

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

Hattie Rex, LLC	)	
	)	
	)	
Plaintiff,	)	JURY TRIAL DEMANDED
	)	
vs.	)	
	)	
	)	Civil Action No. _____
Sheri (Dee) Bennett	)	
d/b/a Poochy Couture LLC	)	
and Poochy Couture, LLC	)	
	)	
Defendants	)	
	)	

**COMPLAINT**

COMES NOW Plaintiff Hattie Rex LLC (“HRex”), by and through its undersigned counsel, and for its cause of action against Sheri (Dee) Bennett ("Bennett") and Poochy Couture, LLC (“Poochy”)(collectively “Defendants”) states as follows:

**NATURE OF THE ACTION**

1. This is a civil action for copyright infringement arising under the copyright laws of the United States, 17 U.S.C. §101 et seq., as amended (“Copyright Act”).

**PARTIES**

2. Plaintiff, HRex is a Missouri limited liability company with its principal office located in Phelps County, Missouri, at 806 Orchard Drive, Rolla, Missouri 65401. HRex does business as "Good Dog" and as "Make Your Dog Smile" each of which is registered with the State of Missouri.

3. Defendant Poochy Couture, LLC is identified by co-Defendant Bennett, as a limited liability company organized and existing under the laws of the State of Florida with its principal place of business at 12442 Windmill Cove Dr., Riverview, Florida 33569-8217.

4. Upon information and belief, Bennett is a resident of Florida with an address of 12442 Windmill Cove Dr., Riverview, Florida 33569-8217. Upon information and belief, Bennett represents herself as an officer, member, partner, or sole proprietor of Poochy Couture, LLC.

#### **JURISDICTION AND VENUE**

5. This Court has personal jurisdiction over the Defendants by virtue of Defendants contacts with the State of Missouri.

6. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331(federal question) and 1338(a) because this action arises under the Copyright Act.

7. In addition the Court has subject matter jurisdiction under 28 U.S.C. § 1332 due to the complete diversity of citizenship of Plaintiff and Defendants.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400 because Defendant has committed acts of infringement in this district.

#### **BACKGROUND**

9. HRex creates, produces, sells, and distributes unique pet identification tags (“HRex Works”) through the Internet service provider [www.Etsy.com](http://www.Etsy.com) under the username “makeyourdogsmile”.

10. The Internet service provider [www.Etsy.com](http://www.Etsy.com) acts as a host for users to create website listings for the sale of handmade goods.

11. The Defendants create, produce, sell, and distribute pet identification tags (“Poochy Couture Works”) through the Internet service provider [www.Etsy.com](http://www.Etsy.com) under the username “Poochy Couture”.

12. In early January of 2010, HRex learned that Defendants were creating, reproducing, displaying, selling, and distributing unauthorized works that were copied from and substantially similar to HRex’s Works through [www.Etsy.com](http://www.Etsy.com) under the username “Poochy Couture”.

13. In early January of 2010, HRex learned that Defendants were creating, reproducing, displaying, unauthorized works that were copied from and substantially similar to the text displayed on HRex’s website listings through [www.Etsy.com](http://www.Etsy.com) under the username “Poochy Couture”.

14. On or about January 22, 2010, HRex contacted Defendants by email pursuant to the Internet service provider’s website [www.Etsy.com](http://www.Etsy.com) policy in an attempt to seek amicable resolution of this matter.

15. On or about January 22, 2010, Defendants responded by alleging that HRex was not the proper copyright owner of the works and signing with the combative response “PoochyCouture, LLC DBA Bring it” (a copy of the email correspondence is attached hereto as [Exhibit A](#)).

16. On or about March 6, 2010, HRex began placing a copyright notice (“©”) on each website listing on [www.Etsy.com](http://www.Etsy.com) along with the year of first publication and the doing business name of HRex, Make Your Dog Smile.

17. On or about March 14, 2010, Defendants began placing a mock copyright notice on its website listings on [www.Etsy.com](http://www.Etsy.com) (“© Nanni Nanni Boo Boo, LLC”) (a copy of the website listing is attached hereto as Exhibit B).

18. On October 4, 2010, HRex sent notice under the Digital Millennium Copyright Act (DMCA) and pursuant to the Copyright and Intellectual Policy of the Internet service provider [www.Etsy.com](http://www.Etsy.com) who hosted Defendants’ website listings requesting that the website listings containing unauthorized works be blocked or removed (a copy of the notice is attached hereto as Exhibit C).

19. On October 7, 2010, HRex received notice from [www.Etsy.com](http://www.Etsy.com) that the specified active material available for purchase was removed and [www.Etsy.com](http://www.Etsy.com) contacted the Defendants (a copy of the notice is attached hereto as Exhibit D).

20. On October 7, 2010, Bennett, on the behalf of Poochy Couture, LLC, sent a counter-notice to [www.Etsy.com](http://www.Etsy.com) (See also Exhibit D).

**COUNT I – COPYRIGHT INFRINGEMENT**

21. Plaintiff repeats and realleges the assertions in paragraphs 1 through 20 above.

22. HRex is the owner of United States Copyright Registration No. VA-1-711-566, entitled “Pretty bird pet id tag in aluminum”, with an effective date of February 16, 2010, and United States Copyright Registration No. VA-1-711-584, entitled “The Gold Collection washer in brass - Lifesaver pet ID in aluminum” with an effective date of February 16, 2010 (copies attached hereto as Exhibit E), Six (6) Pending Applications for Copyright Registration (copies attached hereto as Exhibit F), as well as other unregistered copyrighted works (collectively “HRex’s Works”).

