

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LARS ERICKSON,)	
)	Case No. _____
Plaintiff,)	
)	COMPLAINT
vs.)	AND
)	DEMAND FOR JURY TRIAL
MICHAEL JOHN BLAKE,)	
)	
Defendant.)	(INJUNCTIVE RELIEF SOUGHT)

Plaintiff, Lars Erickson (hereinafter, "Plaintiff") by and through his undersigned counsel, for his Complaint against Defendant Michael John Blake (hereinafter, "Defendant") hereby alleges as follows:

INTRODUCTION

1. This is a case of copyright infringement against Defendant Michael John Blake. The suit seeks actual damages, plus disgorgement of Defendant's profits, and statutory damages as well as the recovery of Plaintiff's expenses and reasonable attorneys' fees. Plaintiff also requests additional relief in the form of an injunction preventing Defendant from engaging in further infringing acts.

FACTUAL BACKGROUND

2. Plaintiff, Lars Erickson is an individual currently residing in Omaha, Nebraska.

3. Upon information and belief, Defendant Michael John Blake is an individual currently residing in Portland, Oregon.

4. Plaintiff is the owner of a United States Federal Copyright Registration for

the work titled Pi Symphony. The Copyright Registration number is PAu001676696. The work was created in 1992. A true and correct copy of the abstract from the United States Copyright Office confirming Plaintiff's recorded copyright is attached hereto as Exhibit A.

5. Beginning in the fall of 2001, Plaintiff developed and published a web site captioned "Pisymphony.com."

6. Beginning on or about May 2010, Plaintiff included a You Tube video on his website which includes a performance of the Pi Symphony, as well as a detailed description of how the Pi Symphony was developed.

7. A simple search of the terms "Melody of Pi" utilizing the Google search engine discloses Plaintiff's copyrighted work within the first twenty search results.

8. On or about February 12, 2011, Defendant published the work "What Pi Sounds Like" on the You Tube web site.

9. Promptly upon learning about Defendant's work, Plaintiff contacted Defendant and informed him that Plaintiff owns a copyright in and to the work Pi Symphony.

10. Plaintiff further informed Defendant that the work "What Pi Sounds Like" sounded substantially similar to Plaintiff's Pi Melody work and thus infringed on Plaintiff's copyright.

11. Initially, Defendant agreed to work with Plaintiff in an effort to avoid any infringement claims. Despite Defendant's representations to work with Plaintiff,

Defendant rejected Plaintiff's offer to license the work and re-published his infringing work on You Tube on or about April 1, 2011.

12. Defendant is offering for sale copies of his infringing work in interstate commerce via the iTunes website and the CD Baby website.

13. Defendant offers for sale his infringing work in the state of Nebraska.

14. On or about March 29, 2011 Plaintiff purchased a copy of Defendant's infringing work within the state of Nebraska. A true and correct copy of the purchase confirmation is attached hereto as Exhibit B.

JURISDICTION AND VENUE

15. This court has jurisdiction over the claims and causes of action asserted herein under 28 U.S.C. § 1338(a) as it is an action arising under Acts of Congress related to copyrights, named by the Copyright Act of 1976, 17 U.S.C. 101 et seq., hereinafter referred to as the "Act."

16. This court has personal jurisdiction over the Defendant because he has purposefully directed his activities at residents of Nebraska by selling the infringing material in this State. Additionally, Defendant's intentional tortious conduct directed at this State has caused Plaintiff, a resident of Nebraska and rightfully owner of the copyright, significant injury in this State.

17. Venue is proper in the U.S. District Court for the District of Nebraska pursuant to 28 U.S.C. Sections 1391 and 1400 as the acts of infringement occurred in the State of Nebraska.

**COUNT ONE
COPYRIGHT INFRINGEMENT**

18. Paragraphs 1 through 17 are incorporated herein as though set forth in their entirety.

19. Defendant John Michael Blake unlawfully and willfully copied Plaintiff's Melody of Pi work, in violation of Plaintiff's federal copyright.

20. Defendant's What Pi Sounds Like work, which is published on You Tube under the search "John Michael Blake Pi".

21. The Defendant's work is not only substantially similar, but strikingly similar to Plaintiff's Melody of Pi work.

22. Plaintiff has lost revenue from Defendant's unlawful and willful copying of Plaintiff's Melody of Pi copyrighted work.

23. Defendant's unauthorized use of Plaintiff's copyrighted work dilutes the market and serves to destroy the distinctiveness of Plaintiff's Melody of Pi copyrighted work.

24. Defendant's copying of Plaintiff's Melody of Pi work destroys the public's identification of Plaintiff's work causing Plaintiff to suffer irreparable damages and lost profits.

25. Plaintiff's sale of its own works and derivative works is prejudiced by Defendant's copyright infringements.

**COUNT TWO
UNFAIR COMPETITION**

26. Paragraphs 1 through 25 are incorporated herein as though set forth in their entirety.

27. This action for unfair competition is a substantial and related claim to Defendant's infringement of Plaintiff's copyrights and pursuant to § 1138(b) of Title 28 of the United States Code, the court has and should assume pendent jurisdiction of this claim.

28. Defendant, in unlawfully and willfully copying Plaintiff's Melody of Pi work created a likelihood of confusion among the public as to the original source of Plaintiff's work. Accordingly, Defendant's acts have contributed to the dilution of the distinctive quality of Plaintiff's Melody of Pi work in the marketplace.

29. Defendant, by their unauthorized appropriation and use of Plaintiff's copyrighted work, has and is engaging in acts of unfair competition, unlawful appropriation, unjust enrichment, wrongful deception of the purchasing public, and unlawful trading on Plaintiff's goodwill and the public's acceptance of Plaintiff's copyrighted works, all to Plaintiff's irreparable damage.

WHEREFORE, Plaintiff prays:

A. Defendant be enjoined during the pendency of this action and permanently thereafter from appropriating and using Plaintiff's copyrighted works;

B. Defendant be enjoined during the pendency of this action and permanently thereafter from selling or licensing its infringing work to the public;

C. Defendant be ordered to pay to Plaintiff all damages suffered by Plaintiff

due to Defendants unlawful acts, with prejudgment interest, as well as account for and pay to Plaintiff all gains and profits that they have enjoyed at Plaintiff's expense and that such damages include Plaintiff's costs and attorney's fees. At present, Plaintiff cannot ascertain the full extent of its damages and lost profits;

D. Such other relief as the equities of the case may require and as this Court may deem just and proper under the circumstances; and

E. A trial by jury.

Dated: April 5, 2011.

Respectfully submitted,

s/ David M. Newman

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