

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

GOOD SPORTS, INC.

Plaintiff,

CASE NO.:

vs.

ALLSTATE LEATHER INC.

DATED: SEPT. 4, 2007

Defendant

_____ /

COMPLAINT WITH INJUNCTIVE RELIEF
AND ORDER OF SEIZURE SOUGHT

Plaintiff GOOD SPORTS, INC. (hereinafter, "Plaintiff" or "GOOD SPORTS"), by and through its undersigned counsel, for its Complaint against defendant ALLSTATE LEATHER INC. (hereinafter, "Defendant" or "ALLSTATE") states the following. Allegations are made on belief and are premised on the belief that the same are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

THE PARTIES

1. Plaintiff GOOD SPORTS is a corporation which is organized and doing business under the laws of the State of Connecticut, with its principal place of business located at 349 Progress Drive, Manchester, Connecticut.

2. Defendant ALLSTATE is a business operating under the laws of the State of Texas its principal place of business at 702 Spring Cypress Road, Spring, Texas 77373. Defendant sells and distributes motorcycle leather apparel and related items on a wholesale basis throughout the United States.

BACKGROUND

3. Plaintiff owns all right, title and interest to several hundred Federal Registered Copyrights including but not limited to; VAu568-591 “Barbedwire Skulls”; VAu568-590 “Fire Skull”; VAu 640-434 “Cross and Roses”; VAu640-476 “Hot Choppers”; and VAu568-588 “Skull and Crossbones” (collectively “Copyrighted Artwork”).

4. Plaintiff manufactures, distributes and sells a variety of apparel items, including but not limited to tee-shirts, bandanas, embroidered patches, jackets, sweatshirts, lighters, ashtrays and other items containing the aforementioned Copyrighted Artwork.

5. Defendant operates a wholesale company and sells a variety of motorcycle leather apparel and other related items to customers throughout the United States over the internet through its website .

NATURE OF ACTION

6. This is an action for copyright infringement under the Copyright Act of 1976, 17 U.S.C. §101 et seq., and the Lanham Act, 15 U.S.C. §1051 et seq., based on the defendant's misappropriation, copying and creation of derivative works based upon the Copyrighted Artwork .

7. This is an action for unfair trade practices under the Connecticut Unfair Trade Practices Act , Conn. Gen. Stat. § 45-110 et seq. , and unfair competition under the common law of the State of Connecticut, and is based on the Defendant's adoption and use of the plaintiff's established rights in their Copyrighted Artwork.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. 1338(a) (acts of Congress relating to copyrights and trademarks) namely, the Copyright Act of 1976, 17 U.S.C. §101 et seq., 28 U.S.C. 1338(b) (pendent unfair competition claims) and 28 U.S.C. § 1332(a) (diversity of citizenship).

9. Venue is proper in this district pursuant to 28 U.S.C. §1400(a) and 1391(b) and (c), as the Defendant is a corporation subject to personal jurisdiction in this district and is therefore deemed to reside here for purposes of venue.

FACTS COMMON TO ALL COUNTS

10. Plaintiff GOOD SPORTS authored in 1999 and has owned continuously since that time artwork titled “Barbedwire Skulls”. The Barbedwire Skulls artwork is depicted in Exhibit I attached hereto. Good Sports has published “Barbedwire Skulls” in varying derivations using a variety of color schemes however the pre-dominate color scheme associated with the work has been a group of three joined white skulls with barbed wire emanating from respective sides of the group of skulls.

11. The Barbedwire Skulls artwork is copyrightable subject matter under the laws of the United States. Plaintiff GOOD SPORTS owns Federal Copyright Registration #VAu568-591 dated October 28, 2002 for “Barbedwire Skulls” which is attached as Exhibit I hereto.

12. Plaintiff GOOD SPORTS authored in 1999 and has owned continuously since that time artwork titled “Fire Skull” as illustrated in Exhibit II which is attached hereto. The Fire Skull artwork has been published by GOOD SPORTS in varying derivations using a variety of color schemes however the pre-dominate color scheme associated with the work has been a skull with orange flames emanating from the top of the skull.

