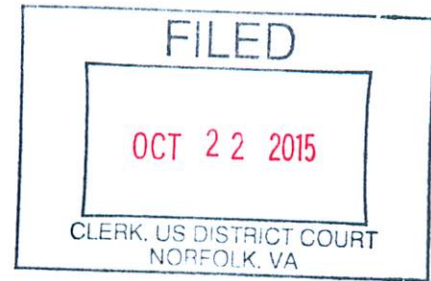


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



KELSIE MCNAIR

Plaintiff,

Civil Action No.: 2:15cv464

TARGET CORP.

and

WEIHAI LUDA CRAFT CO., LTD..

Defendants.

**SERVE: Target Corp.
c/o CT Corporation Service
4701 Cox Road, Suite 285
Glen Allen, VA 23060**

**Weihai Luda Craft Co. LTD.
9F Mingzuo Mansion
111 Haibin North Road, Weihai, Shandong
China**

COMPLAINT

COMES NOW Plaintiff, Kelsie McNair, by counsel, and for her Complaint, states as follows:

INTRODUCTION

1. This is an action in law and equity for copyright infringement under the Copyright Act of 1976, 17 U.S.C. §101 et seq.

JURISDICTION AND VENUE

2. This is an action for copyright infringement under the Copyright Act of 1976, 17 U.S.C. § 101 et seq. This Court has jurisdiction over the claims under 28 U.S.C. §1338(a) and pendant jurisdiction over the claims arising under state law pursuant to 28 U.S.C. §1338(b).

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3. This Court has personal jurisdiction over Target Corp. and Weihai Luda Craft Co. Ltd., pursuant to Virginia Code Ann. § 8.01-328.1, by virtue of the fact that they: (1) regularly solicit business in this state; and (2) have committed a tortious act within the state by committing copyright infringement in this state.
4. Venue is proper in this District pursuant to 28 U.S.C. §1400(a) and 1391(b) and (c), as the Defendants are corporations subject to personal jurisdiction in this district and therefore reside here for the purposes of venue.

PARTIES

5. Plaintiff Kelsie McNair (“McNair”) is an individual residing in the City of Norfolk, Virginia.
6. Defendant Target Corp. (“Target”) is a corporation with its principle place of business in Minneapolis, Minnesota.
7. Defendant Weihai Luda Craft Co., Ltd. (“Weihai”) is a corporation with its principle place of business in Shandong Province, China

STATEMENT OF FACTS

8. Plaintiff McNair is an artist who creates mobile telephone covers decorated with specifically chosen flowers and plants in original arrangements. McNair sells her creations through electronic media and through brick-and-mortar stores.
9. Defendant Target is a retail company with physical store locations nationwide and through electronic media.
10. Weihai is an export company based in China who provides Target with Chinese manufactured goods to be sold in their stores and through electronic media.
11. McNair has created several mobile telephone designs including “Lemon and Honey” (An image of which is attached herein as Exhibit A) and a design entitled “Morning Dew” (An

image of which is attached herein as Exhibit B) as part of her collection.

12. McNair applied for copyright protection for “Lemon and Honey” in April 22, 2015 (A copy of that application is attached herein as Exhibit C). McNair applied for copyright protection for “Morning Dew” on May 20, 2015 (A copy of that application is attached herein as Exhibit D).
13. McNair began selling her floral designed mobile telephone covers in August of 2013 through her web site withlavenderandlace.com as well as previously through www.mooreaseal.com/collections/of-lavender-lace. The works “Lemon and Honey” and “Morning Dew” are available online through the internet and in physical retail stores, giving Target and Weihai opportunity to view and access the works.
14. McNair discovered a Target store located in Everett, Washington selling unauthorized copies of her artwork under the Target-owned brand “Merona.” McNair also discovered unauthorized copies of her works being sold in Target stores under the Merona brand in Spotsylvania, Virginia, Virginia Beach, Virginia, and online at Target.com. (Attached as Exhibits E and F)
15. The floral mobile telephone covers sold by Target are substantially similar and infringing copies of McNair’s works “Lemon and Honey” and “Morning Dew.”
16. Weihai has and continues to import unauthorized copies of McNair’s original designs for sale through Target’s stores, both brick-and-mortar and online.
17. Both Target and Weihai knew or should have known that the Merona Mobile telephone covers are unauthorized copies McNair’s works.

COUNT I

COPYRIGHT INFRINGEMENT

18. Target and Weihai's acts as alleged constitute copyright infringement in violation of the Copyright Act of 1976, 17 U.S.C. § 101 et seq.
19. Target and Weihai have and, unless restrained by the Court, will continue to cause serious irreparable injury and damage to McNair.
20. McNair has no adequate remedy at law.

COUNT II

VICARIOUS INFRINGEMENT

21. McNair repeats and re-alleges each and every allegation of paragraphs 1 through 20 as though fully set forth herein.
22. Target and Weihai are vicariously liable for any and all infringement by Weihai as they profited directly from manufacturing the unauthorized copies of McNair's works and are able to supervise the manufacture of the infringing products.
23. McNair has been and will continue to be harmed by Defendant's infringing activities.
24. McNair has no adequate remedy at law.

COUNT III

CONTRIBUTORY INFRINGEMENT

25. McNair repeats and re-alleges each and every allegation of paragraphs 1 through 23 as though fully set forth herein.
26. Target and Weihai are liable for any and all infringement as they knew or should have known that the manufacture of unauthorized copies of McNair's works and either induced, caused, or materially contributed to the infringement.

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27. McNair has been and will continue to be harmed by Defendant's infringing activities.

28. McNair has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for an Order of the Court:

29. Granting a preliminary and permanent injunction restraining Target and Weihai, its officers, directors, principals, agents, servants, employees, successors and assigns, and all individuals acting in concert or participation with it, from infringing Plaintiff's copyright.
30. Awarding Plaintiff a monetary judgment against Target and Weihai for Plaintiff's damages and Target and Weihai's profits in an amount not less than Three Hundred Thousand dollars (\$300,000.00);
31. In the alternative, awarding Plaintiff statutory damages in the amount of One Hundred Fifty Thousand dollars (\$150,000.00) for each infringement pursuant to 17 USC § 504(c) for a total of Three Hundred Thousand dollars (\$300,000.00) for Target and Weihai's willful infringement of Plaintiff's original work.
32. Awarding Plaintiff her attorneys' fees, costs and disbursements incurred herein.
33. Awarding Plaintiff such other and further relief as the Court may deem just and proper.
34. Plaintiff demands trial by jury.

KELSIE MCNAIR



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