

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

CASE NO.:

PREPARED FOOD PHOTOS, INC. FKA
ADLIFE MARKETING &
COMMUNICATIONS CO., INC.,

Plaintiff,

v.

T & C MARKETS, INC.,

Defendant.

COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

Plaintiff PREPARED FOOD PHOTOS, INC. FKA ADLIFE MARKETING & COMMUNICATIONS CO., INC. by and through its undersigned counsel, brings this Complaint against Defendant T & C MARKETS, INC. for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff PREPARED FOOD PHOTOS, INC. FKA ADLIFE MARKETING & COMMUNICATIONS CO., INC. (“PFP”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute PFP’s original copyrighted Works of authorship.

2. PFP is a retail food advertising company servicing retailers and wholesalers throughout the United States for almost 40 years. PFP specializes in custom photography, full service design and production, web and print management, mobile technology, and proprietary digital advertising platforms.

3. Defendant T & C MARKETS, INC. (“T & C”) is a regional grocery store chain. At all times relevant herein, T & C owned and operated the internet website located at the URL <https://www.tadychseconofoods.com/> (the “Website”).

4. PFP alleges that T & C copied PFP’s copyrighted Works from the internet in order to advertise, market and promote its business activities. T & C committed the violations alleged in connection with T & C’s business for purposes of advertising and promoting sales to the public in the course and scope of T & C’s business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. This Court has personal jurisdiction over T & C by virtue of its presence in this District and by virtue of its transacting, doing, and soliciting business in this District.

8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this District, Defendant engaged in infringement in this District, Defendant resides in this District, and Defendant is subject to personal jurisdiction in this District.

DEFENDANT

9. T & C Markets, Inc. is a Michigan Corporation, with its principal place of business at 109 S Main Street, Brillion, WI 54110, and can be served by serving its Registered Agent, James Tadych, 109 S Main Street, Brillion, WI 54110.

THE COPYRIGHTED WORKS AT ISSUE

10. In 2001, PFP created the photographs entitled “ChickenDrumsticksHC1105”, and “PorkLoinBnls005_ADL” which are shown below and collectively referred to herein as the “Works”.



11. PFP registered the Works with the Register of Copyrights on June 8, 2017 and January 30, 2017, and was assigned registration numbers VA 2-055-100 and VA 2-046-789.

The Certificates of Registration are attached hereto as Exhibit 1.

12. PFP's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

13. At all relevant times PFP was the owner of the copyrighted Works at issue in this case.

INFRINGEMENT BY DEFENDANT

14. T & C never licensed the Works at issue in this action for any purpose.

15. On a date after the Works at issue in this action were created, but prior to the filing of this action, T & C copied the Works.

16. On or about March 26, 2019, PFP discovered the unauthorized use of its Works on the Website.

17. T & C copied PFP's copyrighted Works without PFP's permission.

18. After T & C copied the Works, it made further copies and distributed the Works on the internet to promote the sale of goods and services as part of its grocery business.

19. T & C copied and distributed PFP's copyrighted Works in connection with T & C's business for purposes of advertising and promoting T & C's business, and in the course and scope of advertising and selling products and services.

20. PFP's Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

21. T & C committed copyright infringement of the Works as evidenced by the documents attached hereto as Exhibit 2.

22. PFP never gave T & C permission or authority to copy, distribute or display the Works at issue in this case.

23. PFP notified T & C of the allegations set forth herein on May 13, 2021 and June 3, 2021. To date, T & C has failed to respond to Plaintiff's Notices. Copies of the Notices to T & C are attached hereto as Exhibit 3.

**COUNT I
COPYRIGHT INFRINGEMENT**

24. PFP incorporates the allegations of paragraphs 1 through 23 of this Complaint as if fully set forth herein.

25. PFP owns valid copyrights in the Works at issue in this case.

26. PFP registered the Works at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

27. T & C copied, displayed, and distributed the Works at issue in this case and made derivatives of the Works without PFP's authorization in violation of 17 U.S.C. § 501.

28. T & C performed the acts alleged in the course and scope of its business activities.

29. T & C's acts were willful.

30. PFP has been damaged.

31. The harm caused to PFP has been irreparable.

WHEREFORE, the Plaintiff Prepared Food Photos, Inc. fka Adlife Marketing & Communications Co., Inc. prays for judgment against the Defendant T & C Markets, Inc. that:

a. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.