

1 RUSSELL J. FRACKMAN (SBN 49087)
 rjf@msk.com
 2 DAVID A. STEINBERG (SBN 130593)
 das@msk.com
 3 MITCHELL SILBERBERG & KNUPP LLP
 11377 West Olympic Boulevard
 4 Los Angeles, California 90064-1683
 Telephone: (310) 312-2000
 5 Facsimile: (310) 312-3100

6 Attorneys for Defendant Capitol Records
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8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

10
 11 JOE SATRIANI

12 Plaintiff,
 13

14 v.

15 CHRISTOPHER MARTIN, an
 individual; JONATHAN BUCKLAND,
 an individual; GUY BERRYMAN, an
 16 individual; WILLIAM CHAMPION, an
 individual; and CAPITOL RECORDS,
 17 an entity of unknown form,

18 Defendants.
 19

Case No. CV08- 07987 DDP (VBKx)

Honorable Dean D. Pregerson

Courtroom 3

**ANSWER OF DEFENDANT
 CAPITOL RECORDS TO
 COMPLAINT**

DEMAND FOR JURY TRIAL

1 Defendant Capitol Records (“Capitol” or “Defendant”) by its attorneys,
2 Mitchell Silberberg & Knupp LLP, answers the Complaint of Plaintiff Joe
3 Santriani (“Plaintiff) as follows:
4

5 1. Defendant avers that Paragraph 1 of the Complaint sets forth legal
6 conclusions that do not require a response, except Defendant admits that Plaintiff
7 purports to assert a claim arising under the Copyright Act (Title 17, U.S.C. § 101
8 et seq), and purports to base subject matter jurisdiction in this action on 28 U.S.C.
9 §§ 1331 and 1338. Defendant denies the remaining averments of Paragraph 1 and
10 specifically denies it is liable to Plaintiff under the Copyright Act or otherwise.
11

12 2. Defendant avers that Paragraph 2 of the Complaint sets forth legal
13 conclusions that do not require a response, except that Defendant admits that
14 Plaintiff avers that venue in this Court is proper. Defendant further admits and
15 avers that it carries out business in Los Angeles and has its principal place of
16 business in New York. Defendant lacks knowledge and information sufficient to
17 form a belief as to the remaining averments of Paragraph 2, and on that basis
18 denies said averments.
19

20 3. Defendant lack knowledge and information sufficient to form a belief as
21 to the averment of Paragraph 3, and on that basis denies said averments.
22

23 4. Defendant admits that Christopher Martin, Jonathan Buckland, Guy
24 Berryman, and William Champion perform as the recording group “Coldplay.”
25 Defendant lacks knowledge and information sufficient to form a belief as to the
26 remaining averments of Paragraph 4, and on that basis denies said averments.
27

1 5. Defendant avers that Capitol Records is a d/b/a of Capitol Records, LLC,
2 with its principal place business in New York. Defendant denies the remaining
3 averments of Paragraph 5.

4
5 6. Defendant admits that the Complaint refers collectively to Martin,
6 Buckland, Berryman, Champion, and Capitol as “Defendants,” but deny that they
7 are agents of one another.

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9 **DEFENDANT’S ANSWER TO FACTS COMMON TO ALL CLAIMS**

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11 7. Defendant lacks knowledge and information sufficient to form a belief
12 as to the averments of Paragraph 7, and on that basis denies said averments.

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14 8. Defendant lacks knowledge and information sufficient to form a belief
15 as to the averments of Paragraph 8, and on that basis denies said averments.

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17 9. Defendant admits that Plaintiff has attached to the Complaint what he
18 avers to be a copy of the U.S. Copyright Office Certificate of Registration for the
19 musical composition “If I Could Fly.” Defendant avers that such Certificate
20 speaks for itself. Defendant lacks knowledge and information sufficient to form a
21 belief as to the remaining averments of Paragraph 9, and on that basis denies said
22 averments.

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24 10. Defendant lacks knowledge and information sufficient to form a belief
25 as to the averments of Paragraph 10, and on that basis denies said averments.

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27 11. Defendant lacks knowledge and information sufficient to form a belief
28 as to the averments of Paragraph 11, and on that basis denies said averments.

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12. Defendant lacks knowledge and information sufficient to form a belief as to the averments of Paragraph 12, and on that basis denies said averments.

13. Defendant lacks knowledge and information sufficient to form a belief as to the averments of Paragraph 13, and on that basis denies said averments.

14. Defendant admits the averments of Paragraph 14.

15. Defendant admits and avers that Capitol Records is a d/b/a of Capitol Records, LLC with its principal place of business in New York and that Capitol distributes and exploits sound recordings created by Coldplay. Defendant denies the remaining averments in Paragraph 15.

