

U. S. DISTRICT COURT  
WESTERN DISTRICT ARKANSAS  
FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS  
HARRISON DIVISION

MAY 30 2008

CHRIS R. JOHNSON, CLERK

BY  DEPUTY CLERK

CAROLYN ELLIS,

Plaintiff,

vs.

LARRY BLACK and LARRY BLACK &  
ASSOCIATES, INC.

Defendants.

Case No. 08-3025

**JURY DEMAND**

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**COMPLAINT FOR DAMAGES AND EQUITABLE RELIEF**

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Plaintiff Carolyn Ellis ("Ellis"), by and through her undersigned counsel states:

**JURISDICTION AND VENUE**

1. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331, in that one or more of Ellis's claims arise under the laws of the United States, including 28 U.S.C. § 1338, which grants district courts original jurisdiction over any civil action regarding copyrights.

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400, in that a substantial part of the events giving rise to Ellis's claims occurred in this district and one or more of the defendants reside or may be found in this district.

**PARTIES**

3. Ellis is an independent contractor in real estate and she resides in Mountain Home, Arkansas.

4. Defendant Larry Black resides in Arkansas and has personally taken actions adverse to Plaintiff's intellectual property interests.

5. Defendant Larry Black & Associates, Inc. is an Arkansas corporation with its principal place of business in Baxter County, Arkansas. The Registered Agent is Larry Black for Larry Black & Associates, Inc.

6. This Court has personal jurisdiction over all Defendants.

### FACTS

7. In connection with her business as an independent contractor in real estate, Ellis is engaged in researching new customers and soliciting new customers by creating usable information about the Mountain Home, Arkansas area.

8. In furthermore of her own business interests, Ellis authored a comprehensive work of authorship entitled "Relocation Guide Mountain Home, Arkansas" (referred to hereinafter as the "Relocation Guide"). A true and accurate copy of the Relocation Guide is attached as Exhibit A.

9. The Relocation Guide is an original work of authorship and constitutes copyrightable subject matter under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*). Ellis is the author of the Relocation Guide and the current claimant in the copyright of the Relocation Guide.

10. Ellis has complied in all respects with the copyright laws of the United States and has secured the exclusive rights and privileges in and to the Relocation Guide. Ellis has applied for and received from the Register of Copyrights the appropriate Certificate of Copyright Registration for the Relocation Guide. True and accurate copies of the Certificate of Copyright Registration for the Relocation Guide are attached as Exhibit B.

11. Ellis has published the Relocation Guide in conformity with the copyright laws of the United States.

12. Ellis authorized Larry Black & Associates, Inc. to use the Relocation Guide for no consideration.

13. On August 1, 2005, Ellis made written demand upon Defendant Larry Black to discontinue using the Relocation Guide for his own business purposes.

14. Without Ellis's prior permission and after Ellis terminated Defendants' authority to use the Relocation Guide, Defendants nonetheless prepared copies of, or induced, caused, or materially contributed to the copying of the Relocation Guide. Specifically, Defendants have used the Relocation Guide and otherwise induced, caused, or directed the wrongfully copied Relocation Guide to be used or exploited in the business of real estate. A true and correct copy of the Relocation Guide used by Defendant is attached as Exhibit C.

15. Defendants participated in the infringing activities, including but not limited to the copying of the Relocation Guide.

16. Defendants' actions violate Ellis' exclusive copyright in the Relocation Guide, and those actions constitute an infringement of Ellis' copyright under 17 U.S.C. § 106.

17. Defendants' copyright infringement was with actual notice of Ellis' claim and was knowing, willful and intentional.

18. Defendants' actions have caused, and will continue to cause, irreparable damage to Ellis for which there exists no adequate remedy at law.

19. Defendants should be enjoined and restrained from copying, preparing derivative works based upon, or otherwise infringing upon, directly or indirectly, Ellis' rights in the Relocation Guide.

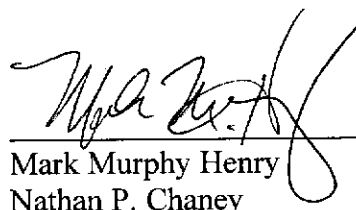
20. Ellis is entitled to recover all damages suffered as a result of Defendants' wrongful acts, including but not limited to profits obtained by Defendants as a result of their wrongful acts and the loss of profits sustained by Ellis. In the alternative, Ellis is entitled to recover statutory damages in an amount to be determined by the Court. Ellis is also entitled to recover all reasonable attorney's fees, court costs and interest on said damages from the date of Defendants' infringement.

21. Ellis demands a jury trial.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Carolyn Ellis respectfully requests this Court grant the following relief:

- A. An order from this Court permanently enjoining and restraining Defendants and their respective officers, agents, assigns, employees, representatives, and all other entities or persons in active concert or participation with Defendants from copying, preparing derivative works based upon, or otherwise infringing upon, directly or indirectly, Ellis's copyright in the Relocation Guide in accordance with 17 U.S.C. § 502;
- B. A monetary judgment against Defendants for Ellis' damages and the profits derived by Defendants from their unauthorized use of the Relocation Guide and infringement upon Ellis' copyrights in that design; or, in the alternative, statutory damages in an amount to be determined by the Court based upon Defendants intentional, willful and deliberate copyright infringement in accordance with 17 U.S.C. § 504;
- C. An award of all reasonable attorneys fees and costs incurred by Ellis in pursuit of this copyright infringement claim, along with interest and all damages from the date of Defendants infringement in accordance with 17 U.S.C. § 505; and
- D. All other legal and equitable relief as the Court deems just and appropriate.



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