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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

MODERN DOG DESIGN  
COMPANY,

Plaintiff(s)  
v.

TARGET CORPORATION, a  
Minnesota Corporation, TARGET  
BRANDS, INC, a Minnesota  
Corporation, DISNEY  
ENTERPRISES, INC., a Delaware  
Corporation; WALT DISNEY  
COMPANY, DISNEY CONSUMER  
PRODUCTS, INC., A California  
Corporation, JOHN DOES 1-5  
(DESIGNER-COPIER(S), JOHN  
DOES 6-10 (MANUFACTURER(S),  
JOHN DOES (DISTRIBUTOR(S),  
JOHN DOES 11-15

JURY TRIAL DEMANDED

**CASE NO. 2:11-cv-01816**

**AMENDED** COMPLAINT FOR:  
VIOLATION OF FEDERAL  
COPYRIGHT LAWS, INCL:  
COPYRIGHT INFRINGEMENT,  
CONTRIBUTORY COPYRIGHT  
INFRINGEMENT, INDUCEMENT  
TO COPYRIGHT INFRINGEMENT,  
ETC.

JURY TRIAL DEMANDED

AMENDED COMPLAINT FOR COPYRIGHT  
INFRINGEMENT, ETC. PAGE - 1  
CASE NO. 2:11-cv-01816

**LAW OFFICES OF  
JOSEPH F. MURPHY, PLLC**

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SEATTLE WA 98122

206-734-7471

lawyer@joemurphy.com

1 (MISCELLANEOUS  
2 MALEFACTORS, PRESENTLY  
3 UNKNOWN, ALSO LIABLE)

4 Defendant(s).

5 COMES NOW, PLAINTIFF MODERN DOG DESIGN COMPANY (“Plaintiff”  
6 or “MODERN DOG”), by and through its undersigned attorney, and  
7 complains of and alleges the following and hereby prays for relief to this  
8 honorable Court for relief based on the following allegations:

9 INTRODUCTION AND OVERVIEW

10 This action relates to Defendant’s actions in infringing the Federally  
11 Registered Copyright on Defendant’s copyrighted work (a book) in  
12 producing and selling a Tee-Shirt (the “Accused Shirt”) having thereon  
13 dozens of drawings copied (or derived) from drawings in that book.

14 JURISDICTION AND VENUE

- 15 1. This is an action for copyright infringement arising under the copyright  
16 laws of the United States, namely, under Public Act of October 19,  
17 1976, as amended and codified in 17 U.S.C. § 101 et seq., and 17  
18 U.S.C. § 1202 et seq. Plaintiff seeks injunctive relief, actual damages  
19 including Defendant’s profits and monetary damages (may elect  
20 statutory damages), interest, costs and attorney’s fees under the  
21 copyright laws of the United States.
- 22 2. This Court has subject matter jurisdiction over this action. It has  
23 original and exclusive jurisdiction of Plaintiff’s Copyright Infringement  
24 claims herein pursuant to 17 U.S.C. § 501 et seq. and 28 U.S.C. §§  
25 1338, 1391(a), (b) and (c); of the subject matter and the parties under  
the copyright laws of the United States, 17 U.S.C. § 101 et seq., as  
well as jurisdictional provisions of 28 U.S.C. § 1338. It has

1 supplemental jurisdiction over Plaintiff's State and common law  
2 claims (as may be propounded herein or in an amended complaint  
3 filed after further investigation and / or Discovery) under 28 U.S.C. §  
4 1367(a) and the principles of supplemental jurisdiction.

- 4 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a), (b)  
5 and (c); the products accused of copyright infringement, etc.  
6 (hereinafter sometimes referred to as the "accused products")(See  
7 copy of actual accused shirt, Exhibit 1)<sup>1</sup> were offered for sale by  
8 Defendants, and actually purchased, in this District, i.e., the United  
9 States Federal District Court for the Western District of Washington;  
10 moreover, the Defendants have transacted business in, and had  
11 continuous and systematic contact with, this District.

