

PLAINTIFF'S
EXHIBIT

35 (ID)

FRIANT
EXHIBIT NO. 39
FOR IDENTIFICATION
DATE: 8-10-04
RPT: M9

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July 14, 2003

Stephen S. Woods, Esq.
Timberpeg East, Inc.
c/o 68 Lyme Road
Hanover, New Hampshire 03755

**Re: Mr. Ibitski and Vermont Timber Works, Inc.
Alleged "copyright infringement"**

Dear Mr. Woods:

Our client, Vermont Timber Works, Inc., is in receipt of your June 25, 2003 letter. After consultation with our client and review of your letter, we reject your attempts to state a *prima facie* claim of copyright infringement against Vermont Timber Works, Inc. Importantly, your letter alleges no facts from which a conclusion of copyright infringement by our client can be drawn.

Vermont Timber Works, Inc. contracted with Mr. Ibitski to design a house frame to accommodate floor plans of his house. Mr. Ibitski represented to Vermont Timber Works, Inc. that he did not like the frame that Timberpeg East, Inc. submitted to him, for reasons explicated below.

Timberpeg East, Inc. did not offer the option of a purlin roofing system to Mr. Ibitski, nor did Timberpeg East, Inc. provide assembly or erection services, all of which were the customer's stated objectives.

As a matter of copyright law, to an ordinary observer, the house frame designed by Vermont Timber Works, Inc. is easily distinguishable from, and not substantially similar to, Timberpeg frames. *To wit:* Vermont Timber Works, Inc. used traditional pegged joinery, dovetailed joists and purlins, Douglas fir timber, a bent and purlin system, and curved braces. Vermont Timber Works, Inc. applied one coat of shop-applied finish to the frame and assembled and erected the frame they designed for Mr. Ibitski. As you know, Timberpeg frame designs use

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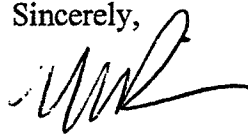
Mr. Ibitski. As you know, Timberpeg frame designs use simple joinery with nails and bolts, primarily eastern white pine timbers and rafter systems. Timberpeg East, Inc. did not offer Mr. Ibitski the traditional pegged joinery, dovetailed joists and purlins, Douglas fir timber, a bent and purlin system, or curved braces as available options to Mr. Ibitski. Furthermore, Timberpeg ships their frames raw, and did not offer assembly or erection services to Mr. Ibitski. Consequently, Mr. Ibitski contracted with Vermont Timber Works, Inc. for a house frame easily distinguishable in design, construction, and materials from products offered by Timberpeg East, Inc.

Vermont Timber Works, Inc. not only made drawings and designed a frame substantially different from Timberpeg designs to meet Mr. Ibitski's requirements, any and all other relevant work was done by Mr. Ibitski.

For the foregoing reasons, we reject your supposition of copyright infringement by Vermont Timber Works, Inc.

Please feel free to contact me if you would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Molly B. Sinclair', written in a cursive style.

Molly B. Sinclair

cc: Vermont Timber Works, Inc.