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Attorneys for Plaintiff Getty Images (US), Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Getty Images (US), Inc., a New York
corporation,
Plaintiff,

v.

The Herzog Law Firm, P.C., an Arizona
professional corporation,
Defendant.

No.

COMPLAINT

Plaintiff Getty Images (US), Inc. (“Getty Images”), by and through its
undersigned attorneys, alleges as follows:

INTRODUCTION

1. Plaintiff Getty Images brings this action to recover damages resulting
from copyright infringements by defendant The Herzog Law Firm, P.C. (“Herzog”) of
a photographic image exclusively licensed to Getty Images. Defendant Herzog has

reproduced, displayed, distributed and otherwise misused the protected image on its website, www.herzoglawfirm.com, without authorization and without paying Getty Images the required commercial license fee. Defendant's conduct violates the rights of Getty Images and the rights of the photographer that Getty Images represents.

PARTIES

2. Plaintiff Getty Images is a New York corporation with its principal place of business in New York, New York.

3. Defendant Herzog is an Arizona professional corporation with its principal place of business in Scottsdale, Arizona. Herzog is the registered owner of the website www.herzoglawfirm.com. Upon information and belief, Herzog directly participated in the wrongful conduct alleged in this Complaint, and/or had the right and ability to supervise, direct and control the wrongful conduct of others, and derived a direct financial benefit from that wrongful conduct.

JURISDICTION AND VENUE

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a), as this action involves claims brought under federal law, the Copyright Act, 17 U.S.C. § 101, *et seq.*

5. Defendant Herzog is subject to personal jurisdiction in this Court because it is a resident of the State of Arizona and/or purposefully aimed its activities at the State of Arizona from which the claims asserted in this Complaint arise. Additionally, Herzog displays its website, www.herzoglawfirm.com, throughout the State of Arizona, purposefully directs that website to residents of the State of Arizona, and otherwise is engaged in business in the State of Arizona.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1400(a), as defendant or its agent resides or may be found in this District. Upon information and belief, venue is also proper in this District pursuant to 28 U.S.C. § 1391(b), as a

1 substantial part of the events or omissions giving rise to the claims asserted in this
2 Complaint occurred in the District.

3 **FACTUAL BACKGROUND**

4 7. Getty Images is one of the world's leading digital content providers,
5 supplying imagery, video and music to business customers. Getty Images licenses
6 content for a wide variety of uses, including use online, in websites, books,
7 newspapers, magazines, television and film productions, advertisements, marketing
8 materials, products and packaging. Getty Images generates revenue from licensing the
9 rights to use its content, including imagery, and from providing related services.

10 8. Getty Images was the first company to license imagery via the Internet
11 and today delivers virtually all of its visual content digitally. Visitors to Getty Images'
12 website, www.gettyimages.com, can search through and view millions of images and
13 obtain licenses for those images online.

14 9. Getty Images owns some of the content that it licenses. Getty Images
15 also acts as the distributor for more than 150,000 content suppliers – contributors, such
16 as individual photographers, illustrators, filmmakers, media organizations, other stock
17 photo agencies, and independent musicians. Content suppliers typically prefer to
18 retain ownership of their work and, as a result, copyright to content remains with the
19 artists in most cases, while Getty Images obtains by contract the right to market,
20 distribute, and license that content to third parties. Some of this content is licensed to
21 Getty Images on an exclusive basis.

22 10. In or about October 2012, Getty Images identified a photographic image,
23 with the catalog description "BF1429-001 (RM) Businessman falling over, legs in air
24 (blurred motion)," that had been reproduced, displayed, and distributed by defendant
25 Herzog on its website, www.herzoglawfirm.com, without authorization. The
26

1 identified image was at that time and is still today exclusively licensed to Getty
2 Images.

3 11. The photographic image described in the preceding paragraph is the
4 subject of copyright Certificate of Registration VA 1-850-730 (dated March 8, 2013).
5 Attached as Exhibit A is a true and correct copy of the Certificate of Registration.

6 12. Getty Images brings this action to recover damages for the harm it has
7 sustained, and for such further relief as sought herein.

8 **FIRST CAUSE OF ACTION**

9 **Copyright Infringement, 17 U.S.C. § 501, *et seq.***

10 13. Getty Images repeats and incorporates by this reference each and every
11 allegation set forth in paragraphs 1 through 12, inclusive.

12 14. Getty Images is the exclusive licensee of the photographic image that is
13 the subject of this action. Among the rights granted to Getty Images is the exclusive
14 right to market and sublicense the right to copy, reproduce and display the image.
15 Additionally, Getty Images is granted the exclusive right to make and control claims
16 related to infringements of copyrights in the image. A copy of the copyright
17 Certificate of Registration VA 1-850-730 issued by the United States Copyright
18 Office, for the subject image, is attached as Exhibit A.

19 15. Defendant Herzog has reproduced, displayed, distributed and made other
20 infringing uses of the protected image, without authorization by Getty Images,
21 including defendant's infringing use of that image on www.herzoglawfirm.com.

22 16. As a result of its conduct, defendant Herzog is liable to Getty Images for
23 copyright infringement.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, plaintiff Getty Images respectfully requests judgment as
26 follows:

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1. That the Court enter a judgment against defendant finding that it has infringed Getty Images' rights in the photographic image listed in Exhibit A;

2. That the Court enter an order, pursuant to 17 U.S.C. § 504(b), declaring that defendant hold in trust, as constructive trustees for the benefit of Getty Images, all profits received by defendant from its reproduction, distribution, display or other infringing uses of the photographic image listed in Exhibit A, and requiring defendant to provide Getty Images a full and complete accounting of all profits received by defendant;

3. That the Court order defendant to pay damages to Getty Images, in an amount to be proved at trial, including an award of actual damages suffered by Getty Images as a result of the infringements and all profits of defendant that are attributable to those infringements, pursuant to 17 U.S.C. § 504(b);

4. That the Court order prejudgment interest on the amount of any award to Getty Images; and

5. That the Court grant to Getty Images such other and additional relief as is just and proper.

DATED this 5th day of April, 2013.

SNELL & WILMER L.L.P.

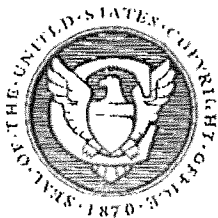
By s/Matthew P. Fischer

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EXHIBIT A

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maui A. Pallante

Register of Copyrights, United States of America

Registration Number
VA 1-850-730

Effective date of
registration:
March 8, 2013

Title _____

Title of Work: Businessman falling over, legs in air (blurred motion) (BF1429-001)

Completion/Publication _____

Year of Completion: 2002

Date of 1st Publication: August 11, 2002

Nation of 1st Publication: United States

Author _____

■ Author: Robert Daly Ltd.

Pseudonym: Daly & Newton

Author Created: photograph(s)

Work made for hire: Yes

Citizen of: United Kingdom

Domiciled in: United Kingdom

Pseudonymous: Yes

Copyright claimant _____

Copyright Claimant: Robert Daly Ltd.

REDACTED

Rights and Permissions _____

Organization Name: Getty Images

Address: 605 - 5th Ave. S.

Ste. 400

Seattle, WA 98104 United States

Certification _____

Name: Cynthia Sharp

Date: March 8, 2013

Applicant's Tracking Number: 1273537

Registration #: VA0001850730

Service Request #: 1-902904131



Getty Images
Cynthia Sharp
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