## 12 PARTIES

### 13 PLAINTIFFS

- 14 4. Plaintiff MODERN DOG DESIGN CO. ("MODERN DOG") is a  
15 corporation organized and existing under the laws of Washington,  
16 having its principal place of business at 7903 Greenwood Ave. N.  
17 Seattle, WA 98103.
- 18 5. MODERN DOG has received recognition from every major design  
19 organization in the U.S including Type Director's Club of New York,  
20 One Club, Communication Arts, HOW Magazine, Graphic Design  
21 USA and American Institute of Graphic Arts (AIGA). In 2008 and  
22 2010, MODERN DOG was nominated for a National Design Award  
23 through the Smithsonian's Cooper Hewitt in New York.

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24 <sup>1</sup> This Exhibit was submitted via traditional methods, by hand to the Clerk's Office, in  
25 accordance with Rules regarding Exhibits that could not be scanned; copies will be  
provided to Defendants very shortly after filing; meanwhile, the Defendants can see the  
same visual information in the side-by-side comparison charts provided elsewhere in this  
Complaint and the photograph of the Exhibit, which has been filed electronically in the  
online submission.

- 1 6. MODERN DOG has its work represented in the permanent archives  
2 of the Louvre (Paris - Rohan Marsan wing), the Library of Congress  
3 (Washington DC), Hong Kong Heritage Museum (Hong Kong),  
4 Bibliotheque Nationale de France (Paris), Denver Art Museum  
5 (Denver), Museum Fur Kunst und Gewerbe (Hamburg), the Warsaw  
6 National Museum (Warsaw), among others.
- 7 7. MODERN DOG has a well-earned reputation for quality  
8 craftsmanship, and enjoys great respect in the commercial and  
9 artistic worlds, and those who populate them.
- 10 8. MODERN DOG principals, Ms. Raye and Mr. Strassburger, are  
11 adjunct instructors at Cornish College of the Arts in Seattle where  
12 they have taught for more than a decade. They also lecture and teach  
13 workshops both nationally and internationally.

14 DEFENDANTS

- 15 9. Upon information and belief, Defendant Target Corporation  
16 (NYSE:TGT) (hereinafter referred to as TGT) is a Minnesota  
17 Corporation, with principal place of business and executive offices at  
18 1000 Nicollett Mall, Minnesota, MN 44403. Target Corporation is the  
19 second largest retailer in the United States; it owns and operates over  
20 1,400 Target retail stores throughout the United States, including in  
21 Washington State, and owns and operates Target's web store located  
22 at the URL of <www.target.com>, which distributes, offers and sells  
23 products (including the accused product) throughout the United  
24 States, including Washington State and this District.
- 25 10. Upon information and belief, Defendant Target Brands, Inc.  
(hereinafter referred to as TBI) is a Minnesota Corporation, with  
principal place of business and executive offices at 1000 Nicollett  
Mall, Minnesota, MN 44403. Defendant Target Brands, Inc. is a  
subsidiary of Target Corporation and manufactures, imports, markets  
and distributes products (including the accused product) to Target

1 stores throughout the United States, including in Washington State,  
2 and this District, and on the Internet at Target's web store located at  
the URL of <[www.target.com](http://www.target.com)>.

3 11. Upon information and belief, The Walt Disney Company  
4 ("DISNEY") is a corporation with a place of business at 500 S Buena  
5 Vista St, Burbank, CA, 91521; DISNEY is doing business, inter alia,  
6 in the State of Washington, specifically in this District, by acts  
7 including making (or having made or authorizing to be made), offering  
8 and selling, and or/offering and allowing to be sold, its product(s)  
9 (including the accused product) via Internet sites including  
10 [www.target.com](http://www.target.com), which Internet site is accessible in the State of  
11 Washington, specifically in this District.; moreover the accused  
product is identified on its clothing tag with at least one, and possibly  
two, Registered Trademarks owned by Disney or its affiliates, e.g.  
Disney Enterprises, Inc.

