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UNITED STATES DISTRICT COURT
EASTERN DISCTRICK OF CALIFORNIA

YELLOWCAKE, INC., A CALIFORNIA
CORPORATION,

Plaintiff,

v.

MORENA MUSIC, INC., a California
corporation; EDUARDO LEON, d/b/a LONG
PLAY MUSIC; and Does 1 through 50,
inclusive,

Defendants.

CASE NO.: 1:20-CV-00787-AWI-BAM

ANSWER

ANSWER

1 Defendants, Morena Music Inc., and Eduardo Leon d/b/a Long Play (referred to herein as
2 “Defendants”) answers the Complaint of Plaintiff, Yellowcake Inc. (the “Plaintiffs”) admits,
3 denies, alleges and avers as follows:

4 1. Answering Paragraph 1, these answering defendants deny that it engaged in direct
5 and contributory infringement, or acted willfully, and further denies that Plaintiff has lawful
6 copyrights in the sound recordings defined as “Yellowcake’s Copyrighted Work.

7 2. Answering Paragraph 2, these answering defendants deny that Yellowcake holds
8 any lawful or valid copyrights in the Copyrighted Works. Answering Defendant further denies
9 that its exploitation of any Los Originales sound recordings, copyrights, masters in unauthorized,
10 unlawful, or wrongful and except as so expressly admitted and alleged, defendants deny
11 generally and specifically each and every allegation in paragraph 2 of the Complaint.

12 3. Answering paragraph 3 of the Complaint, Defendants admit that
13 plaintiff alleges money damages and injunctive relief under 17 U.S.C § 101 *et seq.* and that the
14 statutory provisions and legal authorities cited therein speak for themselves, and except as so
15 expressly admitted and alleged, defendants deny generally and specifically each and every
16 allegation in paragraph 3 of the Complaint.

17 4. Answering paragraph 4 of the Complaint, Defendants admit that plaintiff alleges
18 that the Court has jurisdiction under 17 U.S.C § 101 *et seq.*, 17 U.S.C § 1331, 28 U.S.C. §
19 1338 and that the statutory provisions and legal authorities cited therein speak for themselves,
20 and except as so expressly admitted and alleged, defendants deny generally and specifically each
21 and every allegation in paragraph 4 of the Complaint.

22 5. Answering paragraph 5 of the Complaint, Defendants admit that plaintiff alleges
23 that the Court has supplemental jurisdiction under 28 U.S.C § 1367 and that the statutory
24 provisions and legal authorities cited therein speak for themselves, and except as so expressly
25 admitted and alleged, defendants deny generally and specifically each and every allegation in
26 paragraph 5 of the Complaint.

27 6. Answering paragraph 6 of the Complaint, Defendants admit that plaintiff alleges
28 that the Court has personal jurisdiction over Defendants and Venue is proper under 28 U.S.C

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1 § 1391(b) and (d), 28 U.S.C. § 1400(a) and that the statutory provisions and legal authorities
2 cited therein speak for themselves, and except as so expressly admitted and alleged, defendants
3 deny generally and specifically each and every allegation in paragraph 3 of the Complaint.

4 7. Answering paragraph 7 of the Complaint, Defendants allege that Defendants have
5 insufficient knowledge or information to form a belief as to the truth of the allegations contained
6 therein, and on that basis, deny generally and specifically each and every allegation contained in
7 paragraph 7 of the Complaint.

8 8. Answering Paragraph 8, these answering defendants admit the allegations thereof.

9 9. Answering Paragraph 9, these answering defendants admit the allegations thereof.

10 10. Answering paragraph 10 of the Complaint, the Defendants object to the plaintiff's
11 allegation as to an apparent "doe defendant", since it is not permitted by the Federal Rules of
12 Civil Procedure; that is "doe" defendants are not permitted in pleadings filed in Federal Court.
13 See, Rule 15 of the Federal Rules of Civil Procedure and on that basis, deny generally and
14 specifically each and every allegation contained in paragraph 10 of the Complaint.

15 11. Answering Paragraph 11, these answering defendants deny the allegations
16 contained therein.

17 12. Answering Paragraph 12, these answering defendants admit the allegations
18 thereof.

19 13. Answering paragraph 13 of the Complaint, Defendants allege that Defendants
20 have insufficient knowledge or information to form a belief as to the truth of the allegations
21 contained therein, and on that basis, deny generally and specifically each and every allegation
22 contained in paragraph 13 of the Complaint.

23 14. Answering Paragraph 14, these answering defendants deny that the copyright
24 registrations information in the described works are valid or lawful, and further denies that
25 Plaintiff has any ownership interest in the described works.

