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 Inc. and Paramount Pictures Corporation  
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8 UNITED STATES DISTRICT COURT  
 9 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION  
 10

11 Osama Ahmed Fahmy, an individual,  
 12 Plaintiff,  
 13 v.

CASE NO. CV 07-05715 CAS (PJWx)

The Honorable Christina A. Snyder

**ANSWER TO COMPLAINT OF  
 DEFENDANTS PARAMOUNT  
 HOME ENTERTAINMENT, INC.  
 AND PARAMOUNT PICTURES  
 CORPORATION**

14 Jay-Z (aka Shawn Carter), Timothy  
 Mosely, Kyambo Joshua, Rob Bourdon,  
 15 Brad Delson, Mike Shinoda, Dave  
 Farrell, Joseph Hahn, Chester  
 16 Bennington, Big Bad Mr. Hahn Music,  
 Chesterchaz Publishing, EMI Blackwood  
 17 Music, Inc., EMI Music Publishing Ltd.,  
 Kenji Kobayashi Music, Lil Lulu  
 18 Publishing, Machine Shop Recordings,  
 LLC, Marcy Projects Productions II,  
 19 Inc., MTV Networks Enterprises Inc.,  
 Nondisclosure Agreement Music,  
 20 Paramount Home Entertainment, Inc.,  
 Paramount Pictures Corporation, Radical  
 21 Media, Rob Bourdon Music, Roc-A-  
 Fella Records, LLC, Timbaland  
 22 Productions, Inc., UMG Recordings,  
 Inc., Universal Music and Video  
 23 Distribution, Inc., and Warner Music  
 Inc.,

24 Defendants.  
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1 Defendants Paramount Home Entertainment, Inc. and Paramount Pictures  
2 Corporation (collectively “Defendants”), answer the Complaint of Osama Ahmed  
3 Fahmy (“Plaintiff”) as follows:

4 **JURISDICTION AND VENUE**

5 1. The allegations contained in paragraph 1 are legal conclusions to  
6 which a response is not required. To the extent the allegations in paragraph 1 are  
7 factual in nature, Defendants deny each and every allegation set forth therein.

8 **PARTIES**

9 2. Answering the first and second sentences of paragraph 2, Defendants  
10 lack information sufficient to form a belief as to the truth of said allegations and on  
11 that basis deny each and every allegation set forth therein; and answering the third  
12 sentence of paragraph 2, deny each and every allegation set forth therein.

13 3. Answering paragraph 3, Defendants admit the allegations in the first  
14 sentence of paragraph 3; lack information sufficient to form a belief as to the truth  
15 of the allegations in the second sentence of paragraph 3, and on that basis deny  
16 each and every allegation set forth therein; and deny each and every remaining  
17 allegation set forth in paragraph 3.

18 4. Answering paragraph 4, Defendants lack information sufficient to  
19 form a belief as to the truth of said allegations and on that basis deny each and  
20 every allegation set forth therein.

21 5. Answering paragraph 5, Defendants lack information sufficient to  
22 form a belief as to the truth of said allegations and on that basis deny each and  
23 every allegation set forth therein.

24 6. Answering paragraph 6, Defendants lack information sufficient to  
25 form a belief as to the truth of said allegations and on that basis deny each and  
26 every allegation set forth therein.

27 7. Answering the first sentence of paragraph 7, Defendants deny each  
28 and every allegation set forth therein. Answering the second sentence of paragraph

1 7, Defendants lack information sufficient to form a belief as to the truth of said  
2 allegations and on that basis deny each and every allegation set forth therein.

3 **ALLEGATIONS COMMON TO ALL CLAIMS**

4 8. Answering the final sentence of paragraph 8, Defendants deny each  
5 and every allegation set forth therein. Answering the remainder of paragraph 8,  
6 Defendants lack information sufficient to form a belief as to the truth of said  
7 allegations and on that basis deny each and every allegation set forth therein.

8 9. Answering paragraph 9, Defendants lack information sufficient to  
9 form a belief as to the truth of said allegations and on that basis deny each and  
10 every allegation set forth therein.

11 10. Answering paragraph 10, Defendants lack information sufficient to  
12 form a belief as to the truth of said allegations and on that basis deny each and  
13 every allegation set forth therein.