12 12. Upon information and belief, Defendant Disney Enterprises, Inc.  
13 ("DISNEY-DEI") is a corporation fka The Walt Disney Company fka  
14 Walt Disney Productions with a place of business at 500 S Buena  
15 Vista St, Burbank, CA, 91521; DISNEY-DEI is doing business, inter  
16 alia, in the State of Washington, specifically in this District, by acts  
17 including making (or having made or authorizing to be made), offering  
18 and selling, and or/offering and allowing to be sold, its product(s)  
19 (including the accused product) via Internet sites including  
20 [www.target.com](http://www.target.com), which Internet site is accessible in the State of  
Washington, specifically in this District; moreover the accused  
product is identified on its clothing tag with at least one, and possibly  
two, Registered Trademarks owned by DISNEY-DEI or its affiliates.

21 13. Upon information and belief, Defendant DISNEY CONSUMER  
22 PRODUCTS (DCP) is the business segment of The Walt Disney  
23 Company and its affiliates that extends the Disney brand to  
24 merchandise ranging from apparel, toys and home décor to books  
and magazines, foods and beverages, stationery, electronics and  
animation artistry. DCP's ultimate parent is The Walt Disney

1 Company ("DISNEY"); DCP is doing business, inter alia, in the State  
2 of Washington, specifically in this District, by acts including making  
3 (or having made or authorizing to be made), offering and selling, and  
4 or/offering and allowing to be sold, its product(s) (including the  
5 accused product) via Internet sites including www.target.com, which  
6 Internet site is accessible in the State of Washington, specifically in  
7 this District.

8 14. Plaintiff does not yet know the true names, identities, or  
9 capacities of JOHN DOES 1-5 (DESIGNER-COPIER(S), JOHN  
10 DOES 6-10 (MANUFACTURER(S), JOHN DOES (DISTRIBUTOR(S),  
11 JOHN DOES 11-15 (MISCELLANEOUS MALEFACTORS,  
12 PRESENTLY UNKNOWN, ALSO LIABLE), and therefore sues these  
13 Defendants under fictitious names. Plaintiff will amend the complaint  
14 to add these names when such names are ascertained.

15 CAUSE OF ACTION: FEDERAL COPYRIGHT INFRINGEMENT

16 **COUNT I**

17 15. Plaintiff incorporates by reference all preceding paragraphs.

18 16. Upon information and belief, including a news item (Exhibit 2),  
19 Defendants reproduced, adapted, distributed and exhibited and sold  
20 dog drawings found in Plaintiff's book, for which Plaintiff owns a  
21 Registered Copyright; Defendants have also facilitated and  
22 contributed to infringement by others. Defendants did so in many  
23 ways arising out of designing, making, advertising, and offering for  
24 sale the accused infringing shirt; that news item announced their "D-  
25 Signed" clothing line endeavor by stating: "Retailer Target has joined  
forces with Disney Consumer Products (DCP) to unveil a new line of  
apparel and accessories called D-Signed.", DISNEY, DISNEY-DEI,  
DCP, TGT, TBI, and possibly others, including as-yet-unidentified  
Defendants, acted to infringe (directly, contributorily, and/or

1 vicariously) the Registered Copyright of, and/or to induce  
2 infringement of that Copyright, and otherwise harm, Plaintiff.

3 17. The Plaintiff's book entitled "MODERN DOG: 20 Years of  
4 Poster Art" is the copyrighted work (sometimes hereinafter simply  
5 referred to as the "book") at the heart of this action; it was published  
6 in 2008, in the USA. A copy of this book is attached as Exhibit 3  
7 hereto, note especially the drawings on the inside of the front cover  
8 and on the inside of the back cover.<sup>2</sup>

9 18. A Copyright Registration (TX-7-163-462)(copy attached as  
10 Exhibit 4) was issued on February 22, 2010 for the book entitled  
11 "MODERN DOG: 20 Years of Poster Art" (hereinafter often simply  
12 referred to as the "MODERN DOG book" or simply "the book"); the  
13 Copyright Registration is owned by MODERN DOG. Since the date of  
14 the book's publication, the Plaintiff has either published or licensed  
15 for publication all copies of the book and/or artwork contained therein.

16 19. In compliance with the copyright laws, Plaintiff, since  
17 publication, has remained the sole owner of the copyright rights upon  
18 which the present action for copyright infringement is based.