26 15. Answering paragraph 15 of the Complaint, Defendants allege that Defendants
27 have insufficient knowledge or information to form a belief as to the truth of the allegations
28 contained therein, and on that basis, deny generally and specifically each and every allegation

1 contained in paragraph 15 of the Complaint.

2 16. Answering Paragraph 16, these answering defendants deny the allegations based
3 upon a lack of information and belief. Denial is also based on the fact that even if certain works
4 are published with a copyright notice, any purported copyrights held by Plaintiff are unlawful
5 and invalid.

6 17. Answering Paragraph 17, these answering defendants deny the allegations based
7 upon a lack of information and belief. Denial is also based on the fact that even if certain works
8 are published with a copyright notice, any purported copyrights held by Plaintiff are unlawful
9 and invalid.

10 18. Answering paragraph 18 of the Complaint, Defendants allege that Defendants
11 have insufficient knowledge or information to form a belief as to the truth of the allegations
12 contained therein, and on that basis, deny generally and specifically each and every allegation
13 contained in paragraph 18 of the Complaint.

14 19. Answering paragraph 19 of the Complaint the Defendants object to the form of
15 the allegations set forth in this paragraph in that a plaintiff is not permitted to make factual
16 allegations based on “information and belief: in a complaint filed in Federal Court. See, Rules
17 4, 7, 8, 9, and 11 of the Federal Rules of Civil Procedure. In addition, and without waiving said
18 objection, said allegations are denied.

19 20. Answering paragraph 20 of the Complaint the Defendants object to the form of
20 the allegations set forth in this paragraph in that a plaintiff is not permitted to make factual
21 allegations based on “information and belief: in a complaint filed in Federal Court. See, Rules
22 4, 7, 8, 9, and 11 of the Federal Rules of Civil Procedure. In addition, and without waiving said
23 objection, said allegations are denied.

24 21. Answering paragraph 21 of the Complaint the Defendants object to the form of
25 the allegations set forth in this paragraph in that a plaintiff is not permitted to make factual
26 allegations based on “information and belief: in a complaint filed in Federal Court. See, Rules
27 4, 7, 8, 9, and 11 of the Federal Rules of Civil Procedure. In addition, and without waiving said
28 objection, said allegations are denied.

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1 22. Answering Paragraph 22, these answering defendants deny the allegations
2 thereof.

3 23. Answering paragraph 23 of the Complaint, Defendants allege that Defendants
4 have insufficient knowledge or information to form a belief as to the truth of the allegations
5 contained therein, and on that basis, deny generally and specifically each and every allegation
6 contained in paragraph 23 of the Complaint.

7 24. Answering Paragraph 24, these answering defendants admit that it received such
8 notice but denied that it engaged in any wrongful or unauthorized exploitation of any Los
9 Originales sound recordings, copyrights, masters.

10 25. Answering Paragraph 25, these answering defendants deny the allegations
11 thereof.

12 26. Answering Paragraph 26, these answering defendants deny the allegations
13 thereof.

14 27. Answering Paragraph 27, these answering defendants admit that it received such
15 notice but denied that it engaged in any wrongful or unauthorized exploitation of any Los
16 Originales sound recordings, copyrights, masters.

17 28. Answering Paragraph 28, these answering defendants deny the allegations
18 thereof.

19 29. Answering paragraph 29 of the Complaint, Defendants allege that Defendants
20 have insufficient knowledge or information to form a belief as to the truth of the allegations
21 contained therein, and on that basis, deny generally and specifically each and every allegation
22 contained in paragraph 29 of the Complaint.

23 30. Answering paragraph 30, defendants admit that YouTube disabled access to its
24 YouTube channel and except as so expressly admitted and alleged, defendants deny generally
25 and specifically each and every allegation in paragraph 30 of the Complaint.

26 31. Answering paragraph 31 of the Complaint, Defendants allege that Defendants
27 have insufficient knowledge or information to form a belief as to the truth of the allegations
28 contained therein, and on that basis, deny generally and specifically each and every allegation
contained in paragraph 31 of the Complaint.

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1 32. Answering paragraph 32 of the Complaint, Defendants allege that Defendants
2 have insufficient knowledge or information to form a belief as to the truth of the allegations
3 contained therein, and on that basis, deny generally and specifically each and every allegation
4 contained in paragraph 32 of the Complaint.

5 33. Answering paragraph 33 of Complaint, Defendant3 incorporate its answers as set
6 forth in paragraphs 1 through 32, inclusive, of this Answer as though fully set forth herein.

7 34. Answering paragraph 34 of the Complaint, Defendants admit that plaintiff alleges
8 that the cause of action arises under 17 U.S.C § 501 and that the statutory provisions and legal
9 authorities cited therein speak for themselves, and except as so expressly admitted and alleged,
10 defendants deny generally and specifically each and every allegation in paragraph 34 of the
11 Complaint.

