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344 Maple Ave. W  
Vienna, VA 22180**

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## SANDERS LAW, PLLC

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July 10, 2013

Cary Wiedemann  
344 Maple Ave. W  
Vienna, VA 22180

**Re: Unauthorized Use of Copyrighted Image**  
**Our File Number: 102046**

We are the attorneys for BWP Media USA Inc.. We write to you concerning certain violations of the United States Copyright Law, Title 17 of the United States Code ("U.S.C."), which you and/or your organization (collectively referred to here as "you") have committed and which have been brought to our attention by our client.

Specifically, 17 U.S.C. §106 provides, in part, that the owner of a copyright has exclusive rights to their copyrighted material, including the rights to reproduce the material, to prepare derivative works based upon the material, and to distribute copies of the material to the public by sale or other transfer of ownership, or by rental, lease, or lending. Your website [www.fairfaxunderground.com](http://www.fairfaxunderground.com) has, knowingly without valid license or permission and therefore in violation of the aforementioned law, made commercial use of our client's copyrighted material. Attached hereto for your reference are copies of the copyrighted material in question, along with your unauthorized usage on your website.

Accordingly, pursuant to 17 U.S.C. §504, you are liable for, at our client's election, either our client's actual damages and any additional profits earned by you attributable to the usage of the copyrighted material, or statutory damages between \$750.00 to \$30,000.00, for each copyrighted work upon which there was an infringement. Additionally, if the infringement was committed willfully, the court may increase the award of statutory damages to a sum of not more than \$150,000.00 per infringement. Finally, if we are required to file a civil action against you, 17 U.S.C. §505 allows the court to grant the recovery of the full costs of the action as well as our client's legal fees.

**SANDERS LAW, PLLC**  
ATTORNEYS AT LAW

Case No: 102046

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July 10, 2013

**In order to avoid the commencement of litigation against you, within 20 days of the date of this letter please, take the following action:**

1. **Valid License.** If you are in possession of a valid license that was purchased prior to your use of the copyrighted material, please provide us with all of the necessary information concerning such license (e.g. sales order, invoice number or other license information).
2. **No Valid License.** If you do not have a valid license for the copyrighted material, and you do not plan to use the material in the future:
  - a) You must immediately cease and desist the use of the material and immediately remove it from your website; and
  - b) You must contact us at (855) 456-2240 immediately to arrange a monetary settlement for the prior unauthorized use of the material. Payment must be received by our office prior to the expiration of the twenty (20) days of the date of this letter.
3. **No Valid License, But Want to Continue Use of the Material.** If you do not have a valid license for the copyrighted material, but you want to continue use of the material, in addition to the restitution set forth in paragraph 2(b) above, you must also negotiate for a limited license, which will allow you to use the material for use on your website(s). Should you require a license for any use beyond your website, you must contact our office to discuss this matter at (855) 456-2240.

**Please note that simply ceasing to use the copyrighted material does not absolve you of the responsibility to pay for the material you have already used without a license.** Therefore, just taking the material down will not make this matter go away.

If you have questions after reading this letter and the attached Frequently Asked Questions, please contact our office at (855) 456-2240 or via email at [copyright@sanderslawpllc.com](mailto:copyright@sanderslawpllc.com). Please be sure to include your company name and our case number in any correspondence or message.

Please note we have been authorized to commence litigation against you should you fail to timely resolve this matter. Please be further advised that once we commence such litigation, we will seek the maximum statutory damages available to our client, and will start to accrue legal costs and attorney's fees for which you may ultimately be responsible. This letter is without prejudice to all rights and remedies afforded our client under statute and common law, all of which are expressly reserved. Please guide yourself accordingly.

Very truly yours,

SANDERS LAW, PLL

## **FREQUENTLY ASKED QUESTIONS**

### **What can I do if I believe I have received this notification in error?**

Please contact us immediately at [copyright@sanderslawpllc.com](mailto:copyright@sanderslawpllc.com) or call (855) 456-2240. Please be sure to provide our file number found on the attached letter as well as your name and company contact information. Please be aware that if you do not respond to this letter timely we have been authorized to commence litigation against you.