19 20. The inside front cover of the book has drawings of sixty-nine  
20 (69) dogs under the heading "Dogs We Know", and the inside back  
21 cover depicts sixty-seven (67) dogs under the heading "Dogs We  
22 Don't Know". Thus, together the inside front and back covers of the  
23 book depict one-hundred and thirty-six (136) individual drawings of  
24 dogs. Attached as Exhibit are true and correct copies of: (a) the  
25 inside front cover drawings from the copyrighted book {Ex. 5a}; (b)  
the inside front cover drawings from the copyrighted book, with the

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21 <sup>2</sup> Again, this Exhibit was submitted via traditional methods, by hand to the Clerk's Office, in  
22 accordance with Rules regarding Exhibits that could not be scanned; copies will be  
23 provided to Defendants very shortly after filing; meanwhile, the Defendants can see the  
24 same visual information in the side-by-side comparison charts provided elsewhere in this  
Complaint and the photograph of the Exhibit, which has been filed electronically in the  
online submission.

1 alleged infringed drawings circled and denoted by number {Ex. 5b};  
2 (c) the inside back cover drawings from the copyrighted book {Ex. 5c}  
3 and (d) the inside back cover drawings from the copyrighted book,  
4 with the alleged infringed drawings circled and denoted by number  
5 {Ex. 5d}. Note each drawing for which copyright infringement is  
6 alleged is circled and numbered with a numeral identifying BOTH the  
7 drawing, AND the dog depicted thereby. (e.g. DOG 1, DOG 2, etc.);  
8 See Exhibits 5 (a-d). Because the same dogs are depicted on the  
9 accused shirt, it will be seen that the same numbering is used on the  
10 picture of the accused shirt (Exhibit 8).

## 11 ACCESS

12 21. On Information and Belief, Defendants had access to both the  
13 inside cover artwork in the book, and to the book itself. Firstly,  
14 access to the book cover artwork is available to Defendants, as to  
15 anyone and everyone in the world with Internet access; anyone may  
16 go to the website [www.amazon.com](http://www.amazon.com), choose the category of “books”,  
17 enter the obvious search words “dog art books” (see Exhibit 6 at  
18 Exhibit 6a; words circled at top), and be presented with a results list  
19 of books, many with dog drawings; the MODERN DOG book is  
20 number 14 on this list (see again Exhibit 6a, MODERN DOG book  
21 circled at bottom). One seeking artwork to take will come to the  
22 MODERN DOG book, and click on it (see Exhibit 6b, showing “Look  
23 Inside!” link circled), and then may use the “Look Inside” feature to  
24 begin to see first the MODERN DOG book front cover and some of  
the inside front cover drawings (“Dogs We Know) (as seen in Exhibit  
6c); by continuing to scroll they will see the entirety of the inside front  
cover “Dogs We Know” drawings (shown in Exhibit 6d, which is the  
inside front cover previously seen in Exhibits 3, 5a and 5b); by  
continuing to scroll further they will see the entirety of the inside back  
cover “Dogs We Don’t Know” drawings (as seen in Exhibits 3, 5c and  
5d); also seen is a portion of the book’s outside back cover. Thus,  
anyone with Internet access (e.g. Defendants) and a desire to take  
some “dog art”, could easily have used Amazon.com, entered “dog  
art books”, and, as explained above and shown in the referenced

1 Exhibits, to access the copyrighted work and the drawings therein. In  
2 light of the foregoing, and on information and belief, Plaintiffs allege  
3 that the Defendants therefore had access to the Copyrighted  
drawings it alleges were used in the accused shirts.

4 22. Secondly (alternatively and/or additionally). Defendants had  
5 access to the book and its inside front and back cover artwork  
6 because of the book's widespread distribution and availability,  
7 because, since its publication in 2008, the book has reached and  
8 continues to reach its intended audience of the Public, Clients,  
9 Potential Clients, Design Professionals, and others working in  
10 commercial and non-commercial art. The book is part of the  
11 collection of many libraries and Design Studios. DISNEY, DEI, DCP,  
12 TARGET, TBI, and/or the John Doe(s) they are connected with, have  
13 Design Departments which are likely have the book, and which  
14 certainly has staff who are familiar with, and have access to the book  
15 (at work, at home and/or at libraries), which has sold more than  
16 seven thousand (7,000) copies to date – a significant number for a  
17 book of its type.

