

We market a cross that is produced in gold or silver. The copyrighted image that we use is to sell it was appropriated by another organization to sell an inferior copy of the cross. They use a stamped and plated item where ours is a heavy high quality cast solid product. We both market to the same target audience – immigrant Scandinavians. Our marketing primarily consists of newspaper ads in weekly Danish language newspapers. Their marketing is primarily direct mail catalogs.

This other organizations use of our photograph clearly misrepresented their product and caused our customers to think that what they were selling was our high quality product. The year that they did this, we had virtually no sales and in subsequent years we had to rebuild our market. Our only affordable action was to hire an attorney to write a cease and desist letter. While they quit using the image the following year, the offending image continued to exist in their published catalog and they continued to sell their misrepresented product. To sue the offending organization was simply not an option. We are a small organization of two people and our sales are in five figures. Small claims might have been an option, but the offending organization is in another state so it would require two lawyers and since we had been cut out of sales, we simply didn't have the money to pursue legal action.

This is clearly a case of the big guys ripping off the little guys and they know they can get away with it because the cost of interstate legal action is a barrier.

A small claims option would have permitted us to stop their fraudulent sales, and to compensate us for all crosses that they sold from that catalog.