16. Defendant admits that “Viva la Vida or Death and All His Friends” was released by Capitol Records in North America in June 2008, and that “Viva la Vida” became a “hit.” Defendant denies the remaining averments of Paragraph 16.

17. Defendant lacks knowledge and information sufficient to form a belief as to the averments of Paragraph 17, and on that basis denies said averments.

18. Defendant denies the averments of Paragraph 18.

19. Defendant admits that it never sought or obtained permission to use “If I Could Fly” in “Viva la Vida,” and denies any obligation to do so. Defendant denies that “Viva la Vida” infringes Plaintiff’s claimed copyright in any manner. Defendant denies the remaining averments of Paragraph 19.

1 20. Defendant denies the averments of Paragraph 20, and specifically denies
2 that “If I Could Fly” is used in “Viva la Vida” or that “Viva la Vida” infringes
3 Plaintiff’s claimed copyright in any manner.
4

5 21. Defendant denies the averments of Paragraph 21, and specifically denies
6 that “If I Could Fly” is used in “Viva la Vida” or that “Viva la Vida” infringes
7 Plaintiff’s claimed copyright in any manner.
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9 22. Defendant denies the averments of Paragraph 22 and specifically denies
10 that “If I Could Fly” is used in “Viva la Vida” or that “Viva la Vida” infringes
11 Plaintiff’s claimed copyright in any manner.
12

13 23. Defendant denies the averments of Paragraph 23 and specifically denies
14 that “If I Could Fly” is used in “Viva la Vida” or that “Viva la Vida” infringes
15 Plaintiff’s claimed copyright in any manner.
16

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18 **DEFENDANT’S ANSWER TO FIRST CLAIM FOR RELIEF**

19 **(Copyright Infringement)**

20 **(Plaintiffs against all Defendants)**
21

22 24. Defendant incorporates by reference its responses to Paragraphs 1
23 through 23 as though fully stated herein.
24

25 25. Defendant lacks knowledge and information sufficient to form a belief
26 as to the averments of Paragraph 25, and on that basis denies said averments.
27

1 26. Defendant admits that “Viva la Vida” was released as part of an album
2 in 2008. Defendant denies the remaining averments of Paragraph 26, and
3 specifically denies that “Viva la Vida” infringes Plaintiff’s claimed copyright in
4 any manner.

5
6 27. Defendant admits that it never sought or obtained permission to use “If I
7 Could Fly” in “Viva la Vida,” and denies any obligation to do so. Defendant
8 denies that “Viva la Vida” infringes Plaintiff’s claimed copyright in any manner.
9 Defendant denies the remaining averments of Paragraph 27.

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11 28. Defendant denies the averments of Paragraph 28, and specifically denies
12 that “Viva la Vida” infringes Plaintiff’s claimed copyright in any manner.

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14 29. Defendant denies the averments of Paragraph 29, and specifically denies
15 that “Viva la Vida” infringes Plaintiff’s claimed copyright in any manner.

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17 30. Defendant denies the averments of Paragraph 30, and specifically denies
18 that “Viva la Vida” infringes Plaintiff’s claimed copyright in any manner and that
19 Plaintiff is entitled to any injunctive relief.

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21 31. Defendant denies the averments of Paragraph 31.

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23 **DEFENDANT’S ANSWER TO SECOND CLAIM FOR RELIEF**

24 **(Constructive Trust)**

25 **(By Plaintiff against all Defendants)**

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27 32. Defendant incorporates by reference its responses to Paragraphs 1
28 through 31 as though fully stated herein.

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33. Defendant denies the averments of Paragraph 33.

34. Defendant denies the averments of Paragraph 34.

35. Defendant denies the averments of Paragraph 35, and specifically denies that Plaintiff is entitled to any constructive trust.

DEFENDANT’S ANSWER TO THIRD CLAIM FOR RELIEF

(For an accounting)

(By Plaintiff against all Defendants)

36. Defendant incorporates by reference its responses to Paragraphs 1 through 35 as though fully stated herein.

37. Defendant denies the averments of Paragraph 37.

38. Defendant denies the averments of Paragraph 38.

39. Defendant denies the averments of Paragraph 39.

AFFIRMATIVE DEFENSES

As and for its affirmative defenses, Defendant avers as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

40. The Complaint, and each purported claim therein, fails to state facts sufficient to constitute a claim for relief.

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SECOND AFFIRMATIVE DEFENSE

(Independent Creation)

41. “Viva la Vida” was independently created without reference to “If I Could Fly.”

THIRD AFFIRMATIVE DEFENSE

(No Originality)

42. “If I Could Fly” lacks originality and is thus not protectable by copyright.

FOURTH AFFIRMATIVE DEFENSE

(Fair Use)

43. To the extent any protectable expression contained in “If I Could Fly” was used in “Viva la Vida,” such use is protected, and not actionable, under the doctrine of fair use.

