

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JERRY GREENBERG, individually,
and IDAZ GREENBERG, individually,

Plaintiffs,

CASE NO. 97-3924
CIV-LENARD
Magistrate Judge Turnoff

vs.

NATIONAL GEOGRAPHIC
SOCIETY, a District of Columbia
corporation, NATIONAL GEOGRAPHIC
ENTERPRISES, INC., a corporation,
and MINDSCAPE, INC., a
California corporation,

Defendants.

**PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT
ON LIABILITY AS TO COUNT III
OF AMENDED COMPLAINT
AND SUPPORTING MEMORANDUM
OF LAW**

Plaintiffs, JERRY GREENBERG and IDAZ GREENBERG ("the Greenbergs"), move pursuant to Rule 56, Federal Rules of Civil Procedure, for summary judgment on liability as to Count III of the Amended Complaint.

The Amended Complaint consists of five counts, only one of which is germane to this motion. Count III alleges copyright infringement by all of the defendants with respect to the "Complete Geographic" product containing photographs copyrighted and registered by plaintiff Jerry Greenberg, the inclusion of which he did not authorize.

MEMORANDUM OF LAW

Rule 56 provides that the Court may grant summary judgment to the moving party where no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. Celotex Corporation v. Catrett, 477 U.S. 317 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).

As a Statement of Facts, the plaintiffs adopt and incorporate the Statement of Facts set forth by the plaintiffs in their response to Defendants' Motion to Dismiss Count II and to Dismiss or for Summary Judgment on Counts III-V of Plaintiffs' Amended Complaint, as well as the Statement of Material Facts contained in the memorandum accompanying the defendants' motion. The plaintiffs also adopt and incorporate those documents and articles (including a box containing the Complete Geographic product) that have been placed in the record by the defendants.

For this motion, the plaintiffs also adopt and incorporate the argument set forth in Part II of the plaintiffs' response to the aforesaid motion filed by the defendants. Part II is directed only to Count III of the Amended Complaint and thus is appropriate for the purpose of this motion.

WHEREFORE Plaintiffs, JERRY GREENBERG and IDAZ GREENBERG, move for summary judgment on liability as to Count III of the Amended Complaint.

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