

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WILLIAM V AGUIAR III
PLAINTIFF

VS. CIVIL ACTION # 07-11673-MLW

FLOYD WEBB
DEFENDANT

ANSWER, COUNTERCLAIM, AND JURY DEMAND
Plaintiff William V Aguiar III for his answer to Complaint file by Floyd Webb
{hereinafter “ Defendant”} states the following.

ANSWER

- 1. On information and belief, Defendant lives in Chicago Illinois. Plaintiff Aguiar is without knowledge or information sufficient to form belief as to the truth of the allegations of Paragraph One of the complaint and their for denies the same.**
- 2. Paragraph Two of the complaint contains no allegations and their fore no response is required.**
- 3. Mr. Aguiar is a resident of Fall River, Massachusetts; he is a DSS worker at the Eliot Youth Facilities. And is the Supreme Grand Master Of The Black Dragon Fighting Society, And an Executive board member of the World**

Karate Federation. Except and stated their in, Mr Aguiar is with out knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph three of the complaint and theirfor denies the same.

- 4. On information and belief, Mr. Aguiar, the Plaintiff show ownership of the copyright and trademarks alleged in Paragraph 4 of the complaint. Mr. Aguiar III is without knowledge or information sufficient to form belief as to the truth of the remaining allegations in paragraph 4.**
- 5. On information and belief Mr. Aguiar denies allegations of paragraph 5 of the complaint.**
- 6. Defendant's allegations in paragraph seven of the complaint do not specify the fair use materials owned by the Plaintiff. That Defendant Webb has infrigened Plaintiffs copyrighted and trademarked materials. Mr. Webb never denied that his work infringed Plaintiffs copyrights. Mr. Webb does not deny causing Plaintiff damages.**
- 7. Paragraph eight of the complaint contains no allegations and their for no response is required.**
- 8. All allegations of the complaint not specifically admitted or denied above are hereby denied.**

AFFIRMATIVE DEFENSES

AS SEPARATE AND AFFIRMATIVE DEFENSES

FIRST

- 9 The complaint fails to state the facts sufficient to constitute a cause of action against Mr. Aguiar III**
- 10 The complaint fails to state a claim from which relief can be granted Mr. Aguiar III.**
- 11 The complaint does not fail for lack of personal jurisdiction over Mr. Webb.**
- 12 The complaint is barred in whole or part under principles of equity, including laces ,**
- 13 Waivers and / or estoppels.**
- 14 Defendant comes to court with un-clean hands and therefore be barred from recovering the relief requested or any relief from Plaintiff Aguiar.**
- 15 Plaintiff's action was lawful and non-willful.**
- 16 Defendant Webb has reaped profits attributable to all infringements.**
- 17 All use by Defendant of any copyrighted work owned by Plaintiff and does not constitute fair use. Defendant Webb creates consumer confusion.**

FIRST CAUSE OF ACTION

- 18. Plaintiff repeats and incorporates herein by reference the allegations in preceding paragraphs.**
- 19. On information and belief, plaintiff does own the copyrights claimed in the disputed materials.**
- 20. Upon information and belief, Mr. Webbs trailers and web-site does violate copyrighted images and logos related to Count Dante and the**

Black Dragon Fighting Society and is not self evident and they are infringing materials.

21. Upon information and belief, Defendant knew or should have known that the trailer and the web site does infringe on Plaintiff copyrights. After the plaintiff sent and DCMA takedown notice on you-tube and cease and desist letters to network solutions, and the Planet.

SECOND CAUSE OD ACTION

DECLARATORY JUDGEMENT

22 Plaintiff repeats and incorporates herein by reference the allegations In preceding paragraphs of this documents.

23 There is real and actual controversy between Plaintiff and Webb regarding whether the material in the trailer infringing copyright.

24 Absent a resolution of this matter, Aguiar will be uncertain as to whether his actions expose him to liability.

25 Aguiar has no other prompts and expeditious remedy to protect his interests.

26 Material in the trailer or on the Website does violate copyrighted materials owned by the Plaintiff.

27 Plaintiff Aguiar is entitled to a declaratory judgment that the trailer and the web site infringe the plaintiff's copyright.

