

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

JOURNAL PUBLISHING COMPANY, INC.

Plaintiff,

v.

THE HARTFORD COURANT COMPANY

Defendant.

CIVIL ACTION NO.

§ 101-100-137

RNC

FEBRUARY 5, 2010

COMPLAINT

GENERAL ALLEGATIONS

1. The plaintiff, Journal Publishing Co. Inc., d/b/a the Journal Inquirer (hereinafter referred to as "JI"), is a Connecticut corporation that has published a daily newspaper in Connecticut since 1968.

2. The defendant, The Hartford Courant Company ("Courant"), is a Connecticut corporation with its principal place of business in Hartford, Connecticut.

3. This action involves violations of copyright law, 17 U.S.C. § 101(a) *et seq.*, and state law claims arising from wrongful conduct that extends beyond the reproduction and distribution of copyrighted works.

4. This action has jurisdiction over the federal law claims under 28 U.S.C. § 1338 and 28 U.S.C. § 1331.

5. This Court has pendant jurisdiction of the non-copyright Counts Eleven through Thirteen, pursuant to 28 U.S.C. § 1367.

6. The JI regularly publishes articles about local news and issues involving 17 towns north and east of Hartford. The JI employs news reporters to cover such local news and devotes considerable resources to such local news coverage.

7. The defendant is a competing newspaper, much larger in circulation and scope, and is wholly owned by one of the largest news organizations in the country, Tribune Co.

8. Recently the defendant plagiarized local news stories published by the plaintiff, and misattributed those stories as the defendant's own work and that of its reporters. Stories that were plagiarized are attached hereto as Exhibit A, incorporated herein. This list may not be complete but evidences the abuse.

9. The defendant at first defended its misappropriation of plaintiff's work but then admitted wrongdoing in an open letter from its publisher, although the letter failed to draw to readers' attention the full extent of the improprieties committed by the defendant.

10. Defendant's misappropriation and plagiarizing of plaintiff's work

is part of a pattern of improper competition exhibited by the defendant.

11. The conduct aforesaid by the defendant constitutes violations of 17 U.S.C. § 101 *et seq.* of the United States Code. Each article in Exhibit A has been registered with the Copyright Office and the copyright infringement as to each article constitutes a separate act of wrongdoing in violation of the copyright laws of the United States, which acts were committed willfully by the defendant, for which the plaintiff claims damages pursuant to 17 U.S.C. § 504(c)(2) and attorney's fees pursuant to 17 U.S.C. § 505.

12. In the event that the Court determines that such copyright infringements were not committed willfully, then the plaintiff seeks damages pursuant to 17 U.S.C. § 504(c)(1) and attorney's fees pursuant to 17 U.S.C. § 505.

FIRST COUNT

13. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

14. Publication by the Courant on August 4, 2009 of an article entitled "Sewer Project Funding pulled by USDA" constitutes a copyright violation for the reasons set forth above.

SECOND COUNT

15. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

16. Publication by the Courant on August 4, 2009 of an article entitled "GOP candidates Form Tea Party Committee" constitutes a copyright violation for the reasons set forth above.

THIRD COUNT

17. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

18. Publication by the Courant on August 6, 2009 of an article entitled "Emergency Center Gets Grant for Equipment" constitutes a copyright violation for the reasons set forth above.

FOURTH COUNT

19. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

20. Publication by the Courant on August 7, 2009 of an article entitled "Grant Would Fix Bridge, Help Fund Greenway" constitutes a copyright violation for the reasons set forth above.

FIFTH COUNT

21. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

22. Publication by the Courant on August 7, 2009 of an article entitled "Hebron Hires Principal" constitutes a copyright violation for the reasons set forth above.

SIXTH COUNT

23. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

24. Publication by the Courant on August 13, 2009 of an article entitled "Board Changes Fees" constitutes a copyright violation for the reasons set forth above.

