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6 Attorneys for Defendants
 UMG RECORDINGS, INC.
 7 (a named defendant and
 erroneously sued as UNIVERSAL
 8 MUSIC GROUP, INC.)

9
 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12 **WESTERN DIVISION**

13 GEORGE CLINTON, an individual,
 14
 Plaintiff,

15 v.

16 WILL ADAMS, p/k/a will.i.am,
 17 individually and d/b/a WILL.I.AM
 MUSIC PUBLISHING, an individual;
 18 et al.
 19 Defendants.

Case No. CV 10-9476 ODW (PLAx)

UMG DEFENDANTS' ANSWER TO COMPLAINT

Complaint Filed: December 10, 2010

Trial Date: None Set

1 Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendants
2 UMG Recordings, Inc., on its own behalf and erroneously sued as Universal Music
3 Group, Inc. (collectively, the “UMG Defendants”) hereby answer the Complaint of
4 Plaintiff George Clinton (“Plaintiff”). If an averment is not specifically admitted, it
5 is hereby denied.

6 **INTRODUCTION**

7 1. Answering paragraph 1, the UMG Defendants admit that the Complaint
8 seeks the stated relief, but deny any liability to Plaintiff whatsoever. The UMG
9 Defendants further admit that the song entitled “Shut Up,” performed by the Black
10 Eyed Peas, was first released in 2003 and that remixes of “Shut Up” were released
11 in 2003 and 2009. Except as expressly admitted herein, the UMG Defendants deny
12 each and every allegation contained in paragraph 1.

13 2. Answering paragraph 2, the UMG Defendants lack sufficient
14 information to admit or deny the allegations contained therein, and on that basis
15 deny each and every such allegation.

16 3. Answering paragraph 3, the UMG Defendants admit that Plaintiff seeks
17 the stated relief, but deny any liability to Plaintiff. Except as expressly admitted
18 herein, the UMG Defendants deny each and every allegation contained in paragraph
19 3.

20 **JURISDICTION AND VENUE**

21 4. Answering paragraph 4, the UMG Defendants admit that Plaintiff
22 purports to bring this action pursuant to 17 U.S.C. § 101, *et seq.* and that this Court
23 has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338, but deny
24 any liability to Plaintiff whatsoever.

25 5. Answering paragraph 5, the UMG Defendants admit that they are
26 subject to venue in this District. The UMG Defendants lack sufficient information
27 to admit or deny the remaining allegations contained in paragraph 5, and on that
28 basis deny each and every such allegation.

1 12. Answering paragraph 12, the UMG Defendants admit that Defendant
2 Jaime Gomez, professionally known as Taboo, is a member of the musical group
3 The Black Eyed Peas, and has been credited as a songwriter for various songs
4 released by that group. The UMG Defendants lack sufficient information to admit
5 or deny the remaining allegations contained in paragraph 12, and on that basis deny
6 each and every such allegation.

7 13. Answering paragraph 13, the UMG Defendants admit that Defendant
8 Stacy Ferguson, professionally known as Fergie, is a member of the musical group
9 The Black Eyed Peas, and has been credited as a songwriter for various songs
10 released by that group. The UMG Defendants lack sufficient information to admit
11 or deny the remaining allegations contained in paragraph 13, and on that basis deny
12 each and every such allegation.

13 14. Answering paragraph 14, the UMG Defendants admit that Defendant
14 George Pajon, Jr. is credited as a songwriter on various songs released by the Black
15 Eyed Peas. The UMG Defendants lack sufficient information to admit or deny the
16 remaining allegations contained in paragraph 14, and on that basis deny each and
17 every such allegation.

18 15. Answering paragraph 15, the UMG Defendants admit that Defendant
19 John Curtis is credited as a songwriter on various songs released by the Black Eyed
20 Peas. The UMG Defendants are without sufficient information to admit or deny the
21 remaining allegations contained in paragraph 15, and on that basis deny each and
22 every such allegation.

23 16. Answering paragraph 16, the UMG Defendants admit that UMG
24 Recordings, Inc. is in the business of releasing sound recordings, including “Shut
25 the Phunk Up” and remixes of “Shut Up” through various record labels. Except as
26 expressly admitted herein, the UMG Defendants deny the allegations contained in
27 paragraph 16 as they pertain to the UMG Defendants. The UMG Defendants are
28

1 without sufficient information to admit or deny the remaining allegations contained
2 in paragraph 16, and on that basis deny each and every such allegation.