18 23. Thus, Plaintiff alleges that Defendants' access to the  
19 copyrighted work has been established, and respectfully requests  
20 that this Court make a finding that Defendants had access to the  
21 Plaintiff's Copyrighted Book, including the drawings on its inside front  
22 cover and inside back cover.

#### 23 COPYING; STRIKING SIMILARITY; SUBSTANTIAL SIMILARITY

24 24. Moreover, Plaintiffs allege that Defendants engaged in actual  
25 copying of Plaintiff's work, or, alternatively that Defendants created  
derivative work(s) from Plaintiff's work, thus infringing Plaintiff's rights,  
including but not limited to Plaintiff's Registered Copyright. Plaintiffs  
allege that actual copying (or, in the alternative, striking similarity, or,  
in the alternative, substantial similarity) between the Plaintiff's (earlier  
published) work having a Registered Copyright and the later  
published work(s) of Defendants, is discernible from the comparison

1 of the copyrighted work and the accused work, as well as from the  
2 Exhibits hereto.

3 25. The Defendant's accused product, is a Tee-Shirt, identified as  
4 "DSigned Sharpay Girls' Short-Sleeve Dogs Graphic Tee – White" as  
5 it is depicted and advertised on target.com website. (See copy of  
6 target.com website page advertising the accused shirt at Exhibit 7)  
7 Note that the copyright information is a cotton Tee-shirt upon which is  
8 sewn a heart-shaped applique of a mesh fabric; silkscreen printed  
9 upon the mesh fabric are twenty-seven (27) drawings of dogs (see  
10 Exhibit 8 is a copy of the actual accused shirt)<sup>3</sup> each and every one  
11 of which is copied from one corresponding dog depicted in the  
12 original dog drawings contained in Plaintiff's Original Copyrighted  
13 Work. In simple terms, every drawing on Defendant's Tee-shirt was  
14 copied from a drawing on Plaintiff's Original Copyrighted Work, or if  
15 not exactly copied, was copied with slight, non-material alterations  
16 and/or additions (with most if not all of these due to limitations  
17 inherent in the silk-screening/screenprinting process, which results in,  
18 e.g. some loss of detail); furthermore, it was derived, in the sense of  
19 an unauthorized derivative work, from a drawing on Plaintiff's Original  
20 Copyrighted Work. Moreover, the overall appearance was copied.  
21 The attached Exhibit 9 is a true and correct copy of a close-up picture  
22 of the accused shirt, showing all the individual drawings thereon (and,  
23 with each drawing for which copyright infringement is alleged being  
24 circled and numbered with a numeral identifying the drawing, and the  
25 dog depicted thereby. (e.g. DOG 1, DOG 2, etc.)(attached).

26. On information and belief, sometime prior to September, 2011,  
27 Target.com began offering for sale a line of clothes arranged around  
28 the popular Disney character named "Sharpay", played by actress

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29 <sup>3</sup> Yet again, this Exhibit was submitted via traditional methods, by hand to the Clerk's  
30 Office, in accordance with Rules regarding Exhibits that could not be scanned; copies will  
31 be provided to Defendants very shortly after filing; meanwhile, the Defendants can see the  
32 same visual information in the side-by-side comparison charts provided elsewhere in this  
33 Complaint and the photograph of the Exhibit, which has been filed electronically in the  
34 online submission.

1 Ashley Tisdale; as part of a promotion of the Disney movie  
2 "Sharpay's Fabulous Adventure" Notably, the offering included the  
3 accused product, i.e. a "D-Signed" Sharpay Girls Short-Sleeve Dogs  
4 Graphic Tee" (Shown at Exhibit 7).

#### 5 Comparison of Copyrighted Work with Accused Shirt

6 27. The copying and/or preparation of a derivative work, substantial  
7 similarity and/or striking similarity between the dogs depicted in the  
8 copyrighted work and the dogs depicted in the accused shirt is further  
9 illustrated in an attached chart with transparency overlays in Exhibit  
10 10 which (adjusted for scale) shows on the underlying paper each  
11 dog from the accused shirt, and which further shows (on transparent  
12 plastic overlay, to be lifted up by the reader) the corresponding  
13 original copyrighted dog drawing from which Plaintiff alleges the  
14 underlying accused shirt drawing came from.<sup>4</sup>.