14 11. Answering paragraph 11, Defendants lack information sufficient to  
15 form a belief as to the truth of said allegations and on that basis deny each and  
16 every allegation set forth therein.

17 12. Answering paragraph 12, Defendants lack information sufficient to  
18 form a belief as to the truth of said allegations and on that basis deny each and  
19 every allegation set forth therein.

20 13. Answering paragraph 13, Defendants lack information sufficient to  
21 form a belief as to the truth of said allegations and on that basis deny each and  
22 every allegation set forth therein.

23 14. Answering paragraph 14, Defendants lack information sufficient to  
24 form a belief as to the truth of said allegations and on that basis deny each and  
25 every allegation set forth therein.

26 15. Answering paragraph 15, Defendants deny each and every allegation  
27 set forth therein.



1           23. The allegations contained in paragraph 23 are not directed against  
2 Defendants and as such no answer to paragraph 23 is required. To the extent any  
3 answer is required, Defendants deny each and every allegation set forth therein.

4           24. The allegations contained in paragraph 24 are not directed against  
5 Defendants and as such no answer to paragraph 24 is required. To the extent any  
6 answer is required, Defendants deny each and every allegation set forth therein.

7           25. The allegations contained in paragraph 25 are not directed against  
8 Defendants and as such no answer to paragraph 25 is required. To the extent any  
9 answer is required, Defendants deny each and every allegation set forth therein.

10          26. The allegations contained in paragraph 26 are not directed against  
11 Defendants and as such no answer to paragraph 26 is required. To the extent any  
12 answer is required, Defendants deny each and every allegation set forth therein.

13          27. The allegations contained in paragraph 27 are not directed against  
14 Defendants and as such no answer to paragraph 27 is required. To the extent any  
15 answer is required, Defendants deny each and every allegation set forth therein.

16                           **ANSWER TO SECOND CLAIM FOR RELIEF**

17          28. Answering paragraph 28, Defendants incorporate by reference their  
18 answers to paragraphs 1 through 18 above, as if set forth in full herein.

19          29. The allegations contained in paragraph 29 are not directed against  
20 Defendants and as such no answer to paragraph 29 is required. To the extent any  
21 answer is required, Defendants deny each and every allegation set forth therein.

22          30. The allegations contained in paragraph 30 are not directed against  
23 Defendants and as such no answer to paragraph 30 is required. To the extent any  
24 answer is required, Defendants deny each and every allegation set forth therein.

25          31. The allegations contained in paragraph 31 are not directed against  
26 Defendants and as such no answer to paragraph 31 is required. To the extent any  
27 answer is required, Defendants deny each and every allegation set forth therein.



1           42.    Answering paragraph 42, Defendants deny each and every allegation  
2 set forth therein.

3                           **ANSWER TO FOURTH CLAIM FOR RELIEF**

4           43.    This claim for relief has been dismissed pursuant to the Court’s Order  
5 of March 20, 2008, and as such no answer to paragraph 43 is required. To the  
6 extent any answer is required, Defendants incorporate by reference their answers to  
7 paragraphs 1 through 37 above, as if set forth in full herein.

8           44.    This claim for relief has been dismissed pursuant to the Court’s Order  
9 of March 20, 2008, and as such no answer to paragraph 44 is required. To the  
10 extent any answer is required, Defendants deny each and every allegation set forth  
11 therein.

12          45.    This claim for relief has been dismissed pursuant to the Court’s Order  
13 of March 20, 2008, and as such no answer to paragraph 45 is required. To the  
14 extent any answer is required, Defendants deny each and every allegation set forth  
15 therein.

16          46.    This claim for relief has been dismissed pursuant to the Court’s Order  
17 of March 20, 2008, and as such no answer to paragraph 46 is required. To the  
18 extent any answer is required, Defendants deny each and every allegation set forth  
19 therein.

20          47.    This claim for relief has been dismissed pursuant to the Court’s Order  
21 of March 20, 2008, and as such no answer to paragraph 47 is required. To the  
22 extent any answer is required, Defendants deny each and every allegation set forth  
23 therein.

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25                           **PRAYER FOR RELIEF**

26          48.    Defendants deny that Plaintiff is entitled to recover any of the  
27 damages, injunctive or other relief sought in his Prayer for Relief, and deny each  
28 and every allegation contained therein.