3 17. Answering paragraph 17, the UMG Defendants admit the allegations
4 contained therein.

5 18. Answering paragraph 18, the UMG Defendants admit the allegations
6 contained therein.

7 19. Answering paragraph 19, the UMG Defendants admit that UMG
8 Recordings, Inc. is in the business of releasing sound recordings through various
9 record labels and that those labels include Interscope Records, A & M Records,
10 Island Records and Def Jam Records. The UMG Defendants further admit that
11 labels under the UMG Recordings, Inc. umbrella released “Shut the Phunk Up” and
12 remixes of “Shut Up.” Except as expressly admitted herein, the UMG Defendants
13 deny each and every allegation contained in paragraph 19.

14 20. Answering paragraph 20, the UMG Defendants lack sufficient
15 information to admit or deny the allegations contained therein, and on that basis
16 deny each and every such allegation.

17 21. Answering paragraph 21, the UMG Defendants lack sufficient
18 information to admit or deny the allegations contained therein, and on that basis
19 deny each and every such allegation.

20 22. Answering paragraph 22, the UMG Defendants lack sufficient
21 information to admit or deny the allegations contained therein, and on that basis
22 deny each and every such allegation.

23 23. Answering paragraph 23, the UMG Defendants lack sufficient
24 information to admit or deny the allegations contained therein, and on that basis
25 deny each and every such allegation.

26 24. Answering paragraph 24, the UMG Defendants lack sufficient
27 information to admit or deny the allegations contained therein, and on that basis
28 deny each and every such allegation.

1 40. Answering paragraph 40, the UMG Defendants admit that *Elephunk*
2 was released on the A&M Records label. Except as expressly admitted herein, the
3 UMG Defendants deny the allegations contained in paragraph 40.

4 41. Answering paragraph 41, the UMG Defendants admit the allegations
5 contained therein.

6 42. Answering paragraph 42, the UMG Defendants admit that a sound
7 recording entitled “Shut Up” appears on the *Elephunk* album. The UMG
8 Defendants lack sufficient information to admit or deny the remaining allegations
9 contained in paragraph 42, and on that basis deny each and every such allegation.

10 43. Answering paragraph 43, the UMG Defendants deny that “Shut Up”
11 was not released as a single in the United States. The UMG Defendants lack
12 sufficient information to admit or deny the remaining allegations contained in
13 paragraph 43, and on that basis deny each and every such allegation.

14 44. Answering paragraph 44, the UMG Defendants lack sufficient
15 information to admit or deny the allegation contained in paragraph 44, and on that
16 basis deny each and every such allegation.

17 45. Answering paragraph 45, the UMG Defendants lack sufficient
18 information to admit or deny the allegations contained therein, and on that basis
19 deny each and every such allegation.

20 46. Answering paragraph 46, the UMG Defendants lack sufficient
21 information to admit or deny the allegations contained therein, and on that basis
22 deny each and every such allegation.

23 47. Answering paragraph 47, the UMG Defendants lack sufficient
24 information to admit or deny the allegations contained therein, and on that basis
25 deny each and every such allegation.

26 48. Answering paragraph 48, the UMG Defendants deny each and every
27 allegation contained therein.

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1 55. Answering paragraph 55, the UMG Defendants lack sufficient
2 information to admit or deny the allegations contained therein, and on that basis
3 deny each and every such allegation.

4 56. Answering paragraph 56, the UMG Defendants lack sufficient
5 information to admit or deny the allegations contained therein, and on that basis
6 deny each and every such allegation.

7 57. Answering paragraph 57, the UMG Defendants admit that Virgil
8 Roberts sent a letter dated July 17, 2009 to Craig Marshall at Interscope attaching a
9 judgment entered June 20, 2005. The UMG Defendants lack sufficient information
10 to admit or deny the remaining allegations contained in paragraph 57, and on that
11 basis deny each and every such allegation.

12 58. Answering paragraph 58, the UMG Defendants admit the allegations
13 contained therein.

14 59. Answering paragraph 59, the UMG Defendants lack sufficient
15 information to admit or deny the allegation contained therein, and on that basis deny
16 each and every such allegation.

17 60. Answering paragraph 60, the UMG Defendants lack sufficient
18 information to admit or deny the allegation contained therein, and on that basis deny
19 each and every such allegation.

20 61. Answering paragraph 61, the UMG Defendants lack sufficient
21 information to admit or deny the allegations contained therein, and on that basis
22 deny each and every such allegation.