15 28. Copyright Infringement analysis:

16 a. Regarding the copyright infringement by Defendants by images  
17 on the accused shirts: Reference is now made to Exhibit 11  
18 showing the correspondence, each in a row, between the (Left  
19 Column) drawings depicted on the accused work, i.e. the D-  
20 Signed Sharpay girls Short-Sleeve Dogs Graphic Tee Shirt and  
21 the (Right Column) Copyrighted drawings from the MODERN  
22 DOG inside book covers. Plaintiff alleges copying and/or  
23 preparation of a derivative work and/or striking similarity and/or  
24 substantial similarity is shown.

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25 <sup>4</sup> This Exhibit was submitted via traditional methods, by hand to the Clerk's Office, in  
26 accordance with Rules regarding Exhibits that could not be scanned; copies will be  
27 provided to Defendants very shortly after filing; meanwhile, the Defendants can see the  
28 same visual information in the side-by-side comparison charts provided elsewhere in this  
29 Complaint and the photograph of the Exhibit, which has been filed electronically in the  
30 online submission.

1  
2 b. Regarding the Defendant's infringement by images on the  
3 Internet (e.g. on target.com), please refer to Exhibit 12, a chart  
4 showing a side-by side comparison of internet pictures of the  
5 accused shirt image adjacent to the corresponding original  
6 copyrighted artwork shown in the book. Plaintiff alleges  
7 copying and/or preparation of a derivative work and/or an  
8 striking similarity and/or substantial similarity is shown.

9  
10 c. Regarding the copyright infringement by Defendants by  
11 screenprinting on the accused shirts: Such a process  
12 necessarily entails making a screen with which to print the  
13 shirts; this requires making a copy of the copyrighted work onto  
14 the screen, and is itself an act of copyright infringement.

15 d. Regarding the fact of each image having been "flipped  
16 horizontally", i.e., shown as a mirror image on the shirt versus  
17 the book: This "flipping" is a common technique of copyright  
18 infringers, a fact of which the Court may take Judicial Notice.  
19 For the sake of completeness, Exhibit 13 shows the  
20 Copyrighted Image as it appears in the book adjacent to a  
21 "flipped" (mirror image) of it, as Plaintiff alleges was used to  
22 produce accused image.

23  
24 29. The Plaintiff will have notified the Defendants in writing of the  
25 infringement by providing them with courtesy copies of this  
Complaint, including the actual comparison charts and actual objects,  
soon after its filing, and by effectuating service as provided by the  
Rules.

30. On Information and Belief, Plaintiffs allege Defendants  
accessed copyrighted artwork and committed copyright infringement  
by unauthorized copying of it (with copies of the artwork both on the  
accused articles themselves and on the target.com website depicting

1 the accused article) and/or by preparing derivative work(s) based on  
2 it. Furthermore, given the size and sophistication of the Defendants,  
3 their ability to control the production of the accused works and ability  
4 to realize financial benefits therefrom, Defendants infringing conduct  
5 should be found to be Willful, or, in the alternative, Non-Innocent.  
6 This is additionally so given the presence of the copyright notice in  
7 the actual book and in the amazon.com image of the book, and the  
8 words "COPYRIGHTED MATERIAL" watermarked on each  
9 amazon.com webpage showing the inside cover artwork. Defendants  
10 knew or should have known that the artwork was copyrighted, and,  
11 partly because of this, their actions, Plaintiff respectfully suggests,  
12 should be deemed willful, and a finding of willful infringement made.  
13 Defendants, who benefitted financially from the copyright  
14 infringement, and who exercised or could have exercised control over  
15 the production of the infringing shirts, are directly and/or vicariously  
16 liable for the copyright infringement; moreover, Defendants knew or  
17 should have known of the origin and/or copyrighted nature of the  
18 artwork on the accused shirts, e.g. artwork that was copied directly or  
19 indirectly from copyrighted work and/or was an unauthorized  
20 derivative work derived from copyrighted work.

