURE OF CASE

6. This is an action for copyright infringement, in violation of 17 U.S.C. § 501, arising from the defendant’s unauthorized reproduction and/or distribution of the plaintiff’s copyrighted work.

CLASS ALLEGATIONS

7. This action has been brought and may properly be maintained as a class action pursuant to Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure.

8. This action satisfies the prerequisites for a class action pursuant to Rule 23(a) of the Federal Rules of Civil Procedure.

9. Pursuant to Fed. R. Civ. Proc. 23(a)(1), the persons and/or entities of the class are so numerous that joinder of all members is impracticable. The plaintiff does not know the exact number of members of the class, but upon information and belief, the plaintiff estimates that there are thousands of class members.

10. Pursuant to Fed. R. Civ. Proc. 23(a)(2), there are questions of law or fact common to the class. Questions of law and fact common to the class include, but are not limited to, the following:

a. Whether the defendant used, reproduced, and/or distributed copies of original legal documents, including, but not limited to, pleadings, affidavits, motions, and/or briefs authored by members of the class, for the defendant's own commercial purposes;

b. Whether the defendant's use, reproduction, and/or distribution of such documents constitute copyright infringement;

c. Whether the class has suffered damages as a result of the defendant's action, and if so, the measure and amount of such damages; and

d. Whether injunctive and/or declaratory relief is appropriate.

11. Pursuant to Fed. R. Civ. Proc. 23(a)(3), the claims of the named plaintiff are typical of the claims of the class. The claims of the named plaintiff and the claims of all members of the class depend on showing that the defendant infringed on the class members' original legal documents.

12. Pursuant to Fed. R. Civ. Proc. 23(a)(4), the named plaintiff will fairly and adequately protect the interests of the class. The named plaintiff's interests do not conflict with the interests of class members that he seeks to represent. The named plaintiff has retained competent counsel to represent the class and is committed to prosecuting this action.

FIRST COUNT
(Copyright Infringement)

13. All preceding paragraphs are hereby incorporated by reference in this First Count.

14. The plaintiff is the sole author of a legal document titled Request for Leave to Amend Complaint, Amended Complaint, and Amount in Demand in Edward Clini v. The Home Depot USA, Inc., Docket No. CV 02-0465524S ("Work") (Exhibit A). The plaintiff's Work was published on April 2, 2003, when the plaintiff filed it in the New Haven Superior Court of Connecticut as part of a civil lawsuit.

15. Under 17 U.S.C. § 201 of the Copyright Act, the plaintiff is the author and owner of the Work, which is an original work of authorship fixed in a tangible medium of expression pursuant to 17 U.S.C. § 102.

16. The plaintiff is the sole owner and copyright holder of the Work, which was properly registered with the Copyright Office on January 17, 2012, registration number TX 7-476-239 (Exhibit B).

17. As the owner of copyright in the Work, the plaintiff has the exclusive right to copy, reproduce, sell, distribute, and/or publicly display the Work pursuant to 17 U.S.C § 106.

18. The defendant infringed on the plaintiff's exclusive rights in the Work, and violated 17 U.S.C. § 501, by reproducing, selling, distributing, and/or displaying the Work to its customers on its online legal research service, Westlaw.

19. The defendant reproduced, sold, distributed, and/or displayed the Work on Westlaw as a scanned pdf document in its original format as filed with the court. In addition, the defendant reproduced, sold, distributed, and/or displayed the Work on Westlaw as an electronic word-processing document bearing the Westlaw name and Westlaw copyright notices (Exhibit C).

20. The defendant copied the Work in its entirety, without substantial modification or limitation, and reproduced, sold, distributed, and/or displayed the Work on Westlaw.

21. The defendant charges subscription fees and/or document-based fees for the defendant's customers to access, view, and/or download any document on Westlaw, including court-filed attorney documents such as the plaintiff's Work.

22. The plaintiff did not authorize the defendant to copy, reproduce, sell, distribute, and/or display the Work on Westlaw or anywhere else.

23. The defendant's infringement of the plaintiff's Work is ongoing and continuous.

24. As a result of the above, the defendant has infringed upon the plaintiff's exclusive rights of copyright in the Work, in violation of 17 U.S.C § 501, and the plaintiff has suffered damages as a result thereof.

25. Upon information and belief, members of the class are owners of original legal documents including, but not limited to, complaints, motions, and briefs ("class works"), which they have the exclusive right to copy, reproduce, sell, distribute, and/or publicly display.

26. Upon information and belief, the defendant has infringed upon, and continues to infringe upon, the exclusive rights of members of the class by reproducing, selling, distributing, and/or displaying class works on Westlaw without authorization from members of the class.

27. Upon information and belief, the defendant has copied the class works in their entirety, without substantial modification or limitation, and reproduced, sold, distributed, and/or displayed the class works on Westlaw.

28. Upon information and belief, as a result of the above, members of the class have suffered damages as a result of the defendant's actions.

REQUEST FOR RELIEF

WHEREFORE, the plaintiff prays for the following:

1. Plaintiffs' actual damages and/or defendant's profits pursuant to 17 U.S.C § 504;
2. An injunction barring the defendant from continued infringement of the copyrights of the class members pursuant to 17 U.S.C. § 502;
3. Declaratory relief finding that the defendant's actions violated the Copyright Act;
4. Costs and attorneys' fees pursuant to 17 U.S.C. § 505; and
5. Any other relief the Court deems necessary and appropriate.

PLAINTIFF,

DAVID J. HEINLEIN

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