### **What if someone else created my company's website?**

Under copyright law, both you, and any third-party (e.g. designer, employee or company retained to design and/or develop your company's website) are jointly and severally responsible for infringement damages. That means that our client is able to recover in full from either you or from them. If a third-party who supplied the material is willing to settle on your behalf, please ensure that they immediately contact our office to arrange for a settlement of this matter. Please be aware that if the third-party is unable or unwilling to settle this matter on your behalf, we will continue to pursue remedies against you. It is your responsibility to ensure that this matter is resolved.

### **What if I simply remove the material from my website?**

The removal of the **material** will not settle the prior violation. Since you have already infringed the copyright by using the **material** without a valid license, you are responsible under 17 U.S.C. §504 for damages to our client. Removing the **material** does nothing to resolve the prior infringement.

### **I found the images on the Internet; aren't they therefore free?**

That a prior end user may or may not have had a valid license for the usage of our client's copyrighted material does not mean that you also had such a license. You are required to obtain a license from the rights-holder (e.g. author or photographer) prior to the usage of their copyrighted material. Therefore, while you may have believed the images were available for free use, all material for which you have received a demand letter required an appropriate license for their use. Additionally, please be advised that "Royalty-free" is an industry phrase that refers to a licensing model where the user pays once and has the continuing right to use the **material** without additional royalty payments; it does not mean that the **material** does not require a purchased license for its usage.

### **What can I do to resolve this situation?**

Although you may not have been aware of your unauthorized use of the copyrighted **material**, it is still a violation of copyright law. Since the unlicensed usage has already occurred, and the Copyright Law has therefore been violated, payment to the licenseholder is required in order to avoid the filing, service and commencement of the attached lawsuit. Please keep in mind that in a copyright infringement lawsuit, our client is entitled to seek actual or statutory (as much as \$150,000.00 per infringement) damages as well as our firm's fees for pursuing this matter. It is therefore essential that you contact our office to make settlement arrangements immediately, and certainly no later than twenty days from receipt of this letter.

**SANDERS LAW, PLLC**

Craig B. Sanders, Esq. (CS4163)

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Garden City, New York 11530

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Facsimile: (516) 281-7601

csanders@sanderslawpllc.com

*Attorneys for Plaintiff*

File No.: 102046

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA**

BWP MEDIA USA INC.,

Plaintiff,

vs.

CARY WIEDEMANN,

Defendants.

Docket No: PENDING

DEMAND FOR JURY TRIAL

COMPLAINT FOR:

- 1) COPYRIGHT  
INFRINGEMENT; AND
- 2) CONTRIBUTORY  
COPYRIGHT INFRINGEMENT

BWP Media USA Inc., by and through its undersigned counsel, states and alleges as follows:

**INTRODUCTION**

1. Plaintiff BWP Media USA Inc. ("BWP") provides entertainment-related photojournalism goods and services. In particular, BWP owns the rights to a multitude of photographs featuring celebrities, which it licenses to online and print publications.

2. BWP's portfolio of celebrity photographs is the bread and butter of its business.

3. BWP has obtained U.S. copyright registrations covering many of its photographs, and others are the subject of pending copyright applications.

4. Defendant CARY WIEDEMANN ("CARY WIEDEMANN") owns and operates a website known as [www.fairfaxunderground.com](http://www.fairfaxunderground.com).

5. Without permission or authorization from BWP, CARY WIEDEMANN copied,

modified, and displayed BWP's photographs on CARY WIEDEMANN's website, www.fairfaxunderground.com.

6. Defendants engaged in this misconduct knowingly and in violation of the United States copyright laws.

7. BWP has been substantially harmed as a result of CARY WIEDEMANN's misconduct.

## JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over the federal copyright infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331. The Court has supplemental jurisdiction over the claims arising under state law pursuant to 28 U.S.C. §1367(a) in that the state claims are so related to the claims over which the court has original jurisdiction that they form part of the same case or controversy.