12 35. Answering paragraph 35 of the Complaint, Defendants allege that Defendants
13 have insufficient knowledge or information to form a belief as to the truth of the allegations
14 contained therein, and on that basis, deny generally and specifically each and every allegation
15 contained in paragraph 35 of the Complaint.

16 36. Answering Paragraph 36, this answering defendant denies the allegations thereof,
17 and further denies that any registrations in the name of Plaintiff are lawful or valid.

18 37. Answering paragraph 37 of the Complaint, Defendants admit that plaintiff alleges
19 that the sound recordings are subject under 17 U.S.C § 102 and that the statutory provisions and
20 legal authorities cited therein speak for themselves, and except as so expressly admitted and
21 alleged, defendants deny generally and specifically each and every allegation in paragraph 37 of
the Complaint.

22 37. Answering Paragraph 37, these answering defendants deny the allegations
23 thereof.

24 38. Answering Paragraph 38, these answering defendants deny the allegations
25 thereof.

26 39. Answering Paragraph 39, these answering defendants deny the allegations
27 thereof.
28

1 40 Answering Paragraph 40, these answering defendants admit that Yellowcake has
2 never granted it any rights or authorization, but denies that Yellowcake has lawful ownership
3 and/or rights in the works which Yellowcake has wrongfully labeled “Yellowcake’s Copyrighted
4 Works”.

5 41. Answering Paragraph 41, these answering defendants admit receiving
6 correspondence, but deny that Yellowcake has lawful ownership and/or rights in the works
7 which Yellowcake has wrongfully labeled “Yellowcake’s Copyrighted Works”.

8 42. Answering paragraph 42 of the Complaint the Defendants object to the form of
9 the allegations set forth in this paragraph in that a plaintiff is not permitted to make factual
10 allegations based on “information and belief: in a complaint filed in Federal Court. See, Rules
11 4, 7, 8, 9, and 11 of the Federal Rules of Civil Procedure. In addition, and without waiving said
12 objection, said allegations are denied.

13 43. Answering Paragraph 43, these answering defendants deny the allegations
14 thereof.

15 44. Answering Paragraph 44, these answering defendants deny the allegations
16 thereof.

17 45. Answering Paragraph 45, these answering defendants deny the allegations
18 thereof.

19 46. Answering Paragraph 46, these answering defendants deny the allegations
20 thereof.

21 47. Answering Paragraph 47, these answering defendants deny the allegations
22 thereof.

23 48. Answering Paragraph 46, these answering defendants deny the allegations
24 thereof.

25 49. Answering Paragraph 49, these answering defendants deny the allegations
26 thereof.

27 50. Answering paragraph 50 of Complaint, Defendants incorporate its answers as set
28 forth in paragraphs 1 through 49, inclusive, of this Answer as though fully set forth herein.

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1 51. Answering Paragraph 51, these answering defendants deny the allegations
2 thereof.

3 52. Answering Paragraph 52, these answering defendants deny the allegations
4 thereof.

5 53. Answering paragraph 53 of Complaint, Defendants incorporate its answers as set
6 forth in paragraphs 1 through 52, inclusive, of this Answer as though fully set forth herein.

7 54. Answering paragraph 54 of the Complaint the Defendants object to the form of
8 the allegations set forth in this paragraph in that a plaintiff is not permitted to make factual
9 allegations based on “information and belief: in a complaint filed in Federal Court. See, Rules
10 4, 7, 8, 9, and 11 of the Federal Rules of Civil Procedure. In addition, and without waiving said
11 objection, said allegations are denied.

12 55. Answering Paragraph 55, these answering defendants deny the allegations
13 thereof.

14 56. Answering Paragraph 56, these answering defendants deny the allegations
15 thereof.

16 57. Answering Paragraph 57, these answering defendants deny the allegations
17 thereof.

18 58. Answering paragraph 58 of the Complaint the Defendants object to the form of
19 the allegations set forth in this paragraph in that a plaintiff is not permitted to make factual
20 allegations based on “information and belief: in a complaint filed in Federal Court. See, Rules
21 4, 7, 8, 9, and 11 of the Federal Rules of Civil Procedure. In addition, and without waiving said
22 objection, said allegations are denied.

23 59. Answering Paragraph 59, these answering defendants deny the allegations
24 thereof.

25 60. Answering Paragraph 60, these answering defendants deny the allegations
26 thereof.

27 61. Answering Paragraph 61, these answering defendants deny the allegations
28 thereof.