SEVENTH COUNT

25. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

26. Publication by the Courant on August 18, 2009 of an article entitled "Coleman Farms Condos Get Permit Extension" constitutes a copyright violation for the reasons set forth above.

EIGHTH COUNT

27. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

28. Publication by the Courant on August 21, 2009 of an article entitled "Board Extends Contract" constitutes a copyright violation for the reasons set forth above.

NINTH COUNT

29. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

30. Publication by the Courant on August 20, 2009 of an article entitled "Water Company Seeks 19 Percent Rate Hike" constitutes a copyright violation for the reasons set forth above.

TENTH COUNT

31. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

32. Publication by the Courant on August 21, 2009 of an article entitled "DPW Vacancy Prompts Abrupt End to Meeting" constitutes a copyright violation for the reasons set forth above.

ELEVENTH COUNT

33. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

34. Still further, the defendant engaged in additional tortious conduct by which it appropriated plaintiff's work product and reporting to gain financial advantage by using published stories from the JI on its website which provides news coverage to consumers in electronic form. Those JI stories were reproduced in substance on the Courant's Internet site as set forth in a list attached hereto as Exhibit B. At no time did the plaintiff consent to the defendant's use of the news stories on the defendant's Internet site.

35. The actions of the defendant constitute conversion of the plaintiff's property, all to the special loss and damage of the plaintiff herein.

TWELFTH COUNT

36. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

37. The plaintiff hereby incorporates by reference paragraphs 34 and 35 of the Eleventh Count as if fully set forth herein.

38. The defendant has been unjustly enriched by virtue of its misconduct, particularly in light of the reduction of its overhead for reporters

covering local stories, its use of news information gathered by plaintiff's reporters, and its misappropriating plaintiff's stories and falsely attributing them to the defendant and its own reporters. Thus, the defendant has benefited through the use of plaintiff's newsgathering resources and efforts, all to the plaintiff's special loss and damage.

THIRTEENTH COUNT

39. The plaintiff hereby incorporates by reference paragraphs 1 through 12 of the General Allegations as if fully set forth herein.

40. The plaintiff hereby incorporates by reference paragraph 34 of the Eleventh Count as if fully set forth herein.

41. The plaintiff hereby incorporates by reference paragraph 37 of the Twelfth Count as if fully set forth herein.

42. Competition among newspapers is intense and becoming more so as the economy weakens. Local news stories are a major draw for newspaper readers.

43. To reduce its costs, in recent years the defendant has greatly reduced its news reporting, particularly staff members assigned to local stories. This has occurred while the plaintiff has maintained its local reporting staff, and incurred the costs of same.

44. Larger newspapers have the advantage of economies of scale, and the defendant's pirating of the plaintiff's local news stories and the newsgathering efforts of the plaintiff's staff members substantially diminishes the plaintiff's ability to compete.

45. At all times relevant hereto, the conduct of the defendant offended public policy; was immoral, oppressive, unethical, and unscrupulous; and caused substantial injury to readers, competitors, and advertisers, thereby violating the Connecticut Unfair Trade Practices Act ("CUTPA") C.G.S. § 42-110a, *et seq.*, as made and provided, resulting in ascertainable losses to the plaintiff as set forth herein.

DEMAND FOR JURY

The plaintiff hereby demands trial by jury.

WHEREFORE, the plaintiff claims:

1. Damages pursuant to 17 U.S.C. § 504(c)(1) of \$150,000 per violation;
2. Damages pursuant to 17 U.S.C. § 504(c)(2);
3. Attorney's fees pursuant to 17 U.S.C. § 505;
4. Damages pursuant to the Eleventh, Twelfth and Thirteenth Counts of \$5,000,000, including damages pursuant to C.G.S. § 42-110g; C.G.S. § 42-110g(a); C.G.S. § 42-110g(d); and
5. Such other legal and equitable relief as the court deems appropriate.

PLAINTIFF

By

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