

BRYAN CAVE LLP
3161 MICHELSON DRIVE, SUITE 1500
IRVINE, CALIFORNIA 92612-4414

1 **BRYAN CAVE LLP**
Jonathan Pink, California Bar No. 179685
2 3161 Michelson Drive, Suite 1500
Irvine, California 92612-4414
3 Telephone: (949) 223-7000
Facsimile: (949) 223-7100
4 E-mail: jonathan.pink@bryancave.com

5 **BRYAN CAVE LLP**
Kara E. F. Cenar, (Pro Hac Vice)
6 Mariangela M. Seale, (Pro Hac Vice)
161 North Clark Street, Suite 4300
7 Chicago, IL 60601-3315
Telephone: (312) 602-5000
8 Facsimile: (312) 602-5050
E-mail: kara.cenar@bryancave.com
9 merili.seale@bryancave.com

10 Attorneys for Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN
PINEDA; JAIME GOMEZ; all individually and collectively as the music group
11 THE BLACK EYED PEAS; TAB MAGNETIC PUBLISHING; HEADPHONE
JUNKIE PUBLISHING, LLC; will.i.am. music, llc; JEEPNEY MUSIC, INC.;
12 CHERRY RIVER MUSIC CO.; and EMI APRIL MUSIC, INC.

13 **UNITED STATES DISTRICT COURT**

14 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

15 BRYAN PRINGLE, an individual,
16 Plaintiff,
17 v.

18 WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
19 JAIME GOMEZ, all individually and
collectively as the music group the
20 Black Eyed Peas; DAVID GUETTA;
FREDERICK RIESTERER; UMG
21 RECORDINGS, INC.; INTERSCOPE
RECORDS; EMI APRIL MUSIC,
22 INC.; HEADPHONE JUNKIE
PUBLISHING, LLC; WILL.I.AM.
23 MUSIC, LLC; JEEPNEY MUSIC,
INC.; TAB MAGNETIC
24 PUBLISHING; CHERRY RIVER
MUSIC CO.; SQUARE RIVOLI
25 PUBLISHING; RISTER EDITIONS;
and SHAPIRO, BERNSTEIN & CO.,

26 Defendants.
27

Case No. SACV10-1656 JST(RZx)

Hon. Josephine Staton Tucker
Courtroom 10A

**DEFENDANTS WILLIAM ADAMS
AND will.i.am music, llc
ANSWER AND AFFIRMATIVE
DEFENSES**

Complaint Filed: October 28, 2010
Trial Date: Not Assigned

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1 Defendants will.i.am music, llc (incorrectly named in the action as Will.I.Am
2 Music LLC) and William Adams (hereinafter collectively referred to as “Defendant
3 Adams”) present the following Answer and Defenses to Plaintiff’s First Amended
4 Complaint (“Complaint”):

5 INTRODUCTION

- 6 1. Answering paragraph 1, Defendant Adams denies the allegations in this
7 paragraph.
- 8 2. Answering paragraph 2, Defendant Adams admits that Plaintiff’s Complaint
9 seeks certain relief, but denies that he is entitled to such relief, and denies all
10 remaining allegations of the paragraph.
- 11 3. Answering paragraph 3, Defendant Adams lacks sufficient information to
12 admit or deny the allegations contained in paragraph 3, and on that basis denies each
13 and every such allegation.
- 14 4. Answering paragraph 4, Defendant Adams denies the allegations in this
15 paragraph.
- 16 5. Answering paragraph 5, Defendant Adams denies the allegations in this
17 paragraph.
- 18 6. Answering paragraph 6, Defendant Adams admits that legitimate copyright
19 owners have rights defined by the law, but denies the remaining allegations of this
20 paragraph.

21 JURISDICTION AND VENUE

- 22 7. Answering paragraph 7, Defendant Adams admits, on information and belief,
23 that this action appears to arise out of claims under the Copyright Act, and that this
24 Court would appear to have subject matter jurisdiction. Defendant Adams denies
25 that the Complaint states a cause of action upon which relief can be granted.
- 26 8. Answering paragraph 8, Defendant Adams lacks sufficient information to
27 admit or deny the allegations contained in paragraph 8, and on that basis denies each
28 and every such allegation. Defendant Adams does not dispute venue over

1 Defendant Adams.

2 GENERAL ALLEGATIONS

3 A. Parties

4 9. Answering paragraph 9, Defendant Adams lacks sufficient information to
5 admit or deny the allegations contained in paragraph 9, and on that basis denies each
6 and every such allegation.

7 10. Answering paragraph 10, Defendant Adams admits the allegations of
8 paragraph 10.

