

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SCOTT GUNNELLS, an individual,  
  
Plaintiff,  
  
v.  
  
MICHAEL JOSEPH TEUTUL, an individual;  
PAUL TEUTUL, an individual;  
ORANGE COUNTY CHOPPERS, INC., a New York  
Corporation; DISCOVERY, INC., a Delaware  
Corporation.; PILGRIM MEDIA GROUP, LLC,  
a Delaware Limited Liability Company;  
and DOES 1-10,  
  
Defendants.

Case No.:  
  
**1. COMPLAINT**  
  
**2. VIOLATION OF THE  
DIGITAL MILLENIUM  
COPYRIGHT ACT  
(17 U.S.C. §1202)**  
  
**JURY TRIAL DEMANDED**

Plaintiff SCOTT GUNNELLS (“GUNNELLS” or “Plaintiff”), by his attorneys Doniger /  
Burroughs, for his complaint against defendants MICHAEL JOSEPH TEUTUL, an individual  
 (“MICHAEL TEUTUL”); PAUL TEUTUL, an individual (“PAUL TEUTUL”); ORANGE  
 COUNTY CHOPPERS, INC., a New York Corporation (“OCC”); DISCOVERY, INC., a  
 Delaware Corporation (“DISCOVERY”); PILGRIM MEDIA GROUP, LLC, a Delaware Limited  
 Liability Company (“PILGRIM”); and DOES 1-10, alleges as follows:

**JURISDICTION AND VENUE**

- 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*
- 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a)  
and (b).
- 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that  
this is the judicial district in which a substantial part of the acts and omissions giving rise to the  
claims occurred.

**PARTIES**

4. Plaintiff Scott Gunnells is a professional photographer specializing in portraiture, located in Lebanon, Pennsylvania.

5. Plaintiff is informed and believes and thereon alleges that Michael Joseph Teutul is an individual with his primary place of business located at 10 Factory St, Montgomery, New York 12549, and is the owner of the websites at <https://instagram.com/mikeyteutul1978/>; <https://instagram.com/fockerocc/>; <https://therealmikeyteutul.co>; <https://www.youtube.com/user/MikeyTeutulW>; and <https://orangecountychoppers.com/>.

6. Plaintiff is informed and believes and thereon alleges that Paul Teutul is an individual with his primary place of business located at 10 Factory St, Montgomery, New York 12549, is the President of Orange County Choppers, Inc., a New York Corporation, and is the owner of the websites at <https://orangecountychoppers.com/>.

7. Plaintiff is informed and believes and thereon alleges that Orange County Choppers, Inc. is a New York Corporation with its primary place of business located at 10 Factory St, Montgomery, New York 12549.

8. Plaintiff is informed and believes and thereon alleges that Discovery, Inc. is a Delaware Corporation with its primary place of business located at One Discovery Place, Silver Spring, Maryland 20910.

9. Plaintiff is informed and believes and thereon alleges that Pilgrim Media Group, LLC is a Delaware Limited Liability Company with its primary place of business located at 12020 Chandler Blvd, Valley Village, California 91607.

10. Plaintiff is informed and believes and thereon alleges that Defendants Does 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of the Does 1-10, inclusive, are presently unknown to Plaintiff, which therefore sues said Does 1-10

by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

11. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and/or adopted each of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

**CLAIMS RELATED TO SUBJECT PHOTOGRAPH A**

12. Plaintiff GUNNELLS owns an original photograph entitled "#000035" ("Subject Photograph A") that was registered with the United States Copyright Office on January 18, 2013 with the Registration Number VAu 1-130-673. Plaintiff is the sole owner of the exclusive rights in Subject Photograph A.

13. Plaintiff is informed and believes and thereon alleges that following its publication and display of Subject Photograph A, MICHAEL TEUTUL; PAUL TEUTUL; OCC; DISCOVERY; PILGRIM; DOE Defendants, and each of them used Subject Photograph A without Plaintiff's authorization for commercial purposes in various ways, including, but not limited to, the production and sale of apparel featuring a derivative work made from Subject Photograph A, which was published and promoted for sale on websites such as <https://www.instagram.com>; <https://orangecountychoppers.com/>; <https://therealmikeyteutul.co>; <https://www.ebay.com>; <https://www.youtube.com>; and on the television program "Orange County Choppers".