9. This Court has personal jurisdiction over CARY WIEDEMANN because CARY WIEDEMANN purposely directs substantial activities at the residents of Virginia by means of the website described herein, and derives substantial revenue therefore. Such activity gives rise to jurisdiction under Virginia's long arm statute.

10. Venue is proper under 28 U.S.C. §1391(a)(2) because the Defendant does business in this Judicial District or because a substantial part of the events or omissions giving rise to the claim occurred in this Judicial District.

## PARTIES

11. BWP is a California Corporation and maintains its principal place of business in Los Angeles County, California.

12. On information and belief, Cary Wiedemann, a with a principal place of business in Fairfax, Virginia is liable and responsible to Plaintiff based on the facts herein allege

## FACTUAL ALLEGATIONS

### BWP's Business

13. BWP provides entertainment-related photojournalism goods and services. In particular, BWP owns the rights to a multitude of photographs which it licenses to online and print publications.

14. BWP has invested significant time and money in building its photograph portfolio.

### BWP's Copyrights

15. BWP has obtained U.S. copyright registrations covering many of its photographs, and others are the subject of pending copyright applications.

16. BWP's photographs are original, creative works in which BWP owns protectable copyright interests.

17. BWP owns several active and valid copyright registrations with the United States Copyright Office (the "USCO"), which registrations cover BWP's photographs.

18. BWP also has filed several copyright applications with the USCO, which are presently pending.

19. BWP applied for a copyright registration for a collection of photographs, which included the photograph(s) annexed hereto as Exhibit(s) 1 - 5 (the "Photographs").

### CARY WIEDEMANN's Website

20. On information and belief, CARY WIEDEMANN is the registered owner of the

website located at [www.fairfaxunderground.com](http://www.fairfaxunderground.com) (the "Website"). On information and belief, CARY WIEDEMANN operates the Website and is responsible for all Website content.

21. The Website provides articles, photographs and other information about geek culture including content about celebrities, television shows and movies.

22. The Website is monetized in that it contains paid advertisements. On information and belief, CARY WIEDEMANN profits from these activities.

### **CARY WIEDEMANN's Misconduct**

23. Without permission or authorization from BWP, CARY WIEDEMANN copied, modified, and/or displayed BWP's photographs on the Website, in violation of BWP's copyrights See Exhibit "A" annexed hereto.

24. On information and belief, the Photographs were copied from the websites of BWP's Clients and reposted on the Website without license or permission, thereby infringing on the Copyrights (the "Infringement").

25. On information and belief, CARY WIEDEMANN was aware of facts or circumstances from which the Infringement was apparent. Based on this totality of circumstances, CARY WIEDEMANN cannot claim that it is not aware of the widespread infringing activities, including the Infringement, on the Website. Such a claim would amount to willful blindness to the Infringement on the part of CARY WIEDEMANN.

26. On information and belief, CARY WIEDEMANN engaged in the Infringement knowingly and in violation of United States copyright laws.

27. On information and belief, CARY WIEDEMANN has received a financial benefit directly attributable to the Infringement. Specifically, by way of the Infringement, CARY WIEDEMANN increased traffic to the Website and, in turn, its advertising revenues and/or merchandise sales.

28. As a result of CARY WIEDEMANN's misconduct, BWP's has been substantially harmed.

## FIRST COUNT

### **(Copyright Infringement, 17 U.S.C. § 501 *et seq.*)**

29. BWP's repeats and incorporates by reference the allegations contained in the preceding paragraphs, as though set forth in full herein.

30. The Photographs are original, creative works in which BWP owns protectable copyright interests.

31. BWP has not licensed CARY WIEDEMANN or any of its users to use the Photographs in any manner, nor has BWP assigned any of its exclusive rights in the Copyrights to CARY WIEDEMANN.

