

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

KEITH VIGLIONE,  
Plaintiff

v.

WARREN RESIDENTIAL GROUP LLC,  
Defendant

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C.A. No. 22-10174

COMPLAINT AND JURY DEMAND

PARTIES

1. Plaintiff Keith Viglione (“Viglione”) is an individual residing in Newburyport, Massachusetts.

2. Defendant Warren Residential Group LLC (“Warren Residential”) is a limited liability company organized under the laws of the Commonwealth of Massachusetts with a principal place of business in Boston, Massachusetts. Warren Residential provides residential real estate services in the Greater Boston area under a variety of names including “Berkshire Hathaway – Warren Residential” and “Moving Greater Boston.”

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, 1337 and 1338 because this case arises under the Federal Copyright Act, 17 U.S.C. §101, et seq.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) and (c) because Viglione’s cause of action arose and Viglione is being injured in this judicial district, and because Defendant is doing business in this judicial district and targeting Massachusetts customers.

FACTS

A. The Plaintiff, His Photography Business and Copyright Registrations.

5. Since at least as early as 2014, Viglione has been a professional photographer. While Viglione has photographed thousands of subjects, his particular focus is on photographing iconic Massachusetts images. These iconic images include, without limitation, the following:

a. The Prudential Tower in Boston lit up with the words “GO PATS” in connection with the New England Patriots appearance in the 2017 Super Bowl (“2017 GO PATS Image”). This image was taken by Viglione on February 5, 2017; and

b. Another image of the Prudential Tower in Boston lit up with the words “GO PATS” in connection with the New England Patriots appearance in the 2019 Super Bowl (“2019 GO PATS Image”). This image was taken by Viglione on February 3, 2019.

6. Although Viglione publicly displays his works at his website, social media platforms, and elsewhere, Viglione takes significant steps to protect his rights in his original works. Viglione has registered copyrights for virtually all of his photographs with the United States Copyright Office, including the two images identified in paragraph 5. The copyright registration certificates for Viglione’s works identified in paragraph 2 are attached to this complaint as Exhibits A and B.

7. Additionally, Viglione vigorously protects his intellectual property rights by entering into voluntary licensing agreements with those seeking to use his copyrighted works, and by pursuing infringements of his works.

8. In short, Viglione has developed significant goodwill and value in his works, which are well-known and sought after throughout the region.

B. The Defendant's Infringing Activities and Refusal to Pay a Licensing Fee.

9. In 2019 Viglione learned that the Defendant was displaying on its Instagram page without authorization a reproduction of Viglione's 2019 GO PATS Image work shown in Exhibit B hereto. Viglione later learned that the Defendant was displaying on its [www.movinggreaterboston.com](http://www.movinggreaterboston.com) webpage without authorization a reproduction of Viglione's 2017 GO PATS Image work shown in Exhibit A hereto.

10. As a result, Viglione and undersigned counsel have sent numerous communications to Defendant requesting that Defendant remove the infringing images from its social media and web pages, and pay a licensing fee to Viglione for the unauthorized uses of the works.

11. While it appears that Defendant eventually removed the infringing images from its social media and web pages, Defendant has never offered to pay a licensing fee or otherwise compensate Viglione for the unauthorized uses of his works.

12. Upon information and belief, Defendant copied the copyrighted works from Viglione's website or social media platforms in order to create the infringing works.

13. Upon information and belief, Defendant created the infringing works to use for its own commercial purposes.

14. Defendant was never authorized to use Viglione's copyrighted works.

COUNT I  
COPYRIGHT INFRINGEMENT  
17 U.S.C. § 501

15. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 14 of the complaint.

16. Viglione is the owner of the exclusive copyright in his two works identified in paragraph 5 above.

17. The Register of Copyrights issued certificates of registration for those two works, and the certificates of registration are attached hereto as Exhibits A-B.

18. Defendant copied Viglione's copyrighted works and created the infringing works without authorization.

19. Defendant displayed the infringing works for its own commercial purpose.

20. Defendant's infringement of Viglione's copyrighted works caused harm to Viglione.

WHEREFORE, Plaintiff Keith Viglione prays that this Court:

1. Enter judgment in favor of Plaintiff on his copyright infringement claim;
2. Award Plaintiff actual damages pursuant to 17 U.S.C. § 504 in an amount to be determined at trial;
3. Award Plaintiff statutory damages pursuant to 17 U.S.C. § 504 of up to \$150,000 per infringement;
4. Award Plaintiff attorneys fees and costs pursuant to 17 U.S.C. § 505;
5. Award Plaintiff interest on judgment as provided for by law; and
6. Award such further relief as the Court deems just and appropriate.

Jury Demand

The Plaintiff demands a trial by jury on all issues so triable.

KEITH VIGLIONE,  
By his attorney,

/s/ Thomas E. Kenney  
Thomas E. Kenney (#561590)  
Pierce & Mandell, P.C.  
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Boston, MA 02108  
(617) 720-2444  
[tom@piercemandell.com](mailto:tom@piercemandell.com)

# EXHIBIT A



# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Karen Leigh Clayette*  
Acting United States Register of Copyrights and Director

Registration Number  
**VA 2-066-990**  
Effective Date of Registration:  
February 16, 2017

## Title

Title of Work: Boston's Prudential Tower lit GO PATS

## Completion/Publication

Year of Completion: 2017  
Date of 1st Publication: February 05, 2017  
Nation of 1st Publication: United States

## Author

• Author: Keith Viglione  
Author Created: photograph  
Citizen of: United States  
Year Born: 1985

## Copyright Claimant

Copyright Claimant: Keith Viglione  
38 Phillips Drive, Newburyport, MA, United States

## Rights and Permissions

Name: Keith Viglione  
Email: keith.viglione@me.com  
Telephone: (978)361-6412

## Certification

Name: Keith Viglione  
Date: February 16, 2017

# EXHIBIT B



# Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

United States Register of Copyrights and Director

Registration Number

**VA 2-154-160**

Effective Date of Registration:

February 04, 2019

## Title

Title of Work: 2019 Boston Prudential Tower lit GO PATS

## Completion/Publication

Year of Completion: 2019  
Date of 1st Publication: February 02, 2019

## Author

- Author: Keith Viglione  
Author Created: photograph  
Citizen of: United States

## Copyright Claimant

Copyright Claimant: Keith Viglione  
38 Phillips Drive, Newburyport, MA, 01950, United States

## Rights and Permissions

Name: Keith Viglione  
Email: keith.viglione@me.com

## Certification

Name: Keith Viglione  
Date: February 04, 2019