

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

T-Peg, Inc. and Timberpeg East, Inc.)	
)	
Plaintiff,)	
)	
v.)	No. C-03-462-M
)	
Vermont Timber Works, Inc. and Douglas Friant)	
)	
Defendants.)	
)	

PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY JUDGMENT

NOW COME the plaintiffs, T-Peg, Inc. and Timberpeg East, Inc. (“Timberpeg”), by and through their attorneys, Devine, Millimet & Branch, Professional Association, and respectfully move for partial summary judgment, and state as follows:

1. Timberpeg moves for partial summary judgment on two issues raised before this Court and on appeal relating to its copyright infringement claim against the defendants that the United States Circuit Court of Appeals for the First Circuit resolved in Timberpeg’s favor.

2. First, Timberpeg moves for summary judgment that the architectural plans it registered with United States Copyright Office and which form the basis for this action reflect sufficient “originality” to merit protection under the Copyright Act, 17 U.S.C. § 101, *et. seq.*

3. Second, Timberpeg moves for summary judgment that the defendants had access to Timberpeg’s protected work at the time they drafted and erected their infringing timberframe. Such access establishes the first element to prove by indirect evidence that the defendants copied Timberpeg’s protected work.

4. Timberpeg incorporates herein and respectfully refers this Court to the memorandum of law in support of its partial motion for summary judgment, as well as record support, filed herewith.

WHEREFORE, Timberpeg respectfully requests that this Court:

- A. Grant Summary Judgment in Timberpeg's favor on its claim that its protected work is original and entitled to protection under the Copyright Act;
- C. Grant Summary Judgment in Timberpeg's favor on its claim that VTW had access to Timberpeg's protected work; and
- D. Grant such other and further relief as this Court deems just, equitable and proper.

Respectfully submitted,

T-PEG, INC. AND
TIMBERPEG EAST, INC.

By their attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated: June 3, 2007

/s/ Jonathan M. Shirley
Daniel E. Will (Bar No. 12176)
Jonathan M. Shirley (Bar No. 16494)
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Of Counsel:

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CERTIFICATE OF SERVICE

I hereby certify that on this day, June 3, 2007, a copy of the foregoing was transmitted to W.E. Whittington, Esquire in accordance with the Court's Administrative Procedures of Electronic Filing.

/s/ Jonathan M. Shirley
Jonathan M. Shirley