

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

WEST STONE WORKS CO., INC.
d/b/a WEST MEMORIALS,

Plaintiff

v.

Docket No. cv-12-2122

INTERGLO INC.
d/b/a INTERGLO STONE,

Defendant.

COMPLAINT

Plaintiff West Stone Works Co., Inc. for its Complaint against Interglo Inc.
d/b/a Interglo Stone, states as follows:

PARTIES

1. Plaintiff West Stone Works Co., Inc. d/b/a West Memorials (“West”) is a corporation organized under the laws of the State of Tennessee with its principal place of business in Shelby County, Tennessee.
2. Defendant Interglo Inc. d/b/a Interglo Stone (“Interglo”) is a corporation organized under the laws of the State of Georgia with its principal place of business located at 1511 Martin Villa Road, Elberton, GA 30635-3910.
3. Interglo may be served via its registered agent for service of process James A. Langlois, 1751 Meriweather Drive, B-3, Bogart, GA 30622.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over West's claims for copyright infringement and related claims pursuant to 17 U.S.C. § 501, 28 U.S.C. § 1331 and § 1338(a).

5. This Court further has subject matter jurisdiction over West's claims against Interglo pursuant to 17 U.S.C. § 1332, as complete diversity exists between the parties. Plaintiff is a citizen of the state of Tennessee, and Defendant is a citizen of the state of Georgia.

6. Defendants are subject to in personam jurisdiction in the courts of this state pursuant to the provisions of Tenn. Code Ann. §§ 20-2-201 and 20-2-214.

7. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because a substantial part of the events giving rise to the claim occurred in this District and because Defendant has a sufficient connection with the Western District of Tennessee to make venue proper in this District, as alleged in this Complaint.

FACTS

8. West is in the business of designing and selling memorials, including monuments, headstones, statues, and civic and war memorials. West provides custom designs individually tailored to each customer.

A. The Kansas War Memorial.

9. In 2004, West designed a war memorial which was purchased by the city of Cimarron, Kansas (the “Kansas War Memorial”). A photograph of this monument is attached hereto as **Exhibit A**.

10. West owns a registered copyright in the Kansas War Memorial, obtained by application to the United States Copyright Office with an effective registration date of January 17, 2012, Copyright Registration Number VA 1-800-014. A true and accurate copy of its Certificate of Registration is attached hereto as **Exhibit B**.

11. West contracted with Interglo to locate a manufacturer in China to construct the Kansas War Memorial from West’s design. In furtherance of that goal, West provided Interglo with access to West’s design drawings for the Kansas War Memorial.

12. After the creation of the Kansas War Memorial, Interglo requested permission from West to include a photograph of it in its catalog. West did not grant Interglo that permission.

13. Interglo nonetheless has included a rendering of the Kansas War Memorial in its catalog and on its website. A photograph of the Kansas War Memorial as it appears in Interglo’s catalog is attached hereto as **Exhibit C**. A photograph of the Kansas War Memorial as it appears on Interglo’s website is attached hereto as **Exhibit D**.

14. In 2007, Mr. Howard Boozer, the mayor of Amory, Mississippi contacted West's principal Paul West about designing a similar war memorial for his town. Mr. Boozer indicated that he had a proposed budget of \$30,000 for the project.

15. Mr. West advised Mr. Boozer that the Kansas War Memorial sold for \$175,000, but that West could attempt to work with him to come up with a memorial within the town's budget.

16. Mr. Boozer stated that he wanted to consider the matter further, and would be in touch. Mr. West made a few attempts to contact Mr. Boozer thereafter, but Mr. Boozer did not return his calls.

17. Individuals connected with the Amory, Mississippi war memorial project later contacted Interglo about producing a war memorial identical in design to the Kansas War Memorial.

18. In violation of West's copyright, Interglo appropriated West's design of the Kansas War Memorial and caused to be manufactured a war memorial substantially similar to the Kansas War Memorial.

19. This memorial (the "Mississippi War Memorial") was dedicated in Amory, Mississippi in November of 2011. A photograph of the Mississippi War Memorial is attached hereto as **Exhibit E**.

20. According to contemporaneous news reports, the Mississippi War Memorial was purchased for approximately \$30,000.00.

21. Interglo's manufacture and sale of the Mississippi War Memorial infringed upon West's copyright in the Kansas War Memorial.