9 11. Answering paragraph 11, Defendant Adams admits the allegations of
10 paragraph 11.

11 12. Answering paragraph 12, Defendant Adams admits the allegations of
12 paragraph 12.

13 13. Answering paragraph 13, Defendant Adams admits the allegations of
14 paragraph 13.

15 14. Answering paragraph 14, Defendant Adams admits that David Guetta
16 (“Guetta”) is an individual song writer and music producer and, on information and
17 belief, denies that Guetta lives in Los Angeles, California. Defendant Adams admits
18 that Guetta has co-written and co-produced certain songs of the musical group
19 known as The Black Eyed Peas. Other than these specific responses, the remaining
20 allegations of paragraph 14 are denied.

21 15. Answering paragraph 15, Defendant Adams admits that Frederic Riesterer
22 (“Riesterer”) is an individual song writer and music producer and, on information
23 and belief, denies that Riesterer lives in Los Angeles, California. Defendant Adams
24 admits that Riesterer has co-written and co-produced one song of the musical group
25 known as The Black Eyed Peas. Other than these specific responses, the remaining
26 allegations of paragraph 15 are denied.

27 16. Answering paragraph 16, Defendant Adams admits that UMG Recordings,
28 Inc. is a record label. Defendant Adams lacks sufficient information to admit or

1 deny the remaining allegations contained in paragraph 16, and on that basis denies
2 each and every such allegation.

3 17. Answering paragraph 17, Defendant Adams admits, on information and
4 belief, that Interscope is a record label and is owned by Defendant UMG. Defendant
5 Adams admits that there is a contractual relationship between the musical group
6 known as The Black Eyed Peas and Interscope. Defendant Adams lacks sufficient
7 information to admit or deny the remaining allegations contained in paragraph 17,
8 and on that basis denies each and every such allegation.

9 18. Answering paragraph 18, Defendant Adams denies that “I Gotta Feeling” is
10 an infringing song. Defendant Adams admits, on information and belief, that EMI
11 April Music, Inc. is a music publishing company and that it has a relationship to the
12 song “I Gotta Feeling.” Defendant Adams lacks sufficient information to admit or
13 deny the remaining allegations contained in paragraph 18, and on that basis denies
14 each and every such allegation.

15 19. Answering paragraph 19, Defendant Adams denies that “I Gotta Feeling” is
16 an infringing song. Defendant Adams admits, on information and belief, that
17 Headphone Junkie Publishing, LLC is in part a music publishing designee and that it
18 has a relationship to the song “I Gotta Feeling.” Defendant Adams lacks sufficient
19 information to admit or deny the remaining allegations contained in paragraph 19,
20 and on that basis denies each and every such allegation.

21 20. Answering paragraph 20, Defendant Adams denies that “I Gotta Feeling” is
22 an infringing song. Defendant Adams admits that will.i.am music, llc (incorrectly
23 named in the Complaint as Will.I.Am Music, LLC) is, in part, a music publishing
24 designee of Defendant William Adams and that it has a relationship to the song “I
25 Gotta Feeling.” Defendant Adams denies that will.i.am music, llc is a California
26 Limited Liability Company but admit that its principle place of business is in Los
27 Angeles, California. The remaining allegations are denied.

28 21. Answering paragraph 21, Defendant Adams denies that “I Gotta Feeling” is

1 an infringing song. Defendant Adams admits, on information and belief, that
2 Jeepney Music, Inc. was, in part, a music publishing designee, that it had a
3 relationship to the song “I Gotta Feeling,” and, on information and belief, it had a
4 place of business in Los Angeles, California. Defendant Adams lacks sufficient
5 information to admit or deny the remaining allegations contained in paragraph 21,
6 and on that basis denies each and every such allegation.

7 22. Answering paragraph 22, Defendant Adams denies that “I Gotta Feeling” is
8 an infringing song. Defendant Adams admits, on information and belief, that Tab
9 Magnetic Publishing is, in part, a music publishing designee, that it has a
10 relationship to the song “I Gotta Feeling,” and, on information and belief, it has a
11 place of business in Los Angeles California. Defendant Adams lacks sufficient
12 information to admit or deny the remaining allegations contained in paragraph 22,
13 and on that basis denies each and every such allegation.

14 23. Answering paragraph 23, Defendant Adams denies that “I Gotta Feeling” is
15 an infringing song. Defendant Adams admits, on information and belief, that
16 Cherry River Music Co. had a relationship to the song “I Gotta Feeling.” Defendant
17 Adams lacks sufficient information to admit or deny the remaining allegations
18 contained in paragraph 23, and on that basis denies each and every such allegation.

