

UNITED STATES DISTRICT COURT  
DISTRICT OF COLORADO

KEVIN DOWNS

Plaintiff,

- against -

UNITED STATES OLYMPIC COMMITTEE

Defendant.

Docket No. 1:19-cv-330

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Kevin Downs (“Downs” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant United States Olympic Committee (“Olympic” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of an outside ping pong match in New York City, owned and registered by Downs, a professional photographer. Accordingly, Downs seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant transacts business in Colorado.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Downs is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 194 Deveo Street, Brooklyn, New York 11211.

6. Upon information and belief, Olympic is a foreign business corporation organized and existing under the laws of the State of Colorado, with a place of business at One Olympic Plaza, Colorado Springs, CO 80909. At all times material hereto, Olympic has owned and operated a website at the URL: [www.TeamUSA.org](http://www.TeamUSA.org) (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photograph**

7. Downs photographed an outside ping pong match in New York City (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Downs is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-080-779.

#### **B. Defendant’s Infringing Activities**

10. Olympic ran an article on the Website entitled *Car Free NYC Clears Midtown Street of Vehicles to Make Way For Outdoor Festivities*. See: [www.teamusa.org/USA-Table-Tennis/Features/2017/April/23/Car-Free-NYC](http://www.teamusa.org/USA-Table-Tennis/Features/2017/April/23/Car-Free-NYC). A true and correct copy of the article and screenshot of the Photograph on the Website are attached hereto as Exhibit B.

11. Olympic did not license the Photograph from Plaintiff for its article, nor did Olympic have Plaintiff's permission or consent to publish the Photograph on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Olympic infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Olympic is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Olympic have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Olympic be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
February 7, 2019

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