B. The "Krissy Goodman Headstone."

22. At the request of the family of Krissy Goodman, West designed and caused to be manufactured a headstone which incorporates a rendering of an angel sitting with her arms folded across her knees and looking up at a rose draped across the top of the headstone (the "Krissy Goodman Headstone"). The angel was modeled to resemble a figurine that Ms. Goodman had kept by her bedside table. A photograph of the Krissy Goodman Headstone is attached hereto as **Exhibit F.**

23. West owns a registered copyright in the Krissy Goodman Headstone, obtained by application to the United States Copyright Office with an effective registration date of January 13, 2012, Copyright Registration Number VA-1-801-658. A true and accurate copy of its Certificate of Registration is attached hereto as **Exhibit G.**

24. As with the Kansas War Memorial, West contracted with Interglo to locate a manufacturer in China to manufacture this headstone. In furtherance of this goal, West provided Interglo with design drawings of the headstone.

25. Interglo has included a rendering of the Krissy Goodman Headstone in its catalog and on its website, identified as "Flower Child Headstone." A copy of the pertinent page from Interglo's catalog is attached hereto as **Exhibit H.** A copy of the pertinent page from Interglo's website is attached hereto as **Exhibit I.**

26. In fact, Interglo's website falsely represents that it is the designer of the Krissy Goodman Headstone. The heading for the webpage on which this headstone appears states:

Our Artisan Headstone Series features just a small sample of the many unique and creative works of art from our highly skilled designers and stone craftsmen. We take great pride in our ability to produce beautiful yet affordably priced custom monuments like these.

27. Upon information and belief, West alleges that Interglo has caused to be manufactured and has sold one or more copies of the Flower Child Headstone to other customers.

COUNT ONE
(Copyright Infringement)

28. Plaintiff repeats and re-alleges the foregoing allegations as if set forth fully herein.

29. West is the sole owner of the copyrights in and to the Kansas War Memorial and the Krissy Goodman Headstone.

30. West has submitted and received the appropriate registrations for both works with the United States Copyright Office.

31. Interglo has infringed upon West's copyrights by copying, reproducing and distributing infringing materials in the United States of America without approval or authorization from West.

32. As a result of its wrongful conduct, Interglo is liable to West for copyright infringement pursuant to 17 U.S.C. § 501.

33. West has suffered damages as a result of Interglo's infringement. West is entitled to recover compensatory damages from Interglo, including lost profits on sales of West's exclusive proprietary and copyrighted designs, and any and all profits Interglo has realized as a result of its wrongful conduct.

COUNT TWO
(Intentional Interference with Business Relations)

34. Plaintiff repeats and re-alleges the foregoing allegations as if set forth fully herein.

35. West had a business relationship with one or more elected officials of the town of Amory, Mississippi, as its mayor had contacted West about commissioning a war memorial from West.

36. Interglo had knowledge of West's business relationship with the elected officials of the town of Amory, Mississippi, which was not a mere awareness of West's business dealings in general.

37. Interglo intended to cause the breach or termination of the business relationship.

38. Interglo engaged in such conduct with improper means. Namely, by committing copyright infringement, Interglo was able to provide Amory, Mississippi with a lower price for the subject war memorial, thereby inducing the town to terminate its business relationship with West.

39. West has been damaged as a result of Interglo's tortious interference.

40. West is entitled to any and all remedies available under Tennessee law for such intentional interference with business relationships, including compensatory damages, treble damages, and punitive damages.

WHEREFORE, Plaintiff respectfully prays for the following relief against the Defendant:

1. An award of judgment determining that Defendant has infringed Plaintiff's rights in its federally registered copyright in violation of 17 U.S.C. § 501;
2. That the Court enter an order of impoundment pursuant to 17 U.S.C. §§ 503 and 509(a) and 28 U.S.C. § 1651(a) impounding all infringing copies of Plaintiff's copyrighted material that are in Defendant's possession or under its control;
3. Compensatory damages;
4. Treble damages;
5. Punitive damages;
6. Attorneys fees; and
7. Such other and further relief as the Court may deem equitable.

Respectfully submitted,

BURCH, PORTER & JOHNSON, PLLC

s/Taylor A. Cates

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