

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MARCO VERCH,)	
)	
Plaintiff,)	
v.)	JURY TRIAL DEMANDED
)	Case No. 1:26-cv-01994
THE UNIVERSITY OF CHICAGO)	
)	
Defendant.)	

**DEFENDANT THE UNIVERSITY OF CHICAGO’S ANSWER
TO PLAINTIFF’S COMPLAINT AND AFFIRMATIVE DEFENSES**

Defendant, The University of Chicago (“Defendant”), by and through its undersigned counsel, hereby responds to the complaint of Plaintiff, Marco Verch (“Plaintiff”), as follows:

THE PARTIES

1. Plaintiff is an individual who is currently residing in Germany.

ANSWER:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

2. Defendant is a non-profit, private university organized and existing under the laws of the State of Illinois with its principal place of business located at 5801 S Ellis Ave, Chicago, IL 60637. Defendant’s agent for service of process is Elizabeth Shanin, 5801 S Ellis Ave, Suite 619, Chicago, IL 60637

ANSWER:

Admit.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

ANSWER:

Admit.

4. This Court has personal jurisdiction over Defendant because it has maintained sufficient minimum contacts with this State such that the exercise of personal jurisdiction over it would not offend traditional notions of fair play and substantial justice.

ANSWER:

Admit that Defendant is subject to personal jurisdiction in Illinois. The remaining allegations consist of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a) because Defendant or its agents reside or may be found in this district. "A defendant in a copyright action 'may be found' in a district where he is subject to the district court's personal jurisdiction." *Martino v. Orchard Enters.*, No. 20 C 2267, 2020 U.S. Dist. LEXIS 199687, at *18 (N.D. Ill. Oct. 27, 2020); see also *Store Decor Div. of Jas Int'l, Inc. v. Stylex Worldwide Indus., Ltd.*, 767 F. Supp. 181, 185 (N.D. Ill. 1991) ("Thus, if a court has personal jurisdiction over the defendants in a copyright infringement action, venue in that court's district is proper.").

ANSWER:

Defendant admits that it is located in the state of Illinois and, for purposes of this action only, that venue is proper in this Court. The remaining allegations consist of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

FACTS

I. Plaintiff's Business and History

6. On October 4, 2018, Plaintiff and Liliya Krivorychko entered into a written contract whereby Ms. Krivorychko granted Plaintiff the exclusive and transferable right to comprehensively exploit Ms. Krivorychko's photographs without any limitation in terms of space, time, and/or content. The October 4, 2018 agreement likewise granted Plaintiff the right of reproduction, processing and exhibition, the right of presentation, performance and demonstration, and the right to make such photographs accessible to the public.

ANSWER:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

7. On February 25, 2020, Plaintiff and Ms. Krivorychko entered into a First Amendment to the October 4, 2018 agreement, retroactive to the date of the original agreement. Whereas the original agreement granted certain exclusive rights, the First Amendment provides that Ms. Krivorychko transferred sole and exclusive ownership of the photographs at issue and the copyrights therein, with Plaintiff now owning the exclusive right to copy, reproduce, distribute,

perform, exhibit, transmit, store, broadcast, display, license or otherwise display such photographs, including the work at issue in this lawsuit.

ANSWER:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

II. The Work at Issue in this Lawsuit

8. Ms. Krivorychko created a professional photograph titled “The-compass-lies-on-the-map -- Terrain-orientation-concept” (the “Work”). Attached hereto as Exhibit “A” is a spreadsheet which identifies the Work, the corresponding US Copyright Office registration number for such photograph, and one or more screenshots of the alleged infringement of such photograph.

ANSWER:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

9. The Work was registered by Plaintiff with the Register of Copyrights and was assigned a registration number thereby. A true and correct copy of the Certificate of Registration pertaining to the Work is attached hereto as Exhibit "B."

ANSWER:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

10. Plaintiff is the owner of the Work (by virtue of the First Amendment) and has remained the owner at all times material hereto.

ANSWER:

Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

III. Defendant's Unlawful Activities

11. Defendant operates a private university located at 5801 S Ellis Ave, Chicago, IL 60637.

ANSWER:

Admit.

12. Defendant advertises/markets its business through its website (<https://www.uchicago.edu/>), social media (e.g., <https://www.facebook.com/uchicago>, <https://www.instagram.com/uchicago>, <https://x.com/UChicago>, <https://www.youtube.com/user/UChicago>), and other forms of advertising.