THIRD CAUSE OF ACTION

**Plaintiff repeats and incorporates herein by reference the allegations
In preceding paragraphs of this documents.**

**28 There is real and actual controversy between Plaintiff and Webb
regarding whether the material in the trailer infringing copyright.**

**29 Absent a resolution of this matter, Aguiar will be uncertain as to
whether his actions expose him to liability.**

**30 Aguiar has no other prompts and expeditious remedy to protect his
interests.**

**31 Material in the trailer or on the Website does violate copyrighted
materials owned by the Plaintiff.**

**32 Plaintiff Aguiar is entitled to a declaratory judgment that the trailer
and the web site infringe the plaintiff's copyright.**

**33 Defendant Webbs use of disputed materials are substantially
commercial.**

**34 Wherefore defendant Webb is entitled to declaration that each and
every one above stated propositions of the law applicable involved in this
action.**

DECLARATORY JUDGEMENT

FOURTH CAUSE OF ACTION

**Plaintiff repeats and incorporates herein by reference the allegations
In preceding paragraphs of this documents.**

35 There is real and actual controversy between Plaintiff and Webb regarding whether the material in the trailer infringing copyright.

36 Absent a resolution of this matter, Aguiar will be uncertain as to whether his actions expose him to liability.

37 Aguiar has no other prompts and expeditious remedy to protect his interests.

38 Material in the trailer or on the Website does violate copyrighted materials owned by the Plaintiff.

39 Plaintiff Aguiar is entitled to a declaratory judgment that the trailer and the web site infringe the plaintiff's copyright.

40 Defendant Webb's use of disputed materials is substantially commercial.

41 Wherefore defendant Webb is entitled to declaration that each and every one above stated propositions of the law applicable involved in this action.

FIFTH CAUSE OF ACTION

DECLARATORY JUDGEMENT

42 There is real and actual controversy between Plaintiff and Webb regarding whether the material in the trailer infringing copyright.

43 Absent a resolution of this matter, Angular will be uncertain as to whether his actions expose him to liability.

44 Angular has no other prompts and expeditious remedy to protect his interests.

45 Material in the trailer or on the Website does violate copyrighted materials owned by the Plaintiff.

46 Plaintiff Aguiar is entitled to a declaratory judgment that the trailer and the web site infringe the plaintiff's copyright.

47 Defendant Webb's use of disputed materials is substantially commercial.

48 Wherefore defendant Webb is entitled to declaration that each and every one above stated propositions of the law applicable involved in this action.

SIXTH CAUSE OF ACTION

DECLARATORY JUDGEMENT

49 Absent a resolution of this matter, Aguiar will be uncertain as to whether his actions expose him to liability.

50 Aguiar has no other prompts and expeditious remedy to protect his interests.

51 Material in the trailer or on the Website does violate copyrighted materials owned by the Plaintiff.

52 Plaintiff Aguiar is entitled to a declaratory judgment that the trailer and the web site infringe the plaintiff's copyright.

53 Defendant Webb's use of disputed materials is substantially commercial.

54 Wherefore defendant Webb is entitled to declaration that each and every one above stated propositions of the law applicable involved in this action.

PRAYER FOR RELIEF

- 1. An order that Defendant take nothing by its complaint.**
- 2. An order dismissing Defendants complaint with prejudice.**
- 3. Finding that Defendant has engaged in copyright infringement.**
- 4. Damages, including costs**
- 5. Declaring that the Plaintiff own said copyright and intellectual property.**
- 6. Declaring that the trailer does infringe Plaintiffs copyright.**
- 7. Declaring that Webb's web-site does infringe copyright owned by Plaintiff**
- 8. Declaring the Defendants Webb's isn't protected by fair use, Because of consumer confusion.**

9. **Declaring that the trailer does infringe the trademarks that the Plaintiff really owns.**
10. **Permantley enjoining Defendants, his agents, servants, employees successors and assigns, and all others in concert and privity for pertatudity.**
11. **Plaintiffs costs and disbursements**
12. **Such other and further relief that the court seems fit.**

JURY DEMAND

Plaintiff Aguiar hereby requests a jury trial for all issues triable by jury including, but not limited to, those issues and claims set forth in the complaint.

Submitted

WILLIAM V AGUIAR III

630 MAPLE STREET

FALL RIVER , MASSACHUSETTS

PRO SEE *William V. Aguiar III*

4/5/08

CERTIFICATE OF SERVICE

WILLIAM V AGUIAR III
PLAINTIFF

VS.

Civil Action No. 07-11673-MLW

FLOYD WEBB
DEFENDANT

I William V Aguiar III hereby state that I mailed A true copy within document's to all counsel of record.

Date 4 / 5 / 2008

William V Aguiar III
Pro Se



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