

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

WILLIAM V. AGUIAR, III, and the  
BLACK DRAGON  
FIGHTING SOCIETY,

Plaintiff,

v.

FLOYD WEBB,

Defendant.

Civil Action No. 07-CA-11673-MLW

**DEFENDANT FLOYD WEBB'S MOTION TO DISMISS**

Defendant Floyd Webb moves to dismiss the Second Amended Complaint in the above captioned matter pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. As further explained in the accompanying Memorandum in Support, Plaintiff has failed to sufficiently allege copyright ownership of the materials in dispute, and he cannot make out a case under Mass. Gen. L. c. 214 § 3A. Accordingly, this action should be dismissed in its entirety, with prejudice.

Respectfully submitted,

FLOYD WEBB,

By his attorneys,

/s/ David A. Kluff  
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and

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*Attorneys for Defendant Floyd Webb*

Dated: June 6, 2008

#### **CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.2(A)(2)**

I hereby certify that I conferred with counsel for Plaintiff on June 5, 2008 in a good faith effort to resolve or narrow the issues presented herein.

/s/ David A. Kluff  
David A. Kluff

#### **CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system on June 6, 2008 and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ David A. Kluff  
David A. Kluff