14. An image of Subject Photograph A and examples of the infringing uses are set forth hereinbelow:

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### Subject Photograph A



### Exemplar Screen Captures of Infringing Uses

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#### MIKEY WOLFGANG TEUTUL WARHOL STYLE HOODIE

SOLD FOR: [Start Free Trial](#)  
SOLD DATE: or [Sign In](#) to see what it's worth.  
SOURCE: [eBay](#)

Here is our newest addition, our Warhol style Mikey Teutul Hooded Sweatshirt with a Front I  
Check out our T-shirt that has the same design as spring is here and summer is soon!

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#### MIKEY WOLFGANG TEUTUL WARHOL STYLE T-SHIRT

SOLD FOR: [Start Free Trial](#)  
SOLD DATE: or [Sign In](#) to see what it's worth.  
SOURCE: [eBay](#)

Here is our newest addition, our Warhol style Mikey Teutul T-shirt. Has our Mikey "Wolfgang" Teutul logo on the front.  
Check out our hoodie that has the same design as well for those of you who live in the colder climates!  
Thanks for looking and have a great week!

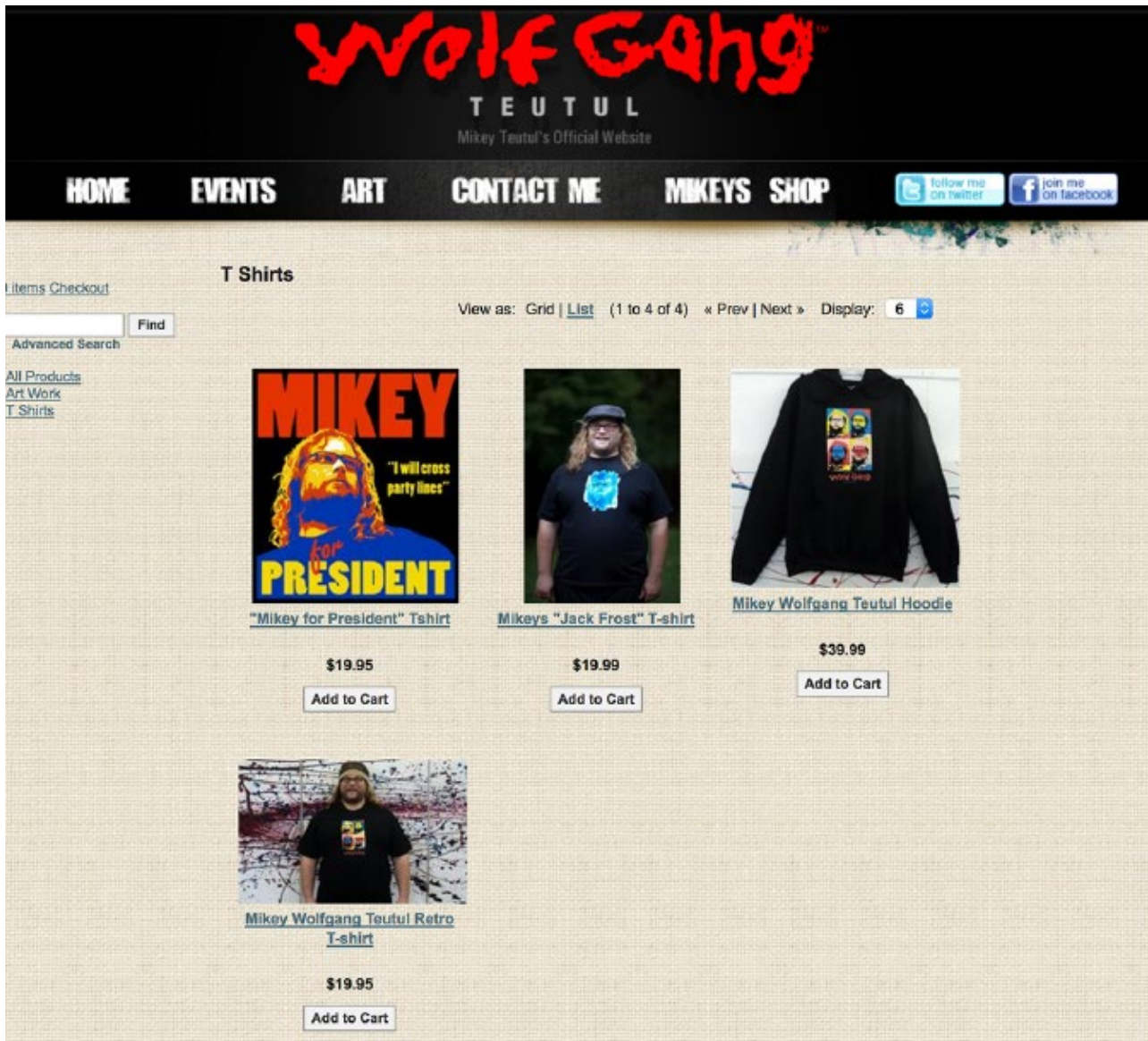
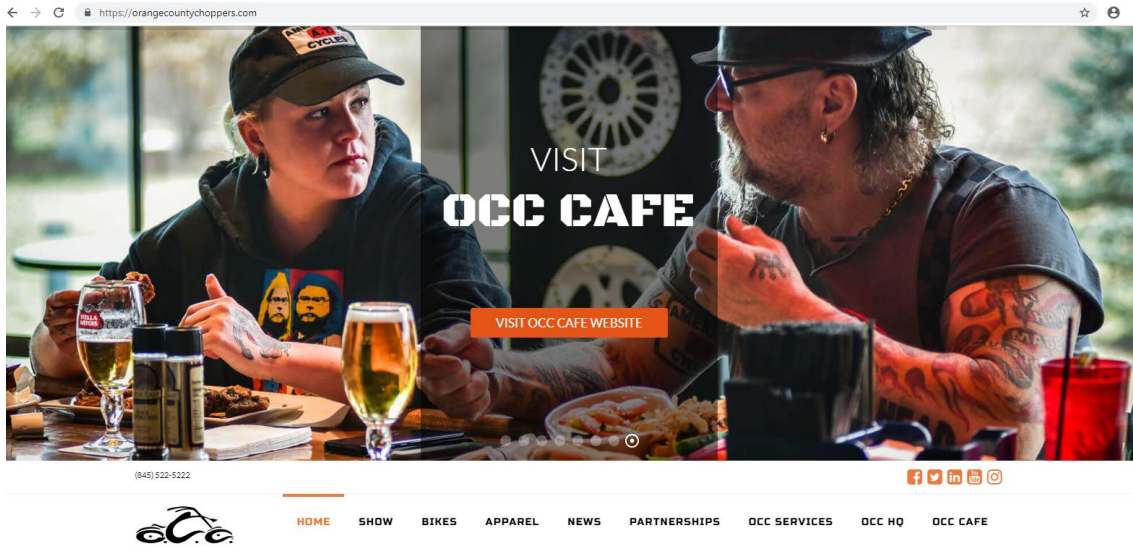


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https://www.youtube.com/watch?v=806x-13kFYw0&feature=share

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Wolfgang Gallery Tour  
27,505 views

48 12 SHARE

Mikay Teufel  
Published on Apr 7, 2011

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Mikay Teufel Tours His Gallery and talks a bit about his paintings and whats going on in his world  
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Screen Shot 2019-12-27 at 4:30:59 PM.png

### CLAIMS RELATED TO SUBJECT PHOTOGRAPH B

15. Plaintiff GUNNELLS owns an original photograph entitled “#000222” (“Subject Photograph B”) that was registered with the United States Copyright Office on January 18, 2013 with the Registration Number VAu 1-130-673. Plaintiff is the sole owner of the exclusive rights in Subject Photograph B.