ANSWER:

Defendant admits that it operates a website at <https://www.uchicago.edu/> and social media pages at <https://www.facebook.com/uchicago>, <https://www.instagram.com/uchicago>, <https://x.com/UChicago>, <https://www.youtube.com/user/UChicago>. Defendant denies the remaining allegations in this paragraph.

13. On a date after the above-referenced copyright registration of the Work, Defendant displayed and/or published the Work on its website, webpage, social media, and/or printed media as a means of advertising, promoting, and/or marketing its business.

ANSWER:

Denied.

14. A true and correct copy of screenshots of Defendant's website, webpage, social media, and/or printed media, displaying the copyrighted Work, is included in Exhibit "A" hereto.

ANSWER:

Defendant admits that Exhibit A purports to contain a single cropped screen capture of a portion of the website <https://grahamschool.regfox.com/2023-nmps-conference>. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

15. Defendant is not and has never been licensed to use or display the Work. Defendant never contacted Plaintiff to seek permission to use the Work in connection with Defendant's website, webpage, social media, and/or printed media - even though the Work that was copied is clearly professional photography that would put Defendant on notice that the Work was not intended for public use.

ANSWER:

Denied.

16. Defendant utilized the Work for commercial use.

ANSWER:

Denied.

17. Upon information and belief, Defendant located a copy of the Work on the internet and, rather than contact Plaintiff to secure a license, simply copied the Work for its own commercial use.

ANSWER:

Defendant admits that it obtained the allegedly infringing photograph shown on Exhibit A through Defendant's subscription to Office 365 via the program's online tools. Defendant denies the remaining allegations in this paragraph.

18. Through his ongoing diligent efforts to identify unauthorized use of his photographs, Plaintiff discovered Defendant's unauthorized use/display of the Work in April 2024. Following Plaintiff's discovery, Plaintiff notified Defendant in writing of such unauthorized use.

ANSWER:

Denied.

19. All conditions precedent to this action have been performed or have been waived.

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

COUNT I — COPYRIGHT INFRINGEMENT

20. Plaintiff re-alleges and incorporates paragraphs 1 through 19 as set forth above.

ANSWER:

Defendant incorporates by reference its Answers to Paragraphs 1 through 19 as its Answer to Paragraph 20.

21. Each photograph comprising the Work is an original work of authorship, embodying copyrightable subject matter, that is subject to the full protection of the United States copyright laws (17 U.S.C. § 101 et seq.).

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

22. Plaintiff owns a valid copyright in each photograph comprising the Work, having registered the Work with the Register of Copyrights and owning sufficient rights, title, and interest to such copyright to afford Plaintiff standing to bring this lawsuit and assert the claim(s) herein.

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph as characterized, and therefore denies the allegations set forth in this paragraph.

23. Plaintiff has standing to bring this lawsuit and assert the claim(s) herein as he has sufficient rights, title, and interest to such copyrights (as Plaintiff was conveyed certain exclusive rights to reproduce and distribute the Work by the subject photographer(s)).

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

24. As a result of Plaintiff's reproduction, distribution, and public display of the Work, Defendant had access to the Work prior to its own reproduction, distribution, and public display of the Work on Defendant's website, webpage, social media, and/or printed media.

ANSWER:

Defendant admits that it accessed the allegedly infringing photograph shown on Exhibit A through Defendant's subscription to Office 365. Defendant denies the remaining allegations in this paragraph.

25. Defendant reproduced, distributed, displayed, and/or publicly displayed the Work without authorization from Plaintiff.

ANSWER:

Denied.

26. By its actions, Defendant infringed and violated Plaintiff's exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501. Defendant's infringement was either direct, vicarious, and/or contributory.

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

27. Defendant's infringement was willful as it acted with actual knowledge or reckless disregard for whether its conduct infringed upon Plaintiff's copyright. Notably, Defendant itself utilizes a copyright disclaimer on its website ("Copyright 2022 Circle City Broadcasting I, LLC. All Rights Reserved."), indicating that Defendant understands the importance of copyright protection and intellectual property rights. Defendant clearly understands that professional

photography such as the Work is generally paid for and cannot simply be copied from the internet.

ANSWER:

Denied.

28. Plaintiff has been damaged as a direct and proximate result of Defendant's infringement.

ANSWER:

Denied.

29. Plaintiff is entitled to recover his actual damages resulting from Defendant's unauthorized use of the Work and, at Plaintiff's election (pursuant to 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a disgorgement of Defendant's profits from infringement of the Work, which amounts shall be proven at trial.

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

30. Alternatively, and at Plaintiff's election, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. § 504(c), in such amount as deemed proper by the Court.

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

31. Pursuant to 17 U.S.C. § 505, Plaintiff is further entitled to recover his costs and attorneys' fees as a result of Defendant's conduct.

