

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

PELICANS ON PARADE, INC., ET AL

CIVIL ACTION

VERSUS

NO: 14-326

KYLE VOHLAND, ET AL

SECTION: "H"(4)

**TEMPORARY RESTRAINING ORDER;
ORDER AND NOTICE SETTING PRELIMINARY INJUNCTION HEARING**

Before the Court is Plaintiffs' Motion for Temporary Restraining Order (Doc. 6). The Court has considered the Motion, the Memorandum in Support, the affidavit, the Complaint, the attachments thereto, and finds as follows:

FINDINGS AND CONCLUSIONS

1. Plaintiffs have submitted a true and correct copy of a Certificate of Copyright Registration establishing that Plaintiff, Laura Borchert, is the copyright owner of the "Pelicans on Parade Original Design" 3D sculpture (the "Copyrighted Sculpture").
2. Plaintiffs have submitted the affidavit of Laura Borchert showing that Defendants are, without authorization, distributing copies of the Copyrighted Sculpture.
3. Plaintiffs have demonstrated that they are likely to prevail on their claim that Defendants are infringing on the Copyrighted Sculpture.

4. Plaintiffs are suffering immediate, irreparable injury due to Defendants' unauthorized distribution of sculptures which infringe on Plaintiffs' copyright. Plaintiffs will continue to suffer irreparable injury if this Temporary Restraining Order ("TRO") is not issued. Specifically, the Court finds that Defendants' distribution of the Copyrighted Sculpture is currently creating confusion in the community, inhibiting Plaintiffs' ability to exercise quality control over the Copyrighted Sculptures, and is irreparably damaging, and will continue to damage, Plaintiffs' good will in the community.
5. The injury which Plaintiffs are suffering and will continue to suffer in the absence of a TRO outweighs any harm the TRO may cause to Defendants.
6. The public interests embodied in the Copyright Act will be furthered by the issuance of a TRO prohibiting Defendants from continuing to infringe on Plaintiffs' copyright.

TEMPORARY RESTRAINING ORDER

Accordingly,

IT IS ORDERED that Defendants KYLE VOHLAND and DANIELE VOHLAND, doing business as ICON POLY STUDIO, and ICON POLY STUDIO, along with their agents, employees, servants, and all those in privity, concert or participation with any of the aforementioned (the "RESTRAINED PARTIES") are **IMMEDIATELY AND TEMPORARILY RESTRAINED AND ENJOINED** from producing, manufacturing, marketing, advertising, selling, offering for sale, shipping, and/or distributing any and all "Pelicans on Parade" pelican sculptures and all substantially similar designs. The

RESTRAINED PARTIES are further **IMMEDIATELY AND TEMPORARILY RESTRAINED AND ENJOINED** from attempting, causing or assisting any activity enjoined by this Order.

ORDER SETTING BOND

IT IS FURTHER ORDERED that Plaintiffs shall provide security in the amount of \$2,000.00 to pay the costs and damages sustained by Defendants if this TRO is found to have been wrongfully issued.

ORDER AND NOTICE SETTING PRELIMINARY INJUNCTION HEARING

IT IS FURTHER ORDERED that this TRO shall remain in effect until 9:00 a.m. on Tuesday, March 11, 2014 at which time the Court will hold a hearing on Plaintiffs' request for a preliminary injunction. The hearing will take place in the undersigned's courtroom. Defendants are **ORDERED** to appear at that time and show cause why Plaintiffs' request for a preliminary injunction should not be granted.

Defendants are hereby put on notice that failure to attend the hearing will result in the immediate issuance of the preliminary injunction, which shall be deemed to take effect immediately upon the expiration or dissolution of the TRO. The preliminary injunction issued in this manner will extend during the pendency of this suit the same injunctive relief previously granted by this TRO.

IT IS FURTHER ORDERED that Plaintiffs shall immediately serve a copy of this TRO on Defendants via email at info@iconpolystudio.com. Plaintiffs shall also serve a copy of this TRO by

sending it to all known addresses for Defendants via national recognized overnight courier as soon as feasibly possible.

New Orleans, Louisiana, on this 26th day of February, 2014 at 11:30 a.m.

A handwritten signature in black ink, appearing to read "Jane Triche Milazzo". The signature is written in a cursive style with a large initial "J" and "M".

**JANE TRICHE MILAZZO
UNITED STATES DISTRICT JUDGE**