32. Without permission or authorization from BWP and in willful violation of BWP's rights under 17 U.S.C. §106, CARY WIEDEMANN reproduced the Photographs.

33. On information and belief, without permission or authorization from BWP and in willful violation of BWP's rights under 17 U.S.C. § 106, CARY WIEDEMANN displayed the Photographs on the Website.

34. CARY WIEDEMANN's reproduction of the Photographs and display of the Photographs on the Website constitute copyright infringement.

35. On information and belief, thousands of people have viewed the unlawful copies of the Photographs on the Website.

36. On information and belief, CARY WIEDEMANN's had knowledge of the copyright infringement alleged herein and had the ability to stop the reproduction and display of BWP's copyrighted material.

37. CARY WIEDEMANN's copyright infringement has damaged BWP in an amount to be proven at trial.

## SECOND COUNT

### **(Contributory Copyright Infringement)**

38. BWP repeats and incorporates by reference the allegations contained in the preceding paragraphs, as though set forth in full herein.

39. BWP is informed and believes, and on that basis alleges, that CARY WIEDEMANN willfully and knowingly created a link to another website where the copyrighted Photographs are being displayed without permission.

40. By creating a link on its website where the copyrighted Photographs are being displayed without permission, CARY WIEDEMANN is enabling, inducing, facilitating, and materially contributing to each act of infringement.

41. CARY WIEDEMANN's conduct constitutes contributory infringement of BWP's copyrights and exclusive rights in the Photographs in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

42. CARY WIEDEMANN's contributory copyright infringement has damaged BWP in an amount to be proven at trial.

## PRAYER FOR RELIEF

**WHEREFORE**, BWP respectfully requests judgment as follows:

1. That the Court enter a judgment finding that CARY WIEDEMANN has infringed on BWP's Copyrights in the Photographs in violation of 17 U.S.C. § 501 et seq.;
2. That the Court award damages and monetary relief as follows:
  - a. Statutory damages against CARY WIEDEMANN pursuant to 17 U.S.C. § 504(c) of \$150,000 per infringement or in the alternative BWP's actual damages and CARY WIEDEMANN's wrongful profits in an amount to be proven at trial;
  - b. BWP's attorneys' fees pursuant to 17 U.S.C. § 505;
  - c. BWP's costs; and
3. Such other relief that the Court determines is just and proper.

DATED: July 10, 2013

SANDERS LAW, PLLC

# DRAFT

/s/ Craig B. Sanders

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csanders@sanderslawpllc.com  
*Attorneys for Plaintiff*  
File No.:102046

## REQUEST FOR JURY TRIAL

Plaintiff hereby demands a trial of this action by jury.