23 62. Answering paragraph 62, the UMG Defendants lack sufficient
24 information to admit or deny the allegations contained therein, and on that basis
25 deny each and every such allegation.

26 **LEGAL REQUIREMENTS FOR SAMPLING**

27 63. Answering paragraph 63, the UMG Defendants state that this paragraph
28 consists of legal assertions to which no response is required. To the extent any

1 further response is required, the UMG Defendants deny the allegations contained in
2 paragraph 63.

3 64. Answering paragraph 64, the UMG Defendants state that this paragraph
4 consists of legal assertions to which no response is required. To the extent any
5 further response is required, the UMG Defendants deny the allegations contained in
6 paragraph 64.

7 **LIABILITY OF EACH DEFENDANT AND DAMAGES TO**
8 **PLAINTIFF**

9 65. Answering paragraph 65, the UMG Defendants deny each and every
10 allegation contained therein.

11 66. Answering paragraph 66, the UMG Defendants deny each and every
12 allegation contained therein.

13 67. Answering paragraph 67, the UMG Defendants deny each and every
14 allegation contained therein.

15 68. Answering paragraph 68, the UMG Defendants lack sufficient
16 information to admit or deny the allegations contained therein, and on that basis
17 deny each and every such allegation.

18 69. Answering paragraph 69, the UMG Defendants deny each and every
19 allegation contained therein.

20 70. Answering paragraph 70, the UMG Defendants deny each and every
21 allegation contained therein.

22 71. Answering paragraph 71, the UMG Defendants deny each and every
23 allegation contained therein.

24 72. Answering paragraph 72, the UMG Defendants deny each and every
25 allegation contained therein.

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FIRST CLAIM FOR RELIEF

(Copyright Infringement (sound recording) relating to “(Not Just) Knee Deep”; against all named defendants and DOES 1 through 10)

73. Answering paragraph 73, the UMG Defendants incorporate their answers and responses to paragraphs 1-72 above as if fully restated herein.

74. Answering paragraph 74, the UMG Defendants deny each and every allegation contained therein.

75. Answering paragraph 75, the UMG Defendants deny each and every allegation contained therein.

76. Answering paragraph 76, the UMG Defendants deny each and every allegation contained therein.

77. Answering paragraph 77, the UMG Defendants deny each and every allegation contained therein.

78. Answering paragraph 78, the UMG Defendants deny each and every allegation contained therein.

79. Answering paragraph 79, the UMG Defendants deny each and every allegation contained therein.

80. Answering paragraph 80, the UMG Defendants deny each and every allegation contained therein.

81. Answering paragraph 81, the UMG Defendants deny each and every allegation contained therein.

82. Answering paragraph 82, the UMG Defendants deny each and every allegation contained therein.

83. Answering paragraph 83, the UMG Defendants deny each and every allegation contained therein.

1 **NATURE OF LIABILITY**

2 94. Answering paragraph 94,¹ the UMG Defendants deny each and every
3 allegation contained therein.

4 **ANSWER TO PRAYER FOR RELIEF**

5 Answering paragraphs (a) through (k) of the prayer for relief, the UMG
6 Defendants deny that Plaintiff is entitled to the relief sought in these paragraphs, and
7 deny that Plaintiff is entitled to any relief whatsoever.

8 **AFFIRMATIVE DEFENSES**

9 The UMG Defendants plead the following separate and distinct affirmative
10 defenses without conceding that they bear the burden of proof as to any of these
11 issues. The UMG Defendants reserve the right to assert additional affirmative
12 defenses that discovery indicates are proper.

13 **FIRST AFFIRMATIVE DEFENSE**

14 **(Failure to State a Claim)**

15 1. Plaintiff’s Complaint, and each cause of action alleged therein, fails to
16 state a claim upon which relief can be granted.

17 **SECOND AFFIRMATIVE DEFENSE**

18 **(License)**

19 2. Plaintiff’s claims and the relief requested are barred based on the
20 existence of a valid license that authorized each of Defendants to engage in the
21 allegedly infringing conduct.

22 **THIRD AFFIRMATIVE DEFENSE**

23 **(Innocent Infringement)**

24 3. As to each and all claims for relief based upon the UMG Defendants’
25 alleged infringement of alleged copyrights owned by Plaintiff, Plaintiff is barred
26

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¹ The Complaint does not include a paragraph 92 or 93.

1 from recovering damages arising from such alleged infringement, or such damages
2 should be reduced, because any infringement by the UMG Defendants was innocent
3 and without notice or knowledge of Plaintiff's purported rights.