13. The Fire Skull artwork is copyrightable subject matter under the laws of the United States. Plaintiff GOOD SPORTS owns Federal Copyright Registration # VAu-568-590 dated October 28, 2002 for "Fire Skull" for which a copy of the Federal Registration for is attached as Exhibit II hereto.

14. Plaintiff GOOD SPORTS authored in 2002 and has owned continuously since that time artwork titled "Cross and Roses" as illustrated in Exhibit III which is attached hereto. Good Sports has published "Cross and Roses" in varying derivations using a variety of color schemes however the pre-dominate color scheme associated with the work has been two purple roses with white flames flanking a white cross outlined in purple.

15. The Cross and Roses artwork is copyrightable subject matter under the laws of the United States. Plaintiff GOOD SPORTS owns Federal Copyright Registration # VAu-640-434 dated September 1, 2004 for "Cross and Roses" for which a copy is attached as Exhibit III hereto.

16. Plaintiff GOOD SPORTS authored in 2002 and has owned continuously since that time artwork titled "Hot Choppers" as illustrated in Exhibit IV which is attached hereto. Good Sports has published "Hot Choppers" in varying derivations using a variety of color schemes however the pre-dominate color scheme associated with the work has been the

word “Chopper” in gothic style type above a cross, both the word and cross appearing in white with flames emanating from the top of the word Chopper and the cross.

17. The Hot Choppers artwork is copyrightable subject matter under the laws of the United States. Plaintiff GOOD SPORTS owns Federal Copyright Registration # VAu-640-476 dated September 1, 2004 for “Hot Choppers” for which a copy for the Federal Registration is attached as Exhibit IV hereto.

18. Plaintiff GOOD SPORTS authored in 1999 and has owned continuously since that time artwork titled “Skull and Crossbones” as illustrated in Exhibit V which is attached hereto. GOOD SPORTS has published “Skull and Crossbones” in varying derivations using a variety of color schemes however the pre-dominate color scheme associated with the work has been a white skull and crossed bones below the chin of the skull.

19. The Skull and Crossbones is copyrightable subject matter under the laws of the United States. Plaintiff GOOD SPORTS owns Federal Copyright Registration # VAu-568-588 dated October 28, 2002 for “Skull and Crossbones” for which a copy for the Federal Registration is attached as Exhibit V hereto.

20. The “Barbedwire Skulls”, “Fire Skull”, “Cross and Roses”, “Hot Choppers”, and “Skull and Crossbones” works (hereafter referred to as the “GOODS SPORTS ARTWORK”) are the legally owned works of GOOD SPORTS. The designs depicted in

the GOOD SPORTS ARTWORK and all the exclusive copyrights including derivative works thereof are entitled to copyright protection.

21. Plaintiff GOOD SPORTS has manufactured and sold numerous embroidered patches, decals, tee-shirt and other items incorporating individual designs from the GOOD SPORTS ARTWORK beginning in 1999. GOOD SPORTS has expended substantial resources in designing, promoting, manufacturing and selling products bearing the GOOD SPORTS ARTWORK. Plaintiff GOOD SPORTS has built a valuable business and demand for its distinctively-styled, quality tee-shirts, decals, embroidered patches and other items bearing the GOOD SPORTS ARTWORK. GOOD SPORTS has become identified in the minds of the public as the provider of products bearing the designs from the GOOD SPORTS ARTWORK.

22. At some date, at least as early as July 2007, Defendant ALLSTATE purchased or caused to be manufactured and offered for sale to the public items bearing the GOOD SPORTS ARTWORK. Such ALLSTATE products are not only substantially similar, but strikingly similar to each design from the GOOD SPORTS ARTWORK.

23. A picture of the ALLSTATE product no. AL3243, Skull & Barbed Wires, which infringes GOOD SPORTS' copyright in "Barbedwire Skulls" is attached hereto as Exhibit VI. ALLSTATE has chosen names confusedly similar to and offered its product in the same color combinations as the aforementioned GOOD SPORTS' work.