23. Defendants, without authorization from HRex, have copied, reproduced, sold, distributed, and advertised goods that are copied from and substantially similar to HRex's Works.

24. Defendants, without authorization from HRex, have created, reproduced, and displayed, unauthorized works that are copied from and substantially similar to HRex's website listings on www.Etsy.com.

25. Upon information and belief, Defendants' infringing acts were committed with knowledge or in reckless disregard of HRex's exclusive rights in the copyrighted works under the Federal Copyright Act.

26. Upon information and belief, by the acts complained of, Defendants have made profits and gains which they are not in law or in equity entitled to retain.

27. The aforementioned acts by Defendants have damaged, and if not enjoined, will continue to damage HRex and cause it irreparable harm, for which HRex has no adequate remedy at law.

28. Without authorization from HRex, Defendants retained copies of such downloaded works and upon information and belief continue to use such copies in violation of 17 U.S.C. §501(a).

**COUNT II – FALSE ASSOCIATION**

29. Plaintiff repeats and realleges the assertions in paragraphs 1 through 28 above.

30. Upon information and belief, Poochy Couture, LLC is not a registered limited liability company in the State of Florida or any other State.

31. Defendant Bennett is now and has, since at least 2009, been advertising and promoting its products in commerce within the United States by placing "Poochy Couture, LLC" on its website listings on www.Etsy.com.

32. Upon information and belief, Nanni Nanni Boo Boo, LLC is not a registered limited liability company in the State of Florida or any other State.

33. Defendant Bennett has advertised and promoted its products in commerce within the United States by placing “Nanni Nanni Boo Boo, LLC” on its website listings on [www.Etsy.com](http://www.Etsy.com).

34. Hence, as a part of its marketing and sales strategy, Bennett has knowingly and deliberately deceived as to the affiliation, connection, or association with the limited liability companies Poochy Couture, LLC and Nanni Nanni Boo Boo, LLC in violation of 15 U.S.C. §1125(a).

35. HRex has been and will continue to be damaged and irreparably harmed as a result of Bennett’s false affiliations, connections or associations unless this Court enjoins all Bennett’s associations with Poochy Couture, LLC’s and Nanni Nanni Boo Boo, LLC’s false and/or misleading advertising and promotion.

36. HRex has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that the Court:

A. Enter judgment that Defendants have infringed upon HRex’s copyrights in the HRex Works;

B. Preliminarily and permanently enjoin Defendants Bennett and Poochy Couture, LLC, its officers, directors, agents, partners, employees and related companies, and all persons acting for, with, by, through or under it, from manufacturing, copying, reproducing, distributing,

advertising, promoting, offering for sale or selling any product or articles bearing any design identical or substantially similar to any of the HRex Works;

C. Order the impoundment of all infringing works and derivative works pursuant to 17 U.S.C. §503(a) & (b);

D. Order the Defendants Bennett and Poochy Couture, LLC, its officers, directors, agents, partners, employees and related companies, and all persons acting for, with, by, through or under it, to destroy all products or articles infringing the copyrights in the HRex Works, as well as all other infringing materials;

E. (a) Award to HRex its actual damages, and additional profits of the infringer, incurred as a result of Defendants' acts of copyright infringement, in amounts to be determined at trial and all relief to which HRex is entitled under 17 U.S.C. § 504(a) and (b); or (b) in the alternative, award to HRex, pursuant to 17 U.S.C. § 504(c), statutory damages, including increased relief for willful infringement;

F. Award to HRex, pursuant to 17 U.S.C. § 505, its costs and attorney's fees incurred as a result of Defendants' acts of copyright infringement;

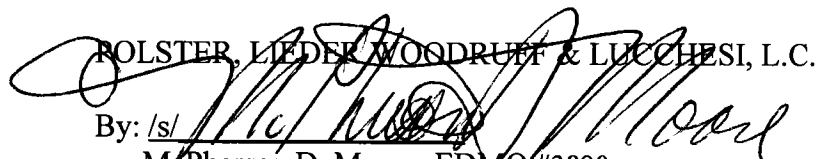
G. That Defendant, Bennett be permanently enjoined and restrained from advertising and promoting any goods or services in association with Poochy Couture, LLC or otherwise representing that her business is a limited liability company in violation of 15 U.S.C. §1125(a); and

H. Award to HRex such other and further relief as this Court may deem just and proper.

**JURY TRIAL DEMAND**

In accordance with Rule 38 of the Fed. R. Civ. Pro., Plaintiff hereby requests a jury trial on all issues triable to a jury.

Respectfully Submitted,

  
ROLSTER, LIEDER WOODRUFF & LUCCHESI, L.C.

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ATTORNEYS FOR THE PLAINTIFF

**Attachments**

- Exhibit A – Email of January 22, 2010, from Poochy Couture, LLC to HReX
- Exhibit B – Website Listing
- Exhibit C – October 4, 2010 HReX DMCA to [www.Etsy.com](http://www.Etsy.com)
- Exhibit D – October 7, 2010, Notice from [www.Etsy.com](http://www.Etsy.com) to HReX
- Exhibit E – United States Copyright Registrations
- Exhibit F - Pending Applications for Copyright Registration