

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.,)
Defendant.)

DEFENDANT’S REPLY MEMO SUPPORTING
MOTION FOR SUMMARY JUDGMENT (DOCUMENT 44)

Defendant, Vermont Timber Works, Inc. (“VTW”), submits this reply supporting its Motion for Summary Judgment (Document 44).

VTW Was Merely Isbitski’s Timber Frame Subcontractor

The thrust of plaintiffs’ defense is that (Memo at 5):

Timberpeg does not claim copyright in its windows, doors, staircases, or even in a saltbox design. Timberpeg claims copyright in the arrangement of all of those features that create an original home design with its own look and feel.

Of course, as is apparent from the materials already submitted, VTW was a mere subcontractor on a discreet and fairly small part of the house – solely the timber frame, in less than half of the main building. VTW had nothing to do with any of the features mentioned by plaintiffs (windows, doors, staircases, or saltbox design), let alone the walls, roof, foundation, shingles, electric, plumbing, any of the “stick-built” portion, etc., and certainly not with the “arrangement of all of those features.”

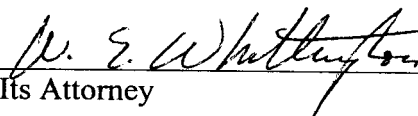
Profits Issue Out Of Case Based On November 19 Order

It is inconceivable that plaintiffs continue to argue damages and profits. First, they made a written election not to do so. Second, this Court ruled on November 19 that they are barred from seeking these remedies. VTW does not understand why they continue to ignore their past behavior and this Court's ruling to continue to pursue these.

Summary judgment should be granted.

Date: December 3, 2004

VERMONT TIMBER WORKS, INC.
Defendant,

By: 
Its Attorney

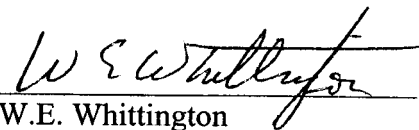
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CERTIFICATE OF SERVICE

I hereby certify that on December 3, 2004, I served the foregoing pleading on the following counsel of record, by first class mail:

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