

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

JAMES CONCANNON,

PLAINTIFF,

-AGAINST-

LEGO SYSTEMS, INC. AND LEGO A/S,

DEFENDANTS.

Civ. Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff James Concannon, by and through his attorneys at Jayaram Law, Inc., brings this action against Defendants LEGO Systems, Inc. and LEGO A/S (collectively “LEGO”), and for his Complaint alleges as follows:





NATURE OF THE ACTION

1. This is an action for copyright infringement against LEGO, the largest toy company in the world, arising from LEGO’s unauthorized copying and commercial exploitation of the work of American artist James Concannon.

2. James Concannon is a multi-disciplinary artist based in Connecticut and New York. LEGO is the largest toy company in the world, with annual revenue of over \$5 billion.

3. In 2018, Concannon created a custom leather jacket (the “Concannon Jacket”) as a gift for Antoni Porowski, one of the stars of Netflix’s *Queer Eye* series and a fan of Concannon’s work. The Concannon Jacket features Concannon’s original artwork, composed and arranged in Concannon’s signature propaganda-infused aesthetic. Concannon owns the copyright in the artwork embodied in the Concannon Jacket, which is registered with the United States Copyright Office.

4. In September 2021, LEGO announced the release of a “Queer Eye – The Fab 5 Loft” LEGO set, which is based on the *Queer Eye* Netflix series. The Fab 5 Loft set includes a “LEGO version” of the Concannon Jacket—in other words, a blatant copy of Concannon’s original creation. A side-by-side comparison of the Concannon Jacket and LEGO’s knockoff version (the “Infringing Product”) is depicted below:

<i>The Concannon Jacket</i>	<i>LEGO’s Infringing Product</i>
	
	

5. Despite admitting that it intentionally copied the Concannon Jacket when it developed the Fab 5 Loft set, LEGO did not offer to compensate Concannon for copying his creation, did not ask Concannon's permission to copy his creation, and did not give Concannon any credit when it did copy his creation. Instead, it offered to send Concannon a free Fab 5 Loft set—which retails for \$99.99—for Concannon's six-year-old son to play with, only to later revoke that offer, telling Concannon that LEGO does not give away its products for free.

6. Concannon is a working artist with a serious medical condition who supports himself and a young child through his work.

7. Concannon brings this action to hold LEGO accountable for its blatant disregard for his intellectual property rights and recover damages for LEGO's willful infringement.

PARTIES

8. Upon information and belief, Defendant LEGO Systems, Inc. is a Delaware corporation with its place of business at 555 Taylor Road, Enfield, CT 06082.

9. Upon information and belief, Defendant LEGO A/S is a private corporation with its place of business at Aastvej 1, Dk-7190, Billund, Denmark.

10. Plaintiff James Concannon is an American citizen who resides in Connecticut.

JURISDICTION AND VENUE

11. This civil action asserts claims arising under the Copyright Laws of the United States, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 1338(a).

12. This Court has personal jurisdiction over Defendant LEGO Systems, Inc. because, on information and belief, it is a resident of this District with its principal place of business located

within this District. This Court has personal jurisdiction over Defendant LEGO A/S because, on information and belief, it continuously and systematically does business in Connecticut.

13. Venue is proper in this District under 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred in this District, and Defendant LEGO Systems, Inc. resides in this District.

FACTUAL BACKGROUND

Queer Eye's Authorized Uses of Concannon's Work

14. James Concannon is a multi-disciplinary artist who specializes in the infiltration and subversion of pop culture. Examples of Concannon's works, featuring his distinct propaganda-inspired aesthetic, are pictured below.



15. In June 2017, Concannon received an email from a clearance coordinator at ITV America, the producer of the new *Queer Eye* Netflix series, which was set to launch in early 2018. A reboot of the popular television show from the early 2000's, Netflix's *Queer Eye* would feature an all-new cast and new locations, while sticking to its predecessor's theme of providing style and home makeovers to help transform people's lives.

16. In her 2017 email, ITV's clearance coordinator told Concannon that one of the *Queer Eye* cast members, Antoni Porowski, "would love to be able to" wear three of Concannon's custom-made "art t-shirts"—"Acid And Nancy Reagan," "The Crank Generation," and "Cry Me A River Phoenix"—at different times throughout the show's first season. The email attached a release form, which Concannon signed, granting ITV America (on behalf of Netflix) the right to display Concannon's creations on the show. The release also granted Netflix the right to display Concannon's works in connection with the show's advertising. A few months later, another ITV clearance coordinator reached out to Concannon, seeking his permission to add a fourth Concannon t-shirt—"James Dean Speed Queen"—to the list of works that would be featured on the show. Concannon agreed.

