

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

REMARK, LLC,

Plaintiff,

v.

**ADELL BROADCASTING
CORPORATION, doing business
as WADL-TV,**

Defendant.

CASE NO. 2:10-cv-12767-GCS-MKM
HONORABLE GEORGE CARAM STEEH
MAGISTRATE JUDGE MONA K. MAJZOUB

**REPLY BRIEF ON DEFENDANT'S MOTION TO
DISMISS PLAINTIFF'S FIRST AMENDED COMPLAINT
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

A. Reply on the Copyright Infringement Claim

The critical defect in Remark's efforts to plead a copyright infringement claim, in both the original Complaint and the First Amended Complaint, is its failure to identify any original, and hence protectable, matter contained in the "Remarkable Mouth" television commercial, of Copyright Reg. No. PA 64-936, or any other work for which it asserts copyright ownership. The "chart" on page 6 of Remark's opposition brief identifies no original content.

Remark misstates the proof elements of a copyright infringement claim on page 5 of its opposition brief, arguing that "access" and "substantial similarity" are all that need be recited in pleading a claim for copyright infringement. The correct statement of the proof elements is from *Feist Publications, Inc. v. Rural Telephone Service Company*, 499 U.S. 340, 361, 111 S. Ct.

Michigan Criminal Charges Relief Motion Manual

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State Postconviction Remedies and Relief Handbook ,2007 *People v. Jankowski*, 408 MICH 79 (1980) ,1980
61253 *Handbook of the National Conference of Commissioners on Uniform State Laws and Proceedings of the ... Annual
Conference* National Conference of Commissioners on Uniform State Laws,1920 California. Court of Appeal (2nd
Appellate District). Records and Briefs California (State)., **United States Government Publications Monthly Catalog**
,1945 **Sacred Heart Aid Society v. Aetna Casualty & Surety Company**, 355 MICH 480 (1959) ,1959 6
Post-conviction Remedies George N. Brezna,1988 **Reports of Cases Decided in the Supreme Court of the
State of Indiana** Indiana. Supreme Court,Charles Frederick Remy,George Washington Self,Philip Zoercher,William H.
Adams,Mrs. Edward Franklin White,Emma Mary May,1905 With tables of cases reported and cited and statutes cited and
construed and an index varies Labor Relations Reference Manual ,2003 Vols 9 17 include decisions of the War Labor
Board *People v. Dennany*; *People v. Jones*, 445 MICH 412 (1994) ,1994 94225 McKee v. Department of Social
Services, 424 MICH 404 (1986) ,1986 73470 *A Treatise on the Law of Trials in Actions Civil and Criminal* Seymour
Dwight Thompson,1912 **Burba v. Burba (After Remand)**, 461 MICH 637 (2000) ,2000 112311 **Defender
Motions Book** ,2004 Klinke v. Mitsubishi Motors Corporation, 458 MICH 582 (1998) ,1998 107730 107731 107732
Congressional Record ,1884 *The Encyclopaedia of Pleading and Practice* ,1901 **The Northwestern Reporter**
,1913 Cases decided in the courts of Iowa Michigan Minnesota Nebraska North Dakota South Dakota Wisconsin
Clearinghouse Review ,1969 **Reports of the Cases Decided in the Appellate Court of Indiana** Indiana. Appellate
Court,1921

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