24. A picture of the ALLSTATE product no. AL3244, Skull with Flames, which infringes GOOD SPORTS' copyright in "Fire Skull" is attached hereto as Exhibit VII. ALLSTATE has chosen names confusedly similar to offered its product in a manner similar to the aforementioned GOOD SPORTS' work.

25. A picture of the ALLSTATE product no. AL3245, Cross & Purple Rose, which infringes GOOD SPORTS' copyright in "Cross and Roses" is attached hereto as Exhibit VIII. ALLSTATE has chosen names confusedly similar to offered its product in the same color combinations as the aforementioned GOOD SPORTS' work.

26. A picture of the ALLSTATE product no. AL3241, Chopper & Cross, which infringes GOOD SPORTS' copyright in "Hot Choppers" is attached hereto as Exhibit IX. ALLSTATE has offered its product in the same color combinations as the aforementioned GOOD SPORTS' work.

27. A picture of the ALLSTATE product no. AL3242, Skull & Bones, which infringes GOOD SPORTS' copyright in "Skull and Crossbones" is attached hereto as Exhibit X. ALLSTATE has chosen names confusedly similar to offered its product in the same color combinations as the aforementioned GOOD SPORTS' work.

COUNT ONE

COPYRIGHT INFRINGEMENT

28. Paragraphs 1 through 27 are incorporated herein as though set forth in their entirety.

29. Defendant AMERICAN LIGHTER unlawfully and willfully copied all or part of all of the GOOD SPORTS ARTWORK in violation of GOOD SPORTS' copyright in both design and color combinations.

30. With full knowledge of Plaintiff's rights herein, Defendant has infringed and continues to infringe GOOD SPORTS' copyrights by copying the GOOD SPORTS ARTWORK and then selling and distributing products containing said artwork throughout the United States. Such copying was done by Defendant without the consent, approval or license of GOOD SPORTS. Defendant's products contain wholesale copies of GOOD SPORTS' works, all in violation of its copyrights.

31. The Defendant's products in appearance and color are not only substantially similar, but are strikingly similar to each design of the GOOD SPORTS ARTWORK exuding the same "look and feel" as GOOD SPORTS' copyright.

32. Defendant's product dilute the market and serve to destroy the distinctiveness of GOOD SPORTS' copyrighted works.

33. GOOD SPORTS has lost substantial revenue from Defendant's unlawful and willful copying of the GOOD SPORTS ARTWORK and therefore GOOD SPORTS' copyrighted material.

34. GOOD SPORTS sale of its own works and derivative works is prejudiced by Defendant's copyright infringement.

35. Defendant's acts as aforesaid violate GOOD SPORTS' exclusive rights under §106 of the Copyright Act of 1976, 17 U.S.C. §106, and constitute infringement of his copyrights. Defendant's past and continuing copying, distribution and sale of the products constitutes a willful and deliberate infringement of GOOD SPORTS' copyrights and is causing irreparable harm and damage to Plaintiff.

COUNT TWO

UNFAIR COMPETITION

36. Plaintiff, GOOD SPORTS, repeats and re-alleges paragraphs 1 through 35 and each paragraph is incorporated herein as though set forth in their entirety.

37. This action for unfair competition is a substantial and related claim to Defendant's infringement of GOOD SPORTS' copyrights and pursuant to § 1338(b) of Title 28 of the United States Code, the court has and should assume pendent jurisdiction of this claim.

38. Defendant, in unlawfully and willfully copying the GOOD SPORTS ARTWORK and placing the designs of the GOOD SPORTS ARTWORK on the Defendant's caps, creates a likelihood of confusion among the public that the original source of the ALLSTATE products is GOOD SPORTS and have contributed to the dilution of the distinctive quality of GOOD SPORTS' work and products in the marketplace.

39. Defendant, by their unauthorized appropriation and use of GOOD SPORTS' copyrighted works, have and are engaging in acts of unfair competition, unlawful appropriation, unjust enrichment, wrongful deception of the purchasing public, and unlawful trading on GOOD SPORTS' good will and the public's acceptance of GOOD SPORTS' copyrighted works, all to GOOD SPORTS' irreparable damage.

