

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

T-PEG, INC and )  
TIMBERPEG EAST, INC., )  
Plaintiffs, )  
)  
vs. ) No. 03-CV-462-M  
)  
VERMONT TIMBER WORKS, INC. and )  
DOUGLAS FRIANT, )  
Defendants. )

DEFENDANT, FRIANT'S, MOTION TO JOIN  
MOTION FOR SUMMARY JUDGMENT  
AS TO PROFITS REMEDY (DOCUMENT 44)

Defendant, Douglas Friant ("Friant") respectfully moves the court for joinder in co-defendant, Vermont Timber Works, Inc.'s ("VTW") Motion For Summary Judgment as to the "recovery of profits" remedy, which was Heading II of their Motion For Summary Judgment filed November 1, 2004 (Document 44). Defendants are filing their motion to revive the motion simultaneously with this motion.

In support of this motion, Friant states as follows:

1. This is a case alleging copyright infringement of an alleged architectural work. One of the remedies sought in the amended complaint is recovery of defendants' alleged profits under 17 U.S.C. Section 504(b).
2. Defendant VTW<sup>1</sup> filed a summary judgment motion as to this remedy on November 1, 2004 (Document 44), which was fully briefed but never acted on. Friant was not in the case at the time.
3. The profits remedy has now come back into the case based on a recent ruling, and Friant has the same interest as VTW in obtaining summary judgment on the issue.

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<sup>1</sup> Co-defendant Friant, VTW's principal, was not in the case at the time but, obviously, he now joins in the motion. He is filing a separate motion for joinder in the motion for summary judgment.

4. In accordance with Rule 7.1(c) of this Court, the undersigned certifies that he has contacted opposing counsel, Dan Will, in a good-faith effort to obtain assent to this motion, and plaintiffs have not assented to the relief requested.

5. No memorandum of law is submitted in support of this motion because the issue is procedural, obvious, and non-technical.

WHEREFORE, defendant Friant respectfully requests that the Court join him as a movant in VTW's Motion For Summary Judgment as to the "recovery of profits" remedy, which was Heading II of their Motion For Summary Judgment filed November 1, 2004 (Document 44).

November 15, 2007

VERMONT TIMBER WORKS, INC.  
and DOUGLAS FRIANT, Defendants,

/s/ W. E. Whittington  
W.E. Whittington

W. E. Whittington (Bar No. 6916)  
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CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2007, I served the foregoing pleading on the following counsel of record, by causing it to be filed electronically via the CM/ECF filing system or mailed by first-class United States Mail, postage pre-paid, or in such other manner as may be indicated:

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