DATED: July 10, 2013

**SANDERS LAW, PLLC**

/s/ Craig B. Sanders

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*Attorneys for Plaintiff*

File No.:102046

EXHIBIT# 1 - BWP Media USA Inc. v. Cary Wiedemann  
INFRINGEMENT# 1

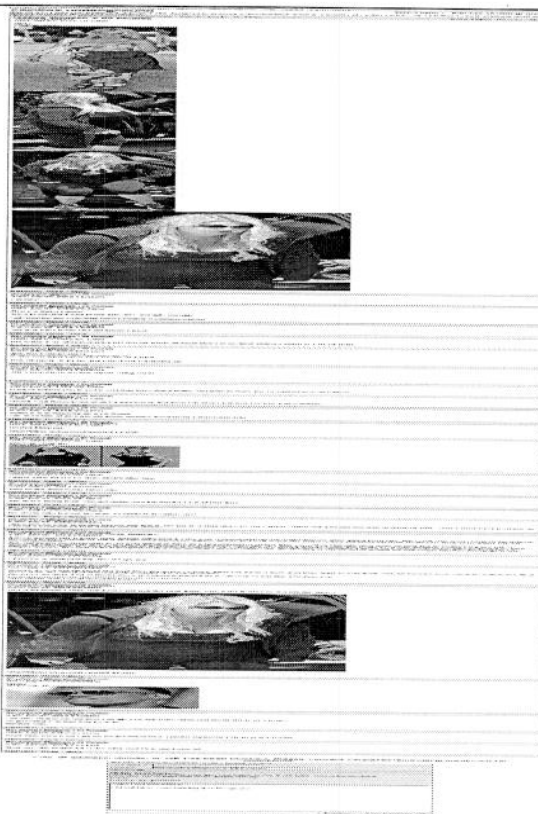


Photo Owner: BWP Media USA Inc.  
Photo ID Number: 80511  
Date Taken: 06/21/2012  
Photo Description: Jessica Simpson shows  
off her cleavage in a low cut top as she  
arrives for a workout in Los Angeles.  
Photo Location: California  
Copyright Application Date: 09/18/2012  
Application Number: 1-822849761  
Copyright Registration Date: 09/18/2012  
Registration Number: VA0001836345

Domain: www.fairfaxunderground.com  
URL:  
<http://www.fairfaxunderground.com/forum/read.php?40,946735,947182,quote=1>  
Observed Date: 04/18/2013

EXHIBIT# 2 - BWP Media USA Inc. v. Cary Wiedemann  
INFRINGEMENT# 2

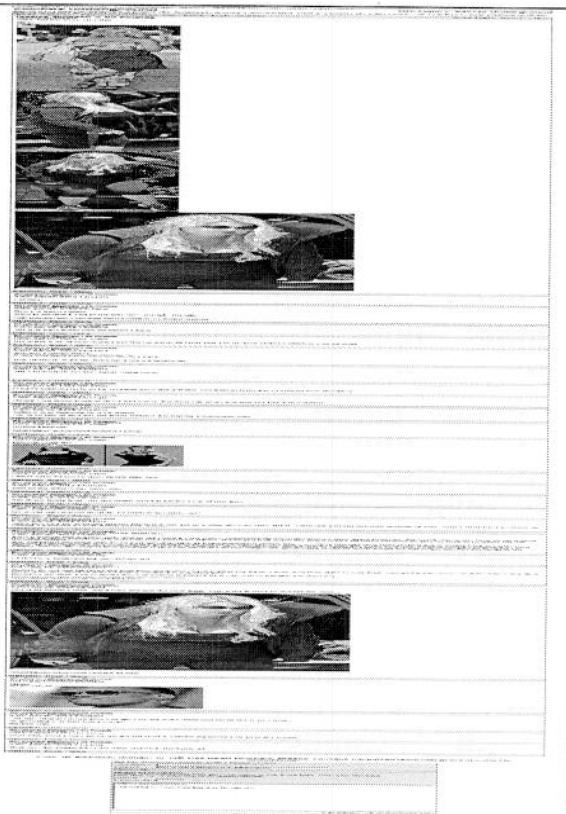


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Photo ID Number: 80511  
Date Taken: 06/21/2012  
Photo Description: Jessica Simpson shows off her cleavage in a low cut top as she arrives for a workout in Los Angeles.  
Photo Location: California  
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Application Number: 1-822849761  
Copyright Registration Date: 09/18/2012  
Registration Number: VA0001836345

Domain: [www.fairfaxunderground.com](http://www.fairfaxunderground.com)  
URL:  
<http://www.fairfaxunderground.com/forum/read.php?40,946735,947182,quote=1>  
Observed Date: 04/18/2013

EXHIBIT# 3 - BWP Media USA Inc. v. Cary Wiedemann  
INFRINGEMENT# 3



Photo Owner: BWP Media USA Inc.  
Photo ID Number: 80511  
Date Taken: 06/21/2012  
Photo Description: Jessica Simpson shows off her cleavage in a low cut top as she arrives for a workout in Los Angeles.  
Photo Location: California  
Copyright Application Date: 09/18/2012  
Application Number: 1-822849761  
Copyright Registration Date: 09/18/2012  
Registration Number: VA0001836345