17. Through this exchange, Concannon learned that one of *Queer Eye*'s new cast members, Antoni Porowski, was a fan of Concannon's work. Concannon and Porowski connected through social media, met in person, and eventually became friends.

18. Over the next couple of years, Concannon gifted several custom creations to his friend Porowski. Each time one of Concannon's t-shirts was going to be featured on the show, *Queer Eye*'s producers sought Concannon's permission and obtained a signed release specifying the work that would appear on the show and the nature of the rights being granted. Between 2017 and 2021, *Queer Eye*'s producers continued to feature Concannon's works on the show—and

continued to seek Concannon's written permission for doing so. The only time *Queer Eye* did not seek Concannon's permission to feature one of Concannon's creations on the show was in 2018, in connection with the work that is the subject of this lawsuit.

Creation of the Concannon Jacket

19. In 2018, Concannon created a custom leather jacket (the "Concannon Jacket") and gifted it to Porowski. The Concannon Jacket was created using a plain black leather jacket that Porowski sent to Concannon, to which Concannon added his original artwork, composing and arranging each artistic element to reflect his signature aesthetic. The Concannon Jacket, pictured below, is registered with the United States Copyright Office, as reflected by Reg. No. VA0002276952. *See* Ex. A.





20. Concannon delivered the Concannon Jacket to Porowski in September 2018.

21. The Concannon Jacket first appeared on *Queer Eye* in the first episode of the show's fourth season, which was released on Netflix in July 2019. However, unlike previous and subsequent instances where Concannon's works were featured on the show, nobody contacted Concannon to request his permission to feature the Concannon Jacket on the show. Concannon figured this was simply an oversight on Netflix's part and was not disturbed. He was happy to see his work featured on a show that, up until then, had always asked permission before displaying his works. Concannon also appreciated that Porowski often credited him as the creator of the works that appeared on the show, an acknowledgment of the talent, hard work, and creativity that went into Concannon's creations.

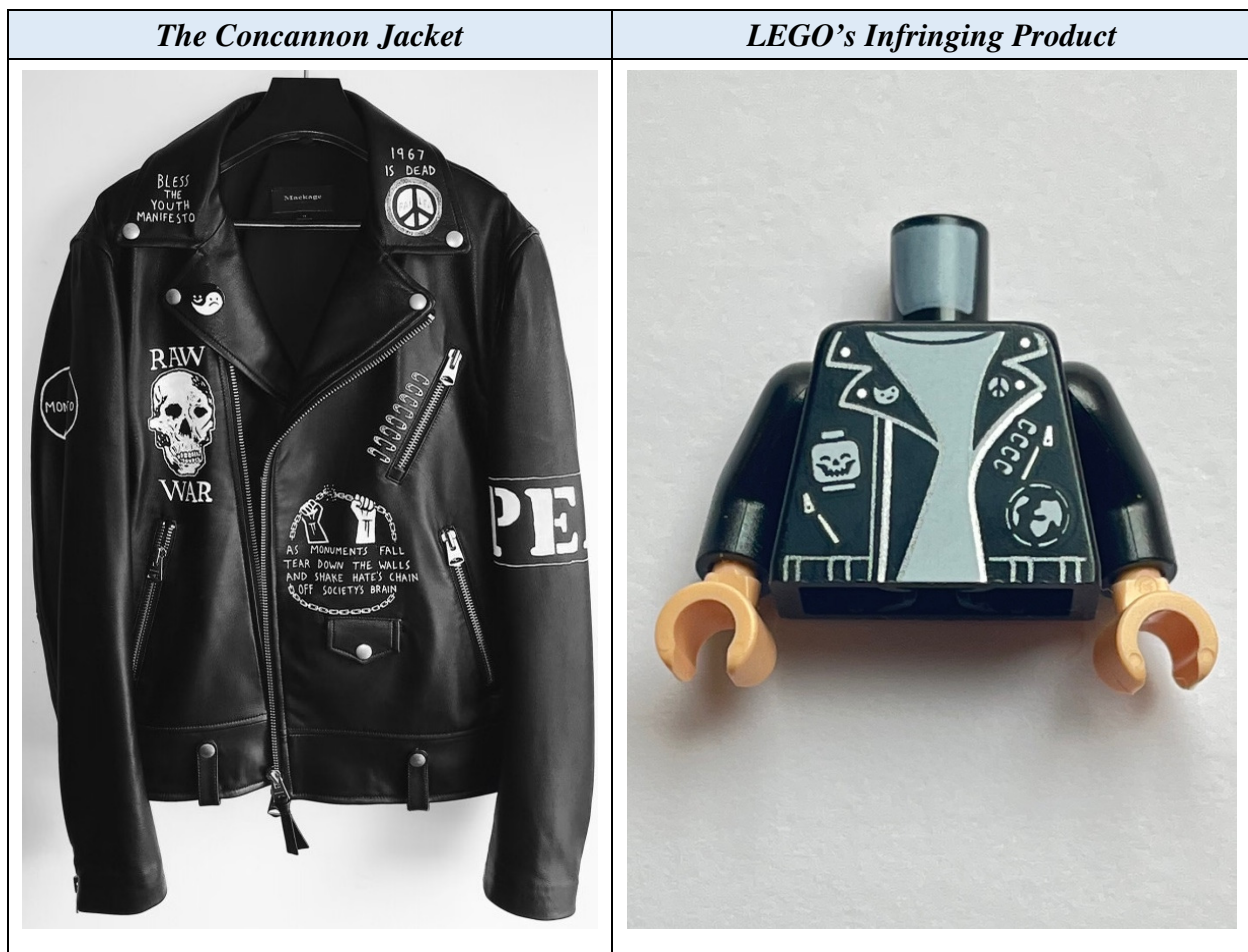
22. However, Concannon never granted Netflix a license to display the jacket on the show (as he had in previous instances where his works were featured on the show), and he certainly never agreed to allow LEGO—the largest toy company in the world, with over \$5 billion in annual revenue—to commercially exploit his artwork for free.