40. Defendant's conduct resulting in unfair competition will continue unless enjoined by this court.

COUNT THREE

TRADE DRESS

41. Plaintiff repeats and re-alleges paragraphs 1 through 40 as though fully set forth herein in their entirety.

42. When designing and manufacturing its tee-shirts, embroidered patches, decals, jackets and other items GOOD SPORTS through the design of its GOOD SPORTS ARTWORK has adopted a particular dress, design and combination of features to produce a particular visual appearance for the purpose of presenting its goods to the public.

43. Defendant has attempted to imitate GOOD SPORTS' particular design, dress and combination of features, as they pertain to the graphics on the helmets it sells, in such a way as to mislead the public. Defendant has even adopted product names which are identical or confusingly similar to the titles used by GOOD SPORTS.

44. The multiplicity of similarities between each and every design in the GOOD SPORTS ARTWORK and those produced and manufactured by Defendant evidence a conscious intent by Defendant to copy and/or imitate GOOD SPORTS.

45. Defendant' use of color and combination of colors when copying and/or imitating the GOOD SPORTS ARTWORK evidences a conscious intent of Defendant to imitate and copy GOOD SPORTS.

46. Defendant' actions are intended and/or operate to confuse the public.

47. GOOD SPORTS' sale of its own works, derivative works, and expanding the use

of its copyrighted artwork on expansion products is prejudiced by Defendant' imitation and copying of the GOOD SPORTS ARTWORK, all to GOOD SPORTS' irreparable damage.

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WHEREFORE, Plaintiff requests that the Court grant them the following relief:

A. Defendant be enjoined during the pendency of this action and permanently thereafter from appropriating and using GOOD SPORTS' copyrighted works;

B. Defendant be enjoined during the pendency of this action and permanently thereafter from selling its infringing products to the public;

C. That the Court order the impoundment and destruction of all products containing materials constituting infringement of the GOOD SPORTS ARTWORK and any other GOOD SPORTS' copyrighted works found in the possession of the Defendant;

D. That Defendant be required to pay to Plaintiff such actual damages as they have sustained as a result of Defendant's copyright infringement pursuant to 17 U.S.C. §504(b);

E. That Defendant be required to account for and disgorge to Plaintiff all gains, profits, and advantages derived by its copyright infringement pursuant to 17 U.S.C. 504(b);

F. That Defendant be required to pay Plaintiff statutory damages pursuant to 17 U.S.C. §504(c);

G. That Defendant be required to pay Plaintiff an award of statutory damages due to Defendant's willful infringement pursuant to 17 U.S.C. §504(c)(2);

H. That Defendant be ordered to pay to Plaintiff the costs of this action along with reasonable attorney fees;

J. That Plaintiff be granted such further relief as the Court deems just.

Respectfully submitted,

/s/ mario g ceste

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INDEX OF EXHIBITS

- I. Good Sports “Barbedwire Skulls ” Copyright Reg. No. VAu568-591
- II. Good Sports “Fire Skull” Copyright Reg. No. VAu568-590
- III. Good Sports “Cross and Roses” Copyright Reg. No. VAu 640-434
- IV. Good Sports “Hot Choppers” Copyright Reg. No. VAu640-476
- V. Good Sports “Skull and Crossbones” Copyright Reg. No. VAu568-588
- VI. Allstate Leather Product No. AL3243 – Skull & Barbed Wires
- VII. Allstate Leather Product No. AL3244 – Skull with Flames
- VIII. Allstate Leather Product No. AL3245 – Cross & Purple Rose
- IX. Allstate Leather Product No. AL3241 – Chopper & Cross
- X. Allstate Leather Product No. AL3242 – Skull & Bones

EXHIBIT VII
ALLSTATE LEATHER Product No. AL3244
“Skull with Flames”



EXHIBIT VI
ALLSTATE LEATHER Product No. AL3243
“Skulls & Barbed Wire”



EXHIBIT VIII
ALLSTATE LEATHER Product No. AL3245
“Cross & Purple Rose”



EXHIBIT IX
ALLSTATE LEATHER Product No. AL3241
“Chopper & Cross”



EXHIBIT X
ALLSTATE LEATHER Product No. AL3242
“Skull & Bones”