21 As elaborated on in the Exhibits and elsewhere herein, Plaintiff  
22 alleges that (i) Defendants access to the Plaintiff's copyrighted work  
23 has been shown; (ii) striking and/or substantial similarity between the  
24 dog drawings on the Accused Tee Shirt and the MODERN DOG  
25 drawings merits a finding of willful copyright infringement, or, in the  
alternative, non-innocent copyright infringement. Moreover, Plaintiff  
alleges that it suffered damages as a result of such infringement. In  
view of the multi-billion-dollar size of the Defendants, their paramount  
expertise in licensing and copyrights, their past litigation histories,  
and to deter copyright infringement, Plaintiff requests actual damages  
and profits, and reserves the right to elect the statutory maximum  
damages as follows: Under 17 U.S.C. § 504(c), \$150,000 for willful  
infringement or, in the alternative, \$30,000 for non-willful  
infringement, for EACH of the at least three separate infringements  
(e.g. by shirt, website, silkscreen) alleged above and elsewhere

1 herein See 17 U.S.C. § 504(c). Plaintiff also seeks attorneys' fees  
2 and costs, and permanent injunctive relief against the infringement.

3 **COUNT II**

4 **CAUSE OF ACTION: VIOLATION OF 17 U.S.C. § 1201**

5 31. Upon information and belief, Defendants gained access to the  
6 Plaintiff's Registered Copyrighted Book, including the artwork  
7 contained therein, which contained copyright information, including an  
8 express copyright notice. The express copyright notice is considered  
9 "copyright management information" under US Copyright Law (see 17  
10 U.S.C. § 1201 et seq.), and Defendant's intentional removal of it  
11 constitutes a violation of 17 U.S.C. § 1201 et seq. With respect to the  
12 Defendants' aforesaid further violation of Copyright Law, Plaintiffs  
13 seek the maximum statutory damages of \$25,000.00, and attorneys'  
14 fees and costs, for each violation of 17 U.S.C. § 1202, et seq.  
15 See 17 U.S.C. § 1203(c)(3)(b).

16 32. Moreover, Defendants, without authorization, copied and/or  
17 prepared derivative works from Plaintiffs Registered Copyrighted  
18 Work. These copies and/or derivative works were distributed and  
19 exhibited on the internet at [www.target.com](http://www.target.com). See Exhibit 12, showing  
20 images taken from internet under [www.target.com](http://www.target.com). As elaborated  
21 upon above, Plaintiff's hold Defendants liable for these and all  
22 Internet website image infringement and violations as well as for the  
23 infringement and violations with respect to the accused shirt.

24 33. Therefore, the Plaintiff respectfully demands that:

25 (a) Until this case is decided the Defendant and the Defendant's  
agents are enjoined from disposing of any copies of the accused shirt  
by sale or otherwise;

(b) The Defendant account for and pay as damages to the  
plaintiff all profits and advantages gained from unfair trade practices

1 and unfair competition in selling the Defendant's book, and all profits  
2 and advantages gained, directly or indirectly, from infringing the  
3 plaintiff's copyright, and from doing so as part of a larger marketing  
4 campaign of which the infringement was a part; Plaintiff expressly  
5 reserves the right to elect statutory damages, and, if possible and  
appropriate, as in some prior cases, to receive both actual and  
statutory damages.

6 (c) The Defendant deliver for impoundment all copies of the  
7 shirt in the Defendant's possession or control and deliver for  
8 destruction all infringing copies and all plates, molds, screens, and  
other materials for making infringing copies;

9 (d) The Defendant pay the plaintiff interest, costs, and  
10 reasonable attorney's fees, pursuant to 17 USC § 505, et seq., and 17  
11 USC § 1203(b) et seq.; and

12 That the Court award such additional relief as it believes just.

13  
14 DATED this 31st day of October, 2011.

15  
16 LAW OFFICES OF JOSEPH F. MURPHY, PLLC

17  
18 By: /s Joseph F. Murphy, Jr. \_\_\_\_\_  
Joseph F. Murphy, Jr.

19 WSBA # 37554

20 Attorney for Plaintiff, MODERN DOG DESIGN CO.