

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

William V. Aguiar

Plaintiff

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Civil Action No. 07-11673-MLW

vs.

Civil Action No. 07-11673-MLW
Floyd Webb, Barron Sheppard
Wendy Sheppard and Ashida Kim

Defendants

Aguiar v. Webb et al

Doc. 26

MEMORANDUM TO DENY CO-DEFENDANT'S MOTION TO DISMISS

1. INTRODUCTION.

Plaintiff William V. Aguiar III submit's this memorandum to deny their motion to dismiss for lack of personal jurisdiction and for failure to state a claim for which relief can be granted.

2. FACTUAL BACKGROUND

Plaintiff is a resident of Massachusett's
Defendant Barron Sheppard has contacted me thru e-mail's to buy my copyright and trademarks from March 20 2007 to March 29 2007. Defendant Barron Sheppard's sent the Plaintiff William V Aguiar an e-mail Wednesday March 28, 2007

18;47;12. Claiming that the Defendant Barron Sheppard bought the right's to Ashida Kim/Bradford Davis video's and will market them see section [A] tab [A]. Defendant Ashida Kim had his web-site taken down per cease and desist in October 05, 2005 for copyright infringement for over 50 copyright violation's. Mr Sheppard has tried to circumvent my copyright by going to the original photographer of my copyrighted John Keehan footage material's to circumvent the copyright holder. Mr Sheppard claim's two 500 dollar exchange's were for footage but their is no user agreement's signed for and the footage is copyrighted. Furthermore my Copyrighted footage ended up on You-Tube. Then I did a DCMA takedown on June 22, 2007 #163338364 it was against SKSSYSTEM"S and DOJOPRESS owned by the Defendant Barron Sheppard and Ashida Kim/Bradford Davis. The Defandant's Barron Sheppard and Ashida Kim/Bradford Davis filed a counterclaim on July 24,2007 DCMA Counter verification from SKYSSTEM"S re- Black Dragon Fighting Society/Count Dante Fighting System #176228775 .

III ARGUEMENT>

The Defendant's shouldn't be allowed to dismiss from this case do to the waiver of jurisdiction in the Counter verification persuant 17 U.S.C Section 512[g][3] of the Digital Millenium Act.

How do I file a counter notice?

Related articles:

- I recorded my video at a sporting event, concert or from television or a DVD.
- Why was my video removed for copyright while similar videos were not?

To file a counter notification with us, you must provide a written communication that sets forth the items specified below. Please note that you will be liable for damages (including costs and attorneys' fees) if you materially misrepresent that a product or activity is not infringing the copyrights of others. Accordingly, if you are not sure whether certain material infringes the copyrights of others, we suggest that you first contact an attorney. Please understand that filing a counter notice may lead to legal proceedings between you and the complaining party to determine ownership, and if your claim is rejected, you may face severe legal and financial penalties.

A sample counter notification may be found at:

www.chillingeffects.org/dmca/counter512.pdf.

To expedite our ability to process your counter notification, please use the following format (including section numbers):

1. Identify the specific URLs of material that YouTube has removed or to which YouTube has disabled access. Include the username of your YouTube account as well.
2. Provide your name, address, telephone number, email address, and a statement that you consent to the jurisdiction of Federal District Court for the judicial district in which your address is located (or San Francisco County, California if your address is outside of the United States), and that you will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.
3. Include the following statement: "I swear, under penalty of perjury, that I have a good faith belief that each search result or message identified above was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled."
4. Sign the paper.
5. Send the written communication to the following address:

YouTube, LLC

Attn: YouTube DMCA Counter Notification

1000 Cherry Ave

Suite 200

San Bruno, CA 94066

or fax to:

(650) 872-8513, Attn: YouTube DMCA Counter Notification

1. The Defendant's waived their right under 17 U.S.C. Section 512[g][3] and they are subject to the jurisdiction of this court.
2. The Defendant's waived the right under 17 U.S.C Section 512[g][3] and they are subject to the jurisdiction of this court.
3. The Defendant's waived their right's under 17 U.S.C Section 512[g][3] and are subject to the jurisdiction of this court.

B. The Sheppard's have violated the Plaintiff's copyright per DCMA and counter

verification claim's and waived their jurisdiction of Federal court.

1. See DCMA takedown.

IV CONCLUSION

The Plaintiff has sufficiently proven jurisdiction due to Counter Verification of Barron Sheppard and Ashida Kim, Floyd Webb on incident# 176228775 who consent to the jurisdiction of Federal District Court.

Respectfully Submitted

William V Aguiar III PRO SE

William V. Aguiar III 10/12/07
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Fall River Massachusetts