ANSWER

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

62. Plaintiff's Complaint, and each and every claim contained therein, fails to state any claims upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

63. Defendants allege that this action is barred by, inter alia, Sections 337, 338, 339, 340, and 343 of the Code of Civil Procedure, and 17 U.S.C. §507.

THIRD AFFIRMATIVE DEFENSE

(Laches)

64. Defendants allege that Plaintiff has delayed an unreasonable period of time in bringing this action which delay has substantially prejudiced Defendants. Consequently, the present action, and each and every claim therein, is barred by the Doctrine of Laches.

FOURTH AFFIRMATIVE DEFENSE

(Unclean Hands)

65. Defendants allege that Plaintiff has engaged in certain conduct, as a result of which this action, and each and every claim therein, is barred by the Doctrine of Unclean Hands.

FIFTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

66. Defendants allege that Plaintiff has failed to make reasonable efforts to mitigate his damages, if any, in whole or in part.

SIXTH AFFIRMATIVE DEFENSE

(Non-Joinder)

67. Defendants allege that Plaintiff is not entitled to judgment herein because Plaintiff has failed to join all necessary or indispensable parties to the litigation.

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ANSWER

SEVENTH AFFIRMATIVE DEFENSE

(Equitable Estoppel)

68. Defendants allege that Plaintiff is equitably estopped from bringing the claims enumerated in the Complaint.

EIGHTH AFFIRMATIVE DEFENSE

(Standing)

69. Defendants allege that Plaintiff lacks standing to bring any of the causes of action asserted in the Complaint.

NINTH AFFIRMATIVE DEFENSE

(Failure to Timely Register for Copyright Protection)

70. Defendants allege that Plaintiff is barred from seeking attorneys' fees or statutory damages because Plaintiff failed to timely register the work at issue under 17 U.S.C. §§ 411 and 412.

TENTH AFFIRMATIVE DEFENSE

(No Willful Infringement)

71. Defendants were not aware and had no reason to believe that his acts constituted an infringement of copyright.

ELEVENTH AFFIRMATIVE DEFENSE

(License or Consent)

72. If it is determined that Defendants did not own the copyrights in the alleged infringed sound recordings, which Defendants affirmatively deny, Defendants use at minimum Defendants are authorized pursuant to a verbal license.

TWELFTH AFFIRMATIVE DEFENSE

(Invalidity or Unenforceability of Copyright)

73. Defendant is informed and believes and based upon such information and belief, alleges that Plaintiff's copyrights are invalid and/or unenforceable.

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ANSWER

THIRETEENTH AFFIRMATIVE DEFENSE

(Damages)

74. Defendants deny that Plaintiff was damaged, but if any damages were sustained, those are proximately caused and contributed to by Plaintiff, and/or by persons and entities other than Defendant.

FOURTEENTH AFFIRMATIVE DEFENSE

(Offset)

75. Defendants deny that Plaintiff was damaged, or that it is responsible for any damages, but if any damages were sustained by Plaintiff, those must be offset by damages sustained by Defendants/Counterclaimant and/or monies due to Defendants/ Counterclaimant.

FIFTEENTH AFFIRMATIVE DEFENSE

(Reservation of Defenses)

76. Due to lack of information as to the matters set forth in the Complaint, Defendants have insufficient knowledge or information on which to form a belief as to whether additional, yet unstated, affirmative defenses are available. Defendants therefore reserve the right to assert such additional defenses in the event that discovery indicates that such additional defenses are proper.

WHEREFORE, Defendant prays for judgment against Plaintiff as follows:

1. That Plaintiff take nothing by its Complaint herein;
2. For costs of suit incurred herein; and
3. For such other and further relief as the Court may deem just and proper.

Dated: September 1, 2020

LAW OFFICES LOPEZ & ASSOCIATES

By: Anthony R. Lopez
Anthony R. Lopez
Attorney for Defendant

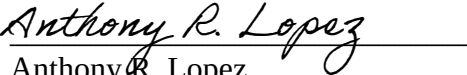
ANSWER

DEMAND FOR JURY TRIAL

Counterclaimant hereby demands a trial by jury.

Dated: September 1, 2020

LAW OFFICES LOPEZ & ASSOCIATES


Anthony R. Lopez
Attorneys for the Defendant

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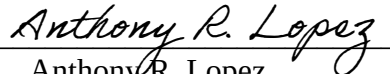
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 1, 2020, I electronically filed the foregoing with the document with the Clerk of the Court using the CM/ECF filing system. I also certify that the foregoing document is being served this date on all counsel of record or pro se parties as follows:

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In the manner specified, either via transmission of Notices of Electronic Filing generated by the CM/ECF system or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.



Anthony R. Lopez

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