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

32. Defendant's conduct has caused, and any continued infringing conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by the Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's exclusive rights under copyright law.

ANSWER:

This paragraph consists of legal argument and conclusion, which do not require a response. To the extent a response may be required, Defendant denies the remaining allegations in this paragraph.

RESPONSE TO PLAINTIFF'S REQUEST FOR RELIEF

Defendant denies that Plaintiff is entitled to any of the relief requested in Paragraphs (a)-(g) of the Complaint's Request for Relief, or otherwise. To the extent that Paragraphs (a)-(g) of the Complaint's Request for Relief are interpreted to contain any factual allegations, Defendant denies them.

AFFIRMATIVE DEFENSES

Pursuant to Federal Rule of Civil Procedure 8(c), and without assuming any burden that it would not otherwise bear, and reserving its right to assert additional defenses, Defendant asserts the following defenses to the Complaint.

FIRST AFFIRMATIVE DEFENSE

["Fair Use" Defense]

Plaintiff's claims are barred, in whole or in part, because Defendant's alleged use of the Work constitutes "fair use" of the alleged copyrighted work.

SECOND AFFIRMATIVE DEFENSE

[No Damage or Injury]

Plaintiff's claims are barred, in whole or in part, because Plaintiff has not suffered any cognizable injury or damages.

THIRD AFFIRMATIVE DEFENSE

[No Statutory Damages]

Plaintiff's claims for statutory damages are barred, in whole or in part, because as a nonprofit educational institution, under 17 U.S.C. § 504(c)(2), the court shall remit statutory damages in any case, as here, where an alleged infringer believed and had reasonable grounds for believing that its use of the copyrighted work was a fair use under section 17 U.S.C. § 107.

FOURTH AFFIRMATIVE DEFENSE

[License Defense]

Plaintiff's claims are barred, in whole or in part, because Plaintiff granted an express or an implied license to Defendant to use the Work.

FIFTH AFFIRMATIVE DEFENSE

[Waiver / Acquiescence]

Plaintiff's claims are barred, in whole or in part, because Plaintiff authorized the use or otherwise demonstrated an intent not to enforce its rights.

SIXTH AFFIRMATIVE DEFENSE

[Estoppel]

The claims for relief in the Complaint, in whole or in part, are barred because Plaintiff has engaged in conduct and activities by reason of which Plaintiff is estopped to assert the claims alleged in the Complaint.

SEVENTH AFFIRMATIVE DEFENSE

[*De Minimis* Defense]

Plaintiff's claims are barred, in whole or in part, because Defendant's alleged use of the copyrighted Work at issue was so insubstantial as to not constitute infringement.

EIGHTH AFFIRMATIVE DEFENSE

[Unclean Hands Defense]

Plaintiff's claims are barred by the doctrine of unclean hands, copyright misuse and/or unenforceability.

NINTH AFFIRMATIVE DEFENSE

[Laches]

Plaintiff's claims are barred, in whole or in part, because Plaintiff unreasonably delayed in asserting its claim resulting in prejudice to Defendant.

TENTH AFFIRMATIVE DEFENSE

[Lack of Valid Registration]

Plaintiff cannot maintain this Action as he does not hold a valid copyright registration.

ELEVENTH AFFIRMATIVE DEFENSE

[Innocent, Non-Infringing Acts]

Defendant's conduct was innocent, non-infringing, and not a willful infringement of copyright.

RESERVATION OF RIGHTS

Defendant reserves any and all rights to amend its Answer and Affirmative Defenses to Plaintiff's Complaint and to add additional defenses or counterclaims that discovery may reveal.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment as follows:

- a. That Plaintiff takes nothing by reason of the Complaint;
- b. That the Complaint be dismissed upon the merits and with prejudice;
- c. That Defendant's be awarded its costs of suit incurred herein, including reasonable attorneys' fees as appropriate; and
- d. That Defendant be awarded such additional and further relief as the court deems just and proper.

JURY DEMAND

Under Rule 38 of the Federal Rules of Civil Procedure, Defendant hereby demands trial by jury of all issues so triable by a jury in this action.

Dated: April 16, 2026

Respectfully submitted,

s/ Andrew J. Avsec
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Attorney for The University of Chicago

CERTIFICATE OF SERVICE

I certify that on April 16, 2026, I electronically filed the foregoing document with the Clerk of the United States District Court for the Northern District of Illinois, using the CM/ECF filing system, which will forward notice to all counsel of record.

/s/ Andrew J. Avsec
Andrew J. Avsec