19 24. Answering paragraph 24, Defendant Adams denies that “I Gotta Feeling” is
20 an infringing song. Defendant Adams admits, on information and belief, that
21 Square Rivoli was a music publishing designee and that it had a relationship to the
22 song “I Gotta Feeling.” Defendant Adams lacks sufficient information to admit or
23 deny the remaining allegations contained in paragraph 24, and on that basis denies
24 each and every such allegation.

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1 25. Answering paragraph 25, Defendant Adams denies that “I Gotta Feeling” is
2 an infringing song. Defendant Adams admits, on information and belief, that Rister
3 Editions is a music publishing designee and that it has a relationship to the song “I
4 Gotta Feeling.” Defendant Adams lacks sufficient information to admit or deny the
5 remaining allegations contained in paragraph 25, and on that basis denies each and
6 every such allegation.

7 26. Answering paragraph 26, Defendant Adams denies that “I Gotta Feeling” is
8 an infringing song. Defendant Adams admits, on information and belief, that
9 Shapiro, Bernstein & Co., Inc. is a music publishing company and that it has a
10 relationship to the song “I Gotta Feeling.” Defendant Adams lacks sufficient
11 information to admit or deny the remaining allegations contained in paragraph 26,
12 and on that basis denies each and every such allegation.

13 B. Plaintiff’s Creation and Protection of His Original Work

14 27. Answering paragraph 27, Defendant Adams lacks sufficient information to
15 admit or deny the allegations contained in paragraph 27, and on that basis denies
16 each and every such allegation.

17 28. Answering paragraph 28, Defendant Adams lacks sufficient information to
18 admit or deny the allegations contained in paragraph 28, and on that basis denies
19 each and every such allegation.

20 29. Answering paragraph 29, Defendant Adams lacks sufficient information to
21 admit or deny the allegations contained in paragraph 29, and on that basis denies
22 each and every such allegation.

23 30. Answering paragraph 30, Defendant Adams lacks sufficient information to
24 admit or deny the allegations contained in paragraph 30, and on that basis denies
25 each and every such allegation.

26 C. Defendants’ Access to and Copying of Plaintiff’s Copyrighted Song “Take a
27 Dive”

28 31. Answering paragraph 31, Defendant Adams lacks sufficient information to

1 admit or deny the allegations contained in paragraph 31, and on that basis denies
2 each and every such allegation.

3 32. Answering paragraph 32, Defendant Adams lacks sufficient information to
4 admit or deny the allegations contained in paragraph 32, and on that basis denies
5 each and every such allegation.

6 33. Answering paragraph 33, Defendant Adams lacks sufficient information to
7 admit or deny the allegations contained in paragraph 33, and on that basis denies
8 each and every such allegation.

9 34. Answering paragraph 34, Defendant Adams denies the allegations of
10 paragraph 34 as stated, but Defendant Adams admits to having a contractual
11 relationship with Interscope.

12 35. Answering paragraph 35, Defendant Adams denies the allegations in this
13 paragraph.

14 36. Answering paragraph 36, Defendant Adams denies the allegations in this
15 paragraph.

16 37. Answering paragraph 37, Defendant Adams denies the allegations in this
17 paragraph.

18 38. Answering paragraph 38, Defendant Adams denies that any “authorization”
19 was required, and the remaining allegations are denied.

20 39. Answering paragraph 39, Defendant Adams denies the allegations in this
21 paragraph.

22 D. Substantial Similarity Between “Take a Dive” and “I Gotta Feeling”

23 40. Answering paragraph 40, Defendant Adams denies the allegations in this
24 paragraph.

25 41. Answering paragraph 41, Defendant Adams denies the allegations in this
26 paragraph.

27 42. Answering paragraph 42, Defendant Adams denies the allegations in this
28 paragraph.

1 43. Answering paragraph 43, Defendant Adams lacks sufficient information to
2 admit or deny the allegations contained in paragraph 43, and on that basis denies
3 each and every such allegation.

4 E. The Aftermath of “I Gotta Feeling’s” Release

5 44. Answering paragraph 44, Defendant Adams admits that I Gotta Feeling was
6 released in or around June 2009 and was the second single off of the group’s album
7 *The E.N.D.*

8 45. Answering paragraph 45, Defendant Adams admits that I Gotta Feeling was a
9 success, and that recognition has been reflected in many ways, including those
10 identified in this paragraph. Defendant Adams lacks sufficient information to either
11 admit or deny the accuracy of the characterizations of the events listed in this
12 paragraph, and therefore they are denied as stated.