4 **FOURTH AFFIRMATIVE DEFENSE**

5 **(Statute of Limitations)**

6 4. Plaintiff's Complaint, and each cause of action alleged therein, is
7 barred in whole or in part by such statutes of limitation as may be applicable.

8 **FIFTH AFFIRMATIVE DEFENSE**

9 **(Laches)**

10 5. Plaintiff's Complaint, and each cause of action alleged therein, is
11 barred in whole or in part by the doctrine of laches.

12 **SIXTH AFFIRMATIVE DEFENSE**

13 **(Consent)**

14 6. Plaintiff's Complaint, and each cause of action alleged therein, fails
15 because Plaintiff, and/or the persons and/or entities acting on his behalf, consented
16 to and acquiesced in the subject conduct.

17 **SEVENTH AFFIRMATIVE DEFENSE**

18 **(Waiver)**

19 7. Plaintiff's Complaint, and each cause of action alleged therein, is
20 barred in whole or in part by the doctrine of waiver.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 **(Estoppel)**

23 8. Plaintiff's Complaint, and each cause of action alleged therein, is
24 barred in whole or in part by the doctrine of estoppel.

25 **NINTH AFFIRMATIVE DEFENSE**

26 **(Unclean Hands)**

27 9. Plaintiff's Complaint, and each cause of action alleged therein, is
28 barred in whole or in part by the doctrine of unclean hands.

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TENTH AFFIRMATIVE DEFENSE

(Good Faith)

10. Plaintiff’s Complaint, and each cause of action alleged therein, fails because Defendants’ actions with respect to Plaintiff were consistent with Defendants’ obligations, if any, and were justified and effected in good faith.

ELEVENTH AFFIRMATIVE DEFENSE

(Justification and Privilege)

11. Plaintiff’s Complaint, and each cause of action alleged therein, is barred by the doctrine of justification and privilege, in that all actions by the UMG Defendants were lawful and were fair and reasonable under the circumstances.

TWELFTH AFFIRMATIVE DEFENSE

(Indemnity)

12. To the extent that Plaintiff is entitled to recover from the UMG Defendants, the UMG Defendants are entitled to equitable and contractual indemnity from other persons and parties causing or contributing to such damages.

THIRTEENTH AFFIRMATIVE DEFENSE

(Apportionment of Fault)

13. Plaintiff’s damages, if any, were caused by the negligence and/or acts or omissions of parties other than the UMG Defendants, whether or not parties to this action. By reason thereof, Plaintiff’s damages, if any, as against the UMG Defendants, must be reduced by the proportion of fault attributable to such other parties, and to the extent that this is necessary, the UMG Defendants may be entitled to partial indemnity from others on a comparative fault basis.

FOURTEENTH AFFIRMATIVE DEFENSE

(Intervening and Superseding Cause)

14. Assuming Plaintiff suffered or sustained any loss, damage or injury, which Defendants specifically deny, such loss, damage or injury was proximately caused or contributed to by the negligence or wrongful conduct of other parties,

1 persons or entities, including Plaintiff, and that their negligence or wrongful conduct
2 was an intervening and superseding cause of the purported loss, damage or injury of
3 which Plaintiff complains.

4 **FIFTEENTH AFFIRMATIVE DEFENSE**

5 **(Failure to Mitigate)**

6 15. Assuming that any loss, injury or damage occurred as Plaintiff alleges,
7 which the UMG Defendants specifically deny. Plaintiff has failed to mitigate those
8 damages.

9
10 WHEREFORE, Defendant prays for relief as follows:

- 11 1. That the Complaint be dismissed, with prejudice and in its entirety;
- 12 2. That Plaintiff take nothing by reason of this Complaint and that
13 judgment be entered against Plaintiff and in favor of Defendants;
- 14 3. That Defendants be awarded attorneys' fees and costs incurred in
15 defending this action; and
- 16 4. That Defendants be granted such other and further relief as the Court
17 may deem just and proper.

18
19 DATED: March 10, 2011

Respectfully submitted,

20 CALDWELL LESLIE & PROCTOR, PC
21 LINDA M. BURROW
22 HEATHER PEARSON

23
24 By _____ /s/
25 LINDA M. BURROW
26 Attorneys for Defendant
27 UMG RECORDINGS, INC. (both a named
28 defendant and erroneously sued as
UNIVERSAL MUSIC GROUP, INC.)

