

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF MICHIGAN

AF HOLDINGS, LLC,

Plaintiff,

vs.

Civil Action File No. 2:12-cv-14445

Hon. Arthur J. Tarnow

Magistrate Judge Michael J. Hluchaniuk

JASON HINDS,

Defendant.

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

Defendant JASON HINDS, by and through his attorneys, LAMBERT & LAMBERT PLC, states his Answer to Plaintiff's Complaint, Affirmative Defenses and Reliance Upon Jury Demand as follows:

1. Defendant denies the allegations as untrue and affirmatively states he has not knowingly and illegally reproduced and distributed Plaintiff's alleged copyrighted work.
2. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.
3. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.
4. Defendant admits he is over 18 years old and resides in this District, but denies the remainder of the allegations as untrue.
5. Defendant admits this Court has subject matter jurisdiction but denies as untrue that Plaintiff has any cause of action against Defendant.
6. Defendant admits this Court has personal jurisdiction but denies any allegation that Defendant committed copyright infringement as untrue.

7. Defendant admits that venue in this Court is proper but denies as untrue that Plaintiff has any cause of action against Defendant.

8. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

9. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

10. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

11. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

12. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

13. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

14. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

15. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

16. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

17. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

18. Defendant neither admits nor denies the allegations contained therein for lack of

sufficient knowledge or information and leaves plaintiff to its proofs.

19. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

20. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

21. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

22. Defendant denies the allegation as untrue.

23. Defendant denies the allegation that he illegally downloaded Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

24. Defendant denies any implication or allegation that he illegally downloaded Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

25. No answer required.

26. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

27. Defendant denies the allegation as untrue.

28. Defendant denies any implication or allegation that he illegally downloaded Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff

to its proofs.

29. Defendant denies any implication or allegation that he illegally downloaded Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

30. Defendant denies the allegation as untrue.

31. Defendant denies the allegation as untrue.

32. Defendant denies the allegation as untrue.

33. Defendant denies the allegation as untrue.

34. Defendant denies the allegation as untrue.

35. Defendant denies the allegation as untrue.

36. No answer required.

37. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

38. Defendant denies the allegations as untrue.

39. Defendant denies any implication or allegation that he illegally downloaded, reproduced and distributed Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

40. Defendant denies the allegation as untrue.

41. Defendant denies the allegation as untrue.

42. Defendant denies the allegation as untrue.

43. Defendant denies the allegation as untrue.

44. Defendant denies the allegation as untrue.

45. No answer required.

46. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

47. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

48. Defendant denies any implication or allegation that he illegally downloaded, reproduced and distributed Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

49. Defendant denies any implication or allegation that he illegally downloaded, reproduced and distributed Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

50. Defendant denies the allegation as untrue.

51. Defendant denies any implication or allegation that he illegally downloaded, reproduced and distributed Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

52. Defendant denies the allegation as untrue.

53. No answer required.

54. Defendant denies any implication or allegation that he illegally downloaded, reproduced and distributed Plaintiff's alleged copyrighted work as untrue and neither admits nor

denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

55. Defendant denies any implication or allegation that he illegally downloaded, reproduced and distributed Plaintiff's alleged copyrighted work as untrue and neither admits nor denies the remainder of the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

56. Defendant neither admits nor denies the allegations contained therein for lack of sufficient knowledge or information and leaves plaintiff to its proofs.

57. Defendant denies the allegation as untrue.

58. Defendant denies the allegation as untrue.

59. No answer required.

60. Defendant denies the allegation as untrue.

61. Defendant denies the allegation as untrue.

62. Defendant denies the allegation as untrue.

63. Defendant denies the allegation as untrue.

64. Defendant denies the allegation as untrue.

65. Defendant denies the allegation as untrue.

66. Defendant denies the allegation as untrue.

67. Defendant denies the allegation as untrue.

68. Defendant denies the allegation as untrue.

69. Defendant denies the allegation as untrue.

70. Defendant denies the allegation as untrue.

71. No answer required.

WHEREFORE, Defendant JASON HINDS prays that this Honorable Court DISMISS Plaintiff's Complaint with prejudice and grant Defendant such other relief as is just and equitable including court costs and attorneys' fees.