FIFTH AFFIRMATIVE DEFENSE

(Estoppel)

44. Plaintiff is estopped by his own conduct from maintaining his claims.

SIXTH AFFIRMATIVE DEFENSE

(Waiver)

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

SEVENTH AFFIRMATIVE DEFENSE

(Laches)

1 46. Plaintiff's claims are barred as a result of their unreasonable delay, to
2 the prejudice of Defendant.
3

4 **EIGHTH AFFIRMATIVE DEFENSE**

5 (Unclean Hands)

6 47. Plaintiff's claims are barred as a result of Plaintiff's unclean hands
7

8 **NINTH AFFIRMATIVE DEFENSE**

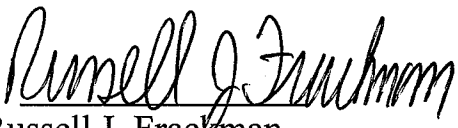
9 (De Minimus)

10 48. To the extent any protectable expression contained in "If I Could Fly"
11 was used in "Viva la Vida," such use is de minimus.
12

13
14 WHEREFORE Defendant prays that Plaintiff take nothing by his Complaint;
15 that Defendant be awarded its attorneys' fees and full costs under Section 505 of
16 the Copyright Act, and for any other relief the Court deems just and proper.
17

18 DATED: April 6, 2009

RUSSELL J. FRACKMAN
DAVID A. STEINBERG
MITCHELL SILBERBERG & KNUPP LLP

19
20
21 By: 
22 Russell J. Frackman
David A. Steinberg
23 Attorneys for Defendant Capitol Records
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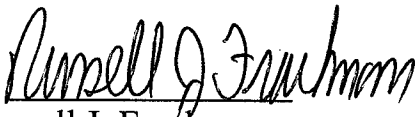
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DEMAND FOR JURY TRIAL

Defendant hereby demands a trial by jury of all issues triable to a jury.

DATED: April 6, 2009

RUSSELL J. FRACKMAN
DAVID A. STEINBERG
MITCHELL SILBERBERG & KNUPP LLP

By: 
Russell J. Frackman
David A. Steinberg
Attorneys for Defendant Capitol Records

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over
4 the age of 18 and not a party to the within action. My business address is Mitchell
5 Silberberg & Knupp LLP, 11377 West Olympic Boulevard, Los Angeles,
6 California 90064-1683.

7 On April 6, 2009, I served a copy of the foregoing document(s) described as
8 **ANSWER OF DEFENDANT CAPITOL RECORDS TO COMPLAINT** on the
9 interested parties in this action at their last known address as set forth below by
10 taking the action described below:

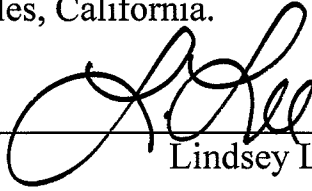
11 Howard King, Esq.
12 King Holmes Paterno & Berliner, LLP
13 1900 Avenue of the Stars, 25th Floor
14 Los Angeles, CA 90067

15 *Attorney for Plaintiff*

- 16 **BY MAIL:** I placed the above-mentioned document(s) in sealed
17 envelope(s) addressed as set forth above, and deposited each envelope in the
18 mail at Los Angeles, California. Each envelope was mailed with postage
19 thereon fully prepaid.
- 20 **BY OVERNIGHT MAIL:** I placed the above-mentioned document(s) in
21 sealed envelope(s) designated by the carrier, with delivery fees provided for,
22 and addressed as set forth above, and deposited the above-described
23 document(s) with _____ in the ordinary course of business, by depositing the
24 document(s) in a facility regularly maintained by the carrier or delivering the
25 document(s) to an authorized driver for the carrier.
- 26 **BY PERSONAL DELIVERY:** I placed the above-mentioned document(s)
27 in sealed envelope(s), and caused personal delivery by _____ of the
28 document(s) listed above to the person(s) at the address(es) set forth above.
- BY ELECTRONIC MAIL:** I served the above-mentioned document
electronically at ____:____.m. on the parties listed at the email addresses
above and, to the best of my knowledge, the transmission was complete and
without error in that I did not receive an electronic notification to the
contrary.
- BY FAX:** On _____, at _____ am/pm, from facsimile number
(310) _____, before placing the above-described document(s) in sealed
envelope(s) addressed as set forth above, I sent a copy of the above-
described document(s) to each of the individuals set forth above at the
facsimile numbers listed above. The transmission was reported as complete
and without error. The transmission report was properly issued by the
transmitting facsimile machine, and a copy of that report is attached hereto.

1 I declare under penalty of perjury under the laws of the United States that
2 the above is true and correct.

3 Executed on April 6, 2009, at Los Angeles, California.

4 
5 _____
6 Lindsey Lee

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