Domain: www.fairfaxunderground.com  
URL:  
<http://www.fairfaxunderground.com/forum/read.php?40,946735,947182,quote=1>  
Observed Date: 04/18/2013

EXHIBIT# 4 - BWP Media USA Inc. v. Cary Wiedemann  
INFRINGEMENT# 4

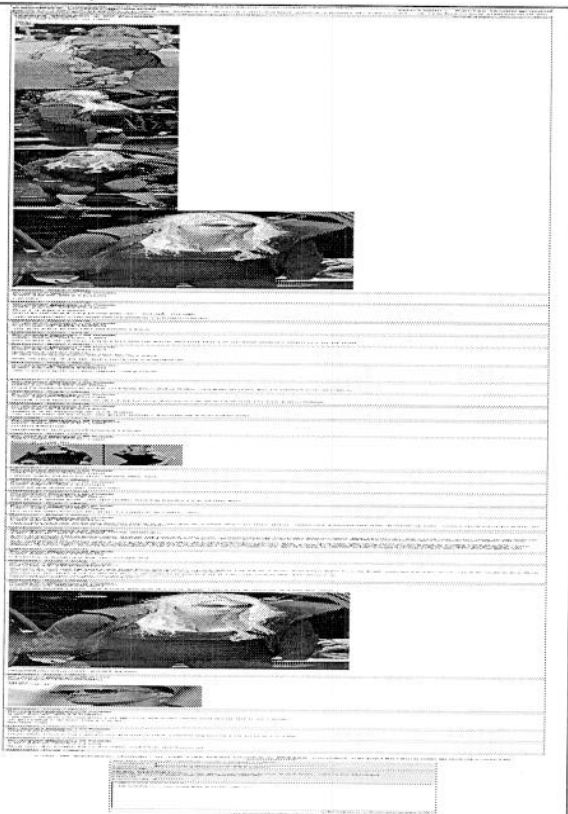


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Domain: www.fairfaxunderground.com  
URL:  
<http://www.fairfaxunderground.com/forum/read.php?40,946735,947182,quote=1>  
Observed Date: 04/18/2013

EXHIBIT# 5 - BWP Media USA Inc. v. Cary Wiedemann  
INFRINGEMENT# 5

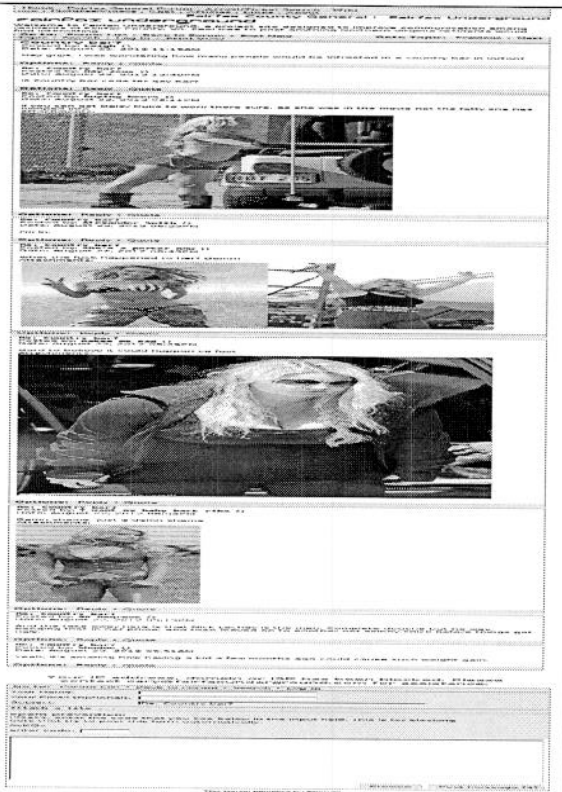


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Copyright Registration Date: 09/18/2012  
Registration Number: VA0001836345

Domain: www.fairfaxunderground.com  
URL:  
<http://www.fairfaxunderground.com/forum/read/2/984715.html>  
Observed Date: 05/13/2013