16. Plaintiff is informed and believes and thereon alleges that following its publication and display of Subject Photograph B, MICHAEL TEUTUL; PAUL TEUTUL; OCC; DISCOVERY; PILGRIM; DOE Defendants, and each of them used Subject Photograph B without Plaintiff's authorization for commercial purposes in various ways, including, but not limited to, the use on websites such as <https://www.facebook.com> to promote MICHAEL TEUTUL's exhibitions of artwork and on the television series "Orange County Choppers", including in clips posted on the website <https://www.youtube.com>.

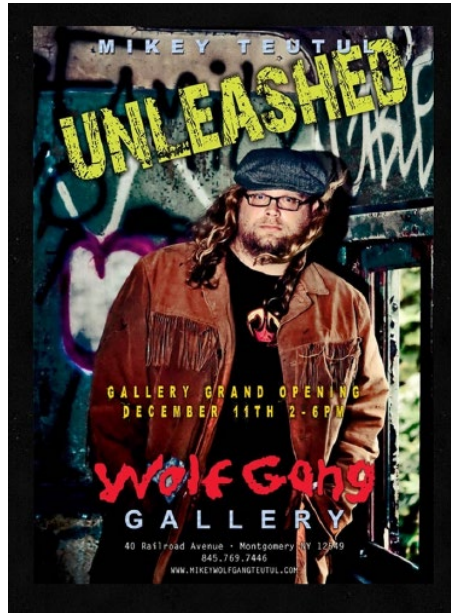
17. An image of Subject Photograph B and a screen capture of the infringing use are set forth hereinbelow:

**Subject Photograph B**





Screen Captures



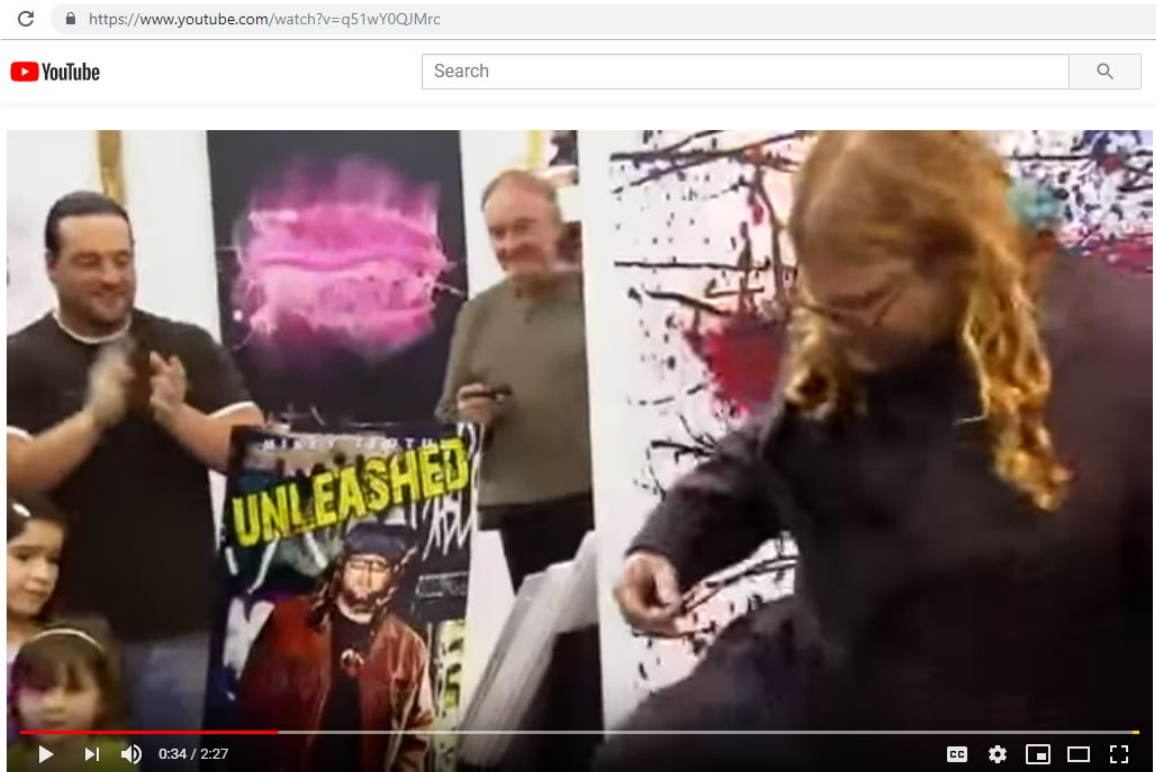
<https://www.youtube.com/watch?v=q51wY0QJMrC>

