

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

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**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

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**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

**RJ Alexander**



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