23. Yet that is exactly what LEGO did.

LEGO's Intentional Copying of the Concannon Jacket

24. On or around September 14, 2021, LEGO began marketing a new LEGO set, called “Queer Eye – The Fab 5 Loft,” based on the *Queer Eye* Netflix series. Upon information and belief, LEGO began selling the Fab 5 Loft set on October 1, 2021.

25. The Fab 5 Loft set, which currently retails for \$99.99, includes a virtually identical copy of the Concannon Jacket, as pictured below.





As the above side-by-side comparison reflects, LEGO painstakingly copied not only the individual creative elements of the Concannon Jacket, but the unique placement, coordination, and arrangement of those individual artistic elements as well.

26. LEGO did not seek Concannon’s permission—let alone offer to compensate Concannon—before exploiting Concannon’s original creation in the global toy market. Indeed, LEGO did not even credit Concannon as the original creator of the Concannon Jacket. It simply used it, in total disregard of Concannon’s intellectual property rights as a working artist.

27. It is indisputable that LEGO developed its Infringing Product by copying the Concannon Jacket. For example, in a video that LEGO released to promote the Fab 5 Loft set, LEGO’s Senior Graphic Designer states that Antoni “*has a really iconic leather jacket that we redid in LEGO version.*” See <https://www.youtube.com/watch?v=RDGxA14iA7c> (at 4:28). The video, which depicts the “LEGO version” of the Concannon Jacket for several seconds on screen, was posted on LEGO’s official YouTube account and has been viewed over 65,000 times.

28. LEGO has exploited the Concannon Jacket throughout its aggressive marketing of the Fab 5 Loft set, including on the very front of the box in which the Fab 5 Loft set is sold:



See <https://www.lego.com/en-us/product/queer-eye-the-fab-5-loft-10291?p=10291&cmp=social-n4r7lm-SHOP> (last visited December 7, 2021).

29. In addition to the creation, distribution, and sale of the Infringing Product throughout the world, LEGO has developed animated versions of the Concannon Jacket, which

LEGO has used to promote the Fab 5 Set across social media. A video posted to LEGO's official Twitter page depicts the Concannon Jacket in animated form:



See https://twitter.com/LEGO_Group/status/1437733080106782722?s=20 (last visited December 7, 2021). The video has been viewed over 228,000 times.

LEGO's Unwillingness to Accept Responsibility for Its Infringement

30. When Concannon learned of LEGO's infringement of the Concannon Jacket, he immediately reached out to the company. After several calls to LEGO's customer service line to inquire about the company's use of his work, Concannon was told that LEGO "loves creators" and the switchboard operator offered to send him a free Fab 5 Loft set for his six-year-old son to play with. When the set never arrived, Concannon called back and was told that the operator had made a mistake, and that LEGO does not give away its sets for free.