YouTube

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American Chopper- Mikey's Art Gallery Opening



American Chopper- Mikey's Art Gallery Opening

### **FIRST CLAIM FOR RELIEF**

#### **(Copyright Infringement - Against All Defendants)**

18. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

19. Plaintiff is informed and believes and thereon alleges that Defendants had access to Subject Photograph A and Subject Photograph B (collectively, the “Subject Photographs”), including, without limitation, through Plaintiff’s website and social media accounts or viewing the Subject Photographs on third-party websites (e.g., Tumblr, Pinterest, etc.).

20. Plaintiff is informed and believes and thereon alleges that Defendants used and distributed images of the Subject Photographs, and exploited said images in website posts without Plaintiff’s authorization or consent.

21. Due to Defendants’ acts of infringement, Plaintiff has suffered damages in an amount to be established at trial.

22. Due to Defendants’ acts of copyright infringement as alleged herein, Defendants have obtained profits they would not otherwise have realized but for their infringement of the

Subject Photographs. As such, Plaintiff is entitled to disgorgement of Defendants' profits attributable to the infringement of the Subject Photographs in an amount to be established at trial.

23. Plaintiff is informed and believes and thereon alleges that Defendants committed copyright infringement with actual or constructive knowledge of Plaintiff's rights, or reckless disregard for the same, such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious.

### **SECOND CLAIM FOR RELIEF**

(For Violations of the Digital Millennium Copyright Act (17 U.S.C. §1202 – Against all Defendants, and Each))

24. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

25. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, violated 17 U.S.C. §1202(b) by intentionally removing and/or altering its copyright management information when engaging in the Infringing Use of the Subject Photographs and doing so without authority of the copyright owner or the law, and publishing the Subject Photographs and falsely designating authorship of same under their own names, knowing that copyright management information had been removed or altered without authority of the copyright owner or the law, and knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that the conduct would induce, enable, facilitate, or conceal an infringement of any right under this title.

26. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, removed, or conspired to remove, his identification information, including without limitation in the form of his "NYLA" and name designations, from the above-mentioned works before publishing them without consent under their own names.



27. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, knowingly removed and altered the copyright management information of the Subject Photographs upon publication of the Infringing Use.

28. The above conduct is in violation of the Digital Millennium Copyright Act and exposes Defendants, and each of them, to additional and enhanced common law and statutory damages and penalties pursuant to 17 USC § 1203 and other applicable law.

29. Plaintiff is informed and believes and thereon alleges that Defendants, and each of their, conduct as alleged herein was willful, reckless, and/or with knowledge, and Plaintiff resultantly seeks enhanced damage and penalties.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment as follows:

- a. That Defendants and their respective agents and servants be enjoined from distributing, reproducing or displaying the Subject Photographs in violation of their copyrights;
- b. That Plaintiff be awarded all profits of Defendants, plus all losses of Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final judgment on any claim for which there is timely registration, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq. on each claim for which there is timely registration;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

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**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury in this action of all issues so triable.

Dated: Brooklyn, New York  
June 6, 2019

Respectfully Submitted,

DONIGER / BURROUGHS



By: \_\_\_\_\_

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