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**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim for Relief)**

49. The Complaint fails to state facts sufficient to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

50. Plaintiff’s claims are barred in whole or in part by the applicable statute(s) of limitations.

**THIRD AFFIRMATIVE DEFENSE**

**(Standing)**

51. Plaintiff lacks standing to bring this action or any claim against Defendants for the relief sought herein.

**FOURTH AFFIRMATIVE DEFENSE**

**(Failure to Join Necessary and Indispensable Parties)**

52. The Complaint fails to name necessary or indispensable parties, including persons and entities that own the allegedly infringed works, as alleged in the Complaint.

**FIFTH AFFIRMATIVE DEFENSE**

**(Independent Creation)**

53. Defendants’ works were the result of Defendants’ independent creation.



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**SIXTH AFFIRMATIVE DEFENSE**

**(Adequate Remedy at Law)**

54. Plaintiff's causes of action, and each of them, and his injunctive and restitution remedies, are barred in light of the fact that Plaintiff has an adequate remedy at law.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Attorneys' Fees Not Recoverable)**

55. Plaintiff is barred from any recovery of attorneys' fees, because, in bringing this action, Plaintiff has not alleged any basis upon which attorneys' fees are recoverable.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Laches)**

56. Plaintiff is barred by the doctrine of laches from asserting any of his claims for relief.

**NINTH AFFIRMATIVE DEFENSE**

**(Waiver)**

57. Plaintiff has, through his actions, conduct, delay, and failure to act, waived any right to relief.

**TENTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

58. Plaintiff is estopped by his own acts and omissions from asserting any claims in this action.

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**ELEVENTH AFFIRMATIVE DEFENSE**

*(De Minimis)*

59. To the extent any copyrightable elements from any of the allegedly infringed works were used in allegedly infringing works and were not independently created, such use is *de minimis* and not actionable.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Authorization, License, Acquiescence, Ratification, Consent)**

60. To the extent any of the acts or omissions averred in the Complaint occurred, those acts were authorized, licensed, acquiesced in, ratified, or consented to it, expressly, by implication, or by conduct.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Lack of Willfulness)**

61. Defendants have not willfully infringed any alleged copyright in the Plaintiff’s purported work.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Comply with Statutory Requirements)**

62. Plaintiff has failed to comply with the registration, deposit, and other statutory requirements that are conditions precedent to maintaining this action and/or to the recovery of statutory damages and attorneys’ fees.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Work for Hire)**

63. To the extent Baligh Hamdy wrote or contributed to “Khosara Khosara,” such contribution was a work made for hire.

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**SIXTEENTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

64. Plaintiff’s claims are barred by the doctrine of unclean hands.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Good Faith)**

65. To the extent Defendants engaged in any act averred by Plaintiff, they did so innocently and in good faith.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Lack of Originality)**

66. Plaintiff’s causes of action are barred as the portion of the Plaintiff’s work alleged to have been infringed is not original.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Lack of Protectability)**

67. Plaintiff’s causes of action are barred as the portion of the Plaintiff’s work alleged to have been infringed is not protectable.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(Forfeiture by General Publication)**

68. Plaintiff’s works are in the public domain by reason of the alleged author’s sale of said works without affixing any copyright notice thereto.

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**TWENTY-FIRST AFFIRMATIVE DEFENSE**

**(Fair Use)**

69. To the extent any copyrightable elements from the allegedly infringed work was used in allegedly infringing works and were not independently created, such use constituted fair use.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Not Copyrightable Expression)**

70. Plaintiff’s claims are barred, in whole or in part, because there is no infringement of copyrightable expression.

WHEREFORE, Defendants pray:

- 1. That Plaintiff take nothing by the Complaint, and that the Complaint, and each claim for relief therein, be dismissed with prejudice;
- 2. For Defendants’ attorneys’ fees and full costs incurred herein; and
- 3. For such other relief as the Court deems just and proper.

DATED: April 3, 2008

RUSSELL J. FRACKMAN  
ALEXA L. LEWIS  
MITCHELL SILBERBERG & KNUPP LLP

By: /s/ Alexa L. Lewis  
Alexa L. Lewis

Attorneys for Defendants Paramount Home  
Entertainment, Inc. and Paramount Pictures  
Corporation