31. Concannon's supporters encouraged him to find an attorney. Through undersigned counsel, Concannon eventually sent a cease-and-desist letter to LEGO in which he demanded that LEGO take seriously his intellectual property rights as a working artist.

32. Concannon hoped that perhaps LEGO had made an honest mistake, copied his work without realizing Concannon retained all copyrights in the Concannon Jacket, and would offer to compensate Concannon or pay him a reasonable royalty that he could use to support his family and manage his type 1 diabetes, which requires him to rely on an insulin pump.

33. Instead, lawyers for the company told Concannon's attorney that if Concannon brought a case against LEGO it would be an "uphill battle" arguing, in effect, that by gifting the Concannon Jacket to his friend Porowski knowing that Porowski would wear the jacket on *Queer Eye*, Concannon was granting an "implied license" to Netflix to use the jacket in any manner it pleased—including sub-licensing the work to LEGO, the largest toy company in the world, so that LEGO could mass-produce the work for the global toy market and retain all the profits for itself.

34. Lawyers for the company also noted that they had listened to Concannon's recorded calls with LEGO's customer service team and insultingly suggested that Concannon was only asserting his legal rights after the fact because he was upset that he never received his free LEGO set in the mail.

35. LEGO's response to Concannon's demand ignores basic principles of U.S. Copyright Law and demonstrates that LEGO cares more about its bottom line than the working artists who supply the creative lifeblood for industries like the one that LEGO dominates.

36. Concannon brings this action to hold LEGO accountable for its shameful theft of Concannon's intellectual property and to recover damages for LEGO's willful infringement.

**COUNT I:
COPYRIGHT INFRINGEMENT
(17 U.S.C. § 101 et seq.)**

37. Plaintiff incorporates and realleges Paragraphs 1 through 36 of this Complaint as if fully set forth herein.

38. By their actions alleged above, Defendants have infringed and will continue to infringe upon Plaintiff's copyrights in the Concannon Jacket (Reg. No. VA0002276952) including by, among other things, copying, publicly displaying, distributing, and creating derivative works of the Infringing Product, which is substantially similar to, derive from and a derivative of Plaintiff's original artwork and design, without any authorization or other permission from Plaintiff.

39. As alleged herein, Defendants had access to Plaintiff's original artwork and design before Defendants commenced their acts of infringement.

40. Upon information and belief, Defendants' infringement of Plaintiff's copyrights has been deliberate, willful, and in utter disregard of Plaintiff's rights.

41. Defendants will continue to realize unjust profits, gains, and advantages as a proximate result of their infringement if such infringement is permitted to continue. Moreover, to the extent the infringement may cease, Defendants will continue to realize just profits, gains, and advantages by having initially attracted and secured consumers through their act of infringement.

42. As a direct and proximate results of Defendants' willful copyright infringement, Plaintiff has suffered, and will continue to suffer, monetary loss to his business, reputation, and goodwill. Plaintiff is entitled to recover from Defendants the damages he has sustained and will sustain, and any gains, profits, and advantages obtained by Defendants because of their act of infringement and use, publication, and distribution of the copied artwork and design. At present, the amount of such damages, gains, profits, and advantages cannot be fully ascertained by the Plaintiff but will be established according to proof at trial.

43. Plaintiff is also entitled to recover from Defendants statutory damages and attorneys' fees for Defendants' willful infringement of his copyright.

44. Plaintiff is further entitled to an injunction restraining the Defendants, their agents and employees, and all persons acting in concert or participation with it, from engaging in any further such acts in violation of the Copyright Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court enter a judgment against Defendants, and grant the following relief:

- A. For a declaration that Defendants have infringed upon Plaintiff's copyright in the Concannon Jacket;
- B. For a declaration that Defendants must render a full and complete accounting to Plaintiff for Defendants' profits, gains, advantages, or the value of business opportunities received from the foregoing acts of infringement;
- C. For an award of damages for all damages suffered by the Plaintiff and for any profits or gain by Defendants attributable to infringement of Plaintiff's copyrights in amounts to be determined at trial;
- D. For a declaration that Defendants' infringement of Plaintiff's copyrights was willful;
- E. For an award of statutory damages to Plaintiff based upon Defendants' willful acts of infringement pursuant to Copyright Laws, 17 U.S.C. § 101 *et seq*;
- F. For an award to Plaintiff of their reasonable attorneys' fees, expenses, and costs incurred in this action under 17 U.S.C. § 505;
- G. For an award of pre-judgment and post-judgment interest; and,
- H. For any such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Concannon demands trial by jury for all issues that are so triable.

DATED: December 17, 2021

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