Respectfully Submitted,

Dated: March 12, 2013

/s/ Daniel B. Lambert

Daniel B. Lambert (P67480)
LAMBERT & LAMBERT PLC
36330 Woodward Ave., Suite 300
Bloomfield Hills, MI 48304
(248) 642-7774/Fax: (248) 642-3103
Dan@lambertplc.com
Attorney for Defendant

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a cause of action upon which relief can be granted.
2. Plaintiff's claims may be barred due to its contributory negligence.
3. Plaintiff's claims are barred by the doctrine of estoppel and unclean hands.
4. Plaintiff's claims are barred due to its own illegality and/or fraud.
5. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.
6. Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.
7. Plaintiff's claims are barred as unconscionable.
8. Plaintiff's copyright is invalid and/or unenforceable.
9. Plaintiff's claims may be barred by its prior license to Defendant.
10. Plaintiff's claims are barred, in whole or in part, due to its lack of standing to assert a basis for statutory relief.
11. Plaintiff's claims for statutory and/or equitable relief are barred as works of obscenity are not copyrightable or protected.

12. Plaintiff's claims are barred, in whole or in part, due to the fact the statutory damages sought by Plaintiff are unconstitutionally excessive as applied.

13. While Defendant denies the allegations of fact and conclusions of law alleged in Plaintiff's Complaint, Defendant asserts, in the alternative, that any infringement of Plaintiff's work qualifies as an "innocent infringement."

14. While Defendant denies the allegations of fact and conclusions of law alleged in Plaintiff's Complaint, Defendant asserts, in the alternative, that any sharing of Plaintiff's work was a de minimis use in that a functional copy of Plaintiff's work was not transferred.

15. While Defendant denies the allegations of fact and conclusions of law alleged in Plaintiff's Complaint, Defendant asserts, in the alternative, that Plaintiff authorized, impliedly or explicitly, the allegedly infringing sharing of its works via BitTorrent, and its claims are therefore barred by the doctrine of implied license.

16. Plaintiff's claims are barred, in whole or in part, by its License, consent, and acquiescence in the alleged infringing activity.

17. Plaintiff's claims are barred, in whole or in part, by its prior recovery / recovery set-offs in connection with the same or similar claims of infringement.

18. Plaintiff's claims are barred, in whole or in part based on its failure to mitigate.

19. Discovery and/or investigation may reveal that there exists no proximate causation between any alleged act or omission or any alleged breach of duty by Defendant in Plaintiff's alleged damages; and all of Plaintiff's claimed damages were the result of conduct of persons other than Defendant.

20. Discovery and/or investigation may reveal that some or all of the damages and other relief claimed by Plaintiffs is not recoverable under applicable law.

21. No act, failure to act, or breach of a legal duty by Defendant caused or proximately caused the damages alleged by Plaintiff.

22. Discovery and/or investigation may reveal that Plaintiffs' claims fail for want of evidence.

23. Defendant reserve the right to add additional affirmative defenses that become apparent during this litigation.

WHEREFORE, Defendant JASON HINDS prays that this Honorable Court DISMISS Plaintiff's Complaint with prejudice and grant Defendant such other relief as is just and equitable including court costs and attorneys' fees.

Respectfully Submitted,

Dated: March 12, 2013

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Attorney for Defendant

RELIANCE UPON JURY DEMAND

Defendant JASON HINDS, by and through his attorneys, hereby rely upon the demand for a trial by jury filed by Plaintiff.

Respectfully Submitted,

Dated: March 12, 2013

/s/ Daniel B. Lambert

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Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2013, I electronically filed the foregoing document via the Court's ECF System and served all counsel of record and interested parties through this system.

/s/ Daniel B. Lambert

Daniel B. Lambert