13 46. Answering paragraph 46, Defendant Adams denies the allegations in this
14 paragraph.

15 F. Defendants’ Conspiracy to Engage in and Conduct a Pattern and Practice of
16 Ongoing Willful Copyright Infringement as to Others

17 47. Answering paragraph 47, Defendant Adams denies the allegations in this
18 paragraph.

19 48. Answering paragraph 48, Defendant Adams denies the allegations in this
20 paragraph.

21 49. Answering paragraph 49, Defendant Adams denies the allegations in this
22 paragraph.

23 50. Answering paragraph 50, Defendant Adams denies the allegations in this
24 paragraph.

25 51. Answering paragraph 51, Defendant Adams denies the allegations in this
26 paragraph.

27 52. Answering paragraph 52, Defendant Adams denies the allegations in this
28 paragraph.

1 53. Answering paragraph 53, Defendant Adams denies the allegations in this
2 paragraph.

3 54. Answering paragraph 54, Defendant Adams denies the allegations in this
4 paragraph, except that Defendant Adams admits that the song I Gotta Feeling is and
5 has been publically performed.

6 55. Answering paragraph 55, Defendant Adams denies the allegations in this
7 paragraph.

8 56. Answering paragraph 56, Defendant Adams denies the allegations in this
9 paragraph.

10 57. Answering paragraph 57, Defendant Adams denies the allegations in this
11 paragraph.

12 58. Answering paragraph 58, Defendant Adams denies the allegations in this
13 paragraph.

14 59. Answering paragraph 59, Defendant Adams denies the allegations in this
15 paragraph.

16 60. Answering paragraph 60, Defendant Adams denies the allegations in this
17 paragraph.

18 COUNT I

19 Copyright Infringement Against All Defendants

20 61. Answering paragraph 61, Defendant Adams incorporates its answers and
21 responses to paragraphs 1-60 herein, as if fully restated herein.

22 62. Answering paragraph 62, Defendant Adams denies the allegations in this
23 paragraph.

24 63. Answering paragraph 63, Defendant Adams denies the allegations in this
25 paragraph.

26 64. Answering paragraph 64, Defendant Adams denies the allegations in this
27 paragraph.

28 65. Answering paragraph 65, Defendant Adams denies the allegations in this

1 paragraph.

2 66. Answering paragraph 66, Defendant Adams denies the allegations in this
3 paragraph.

4 67. Answering paragraph 67, Defendant Adams denies the allegations in this
5 paragraph.

6 68. Answering paragraph 68, Defendant Adams denies the allegations in this
7 paragraph.

8 69. Answering paragraph 69, Defendant Adams denies the allegations in this
9 paragraph.

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GENERAL RESPONSE

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Answering generally to all paragraphs of the Complaint, unless specifically
and expressly admitted, all allegations are denied.

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Answering generally to the request for relief, Defendant Adams denies that
the Complaint states a claim upon which relief should be granted, and Defendant
Adams denies that Plaintiff is entitled to the relief requested. Defendant Adams
respectfully requests that the Complaint be dismissed with prejudice, and that
Plaintiff's request for relief be denied, and for an award of its attorneys fees and
costs.

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AFFIRMATIVE DEFENSES

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FIRST DEFENSE

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(Failure to State A Claim)

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1. The Complaint and all claims for relief alleged therein fail to state a
claim against Defendant upon which relief can be granted.

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SECOND DEFENSE

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(Laches)

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2. The Complaint is barred in whole or in part by laches.

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THIRD DEFENSE

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(Failure to Mitigate)

3. Plaintiff has failed to mitigate and lessen damages, if any it sustained, as required by law, and is barred from recovery by reason thereof against Defendant.

FOURTH DEFENSE

(17 U.S.C. § 411)

4. Plaintiff has failed to register the alleged copyrighted materials and, therefore, is precluded from bringing a claim for copyright infringement pursuant to 17 U.S.C. § 411.

FIFTH DEFENSE

(17 U.S.C. § 412)

5. Plaintiff has failed to timely register the alleged copyrighted materials and, therefore, is precluded from bringing a claim for statutory damages and attorneys' fees pursuant to 17 U.S.C. § 412.

SIXTH DEFENSE

(Implied License)

6. Plaintiff's claim and the relief requested is barred based on implied license.

SEVENTH DEFENSE

(17 U.S.C. § 409)

7. Plaintiff's claim and the relief requested is barred based on Plaintiff's failure to comply with 17 U.S.C. § 409.

EIGHTH DEFENSE

(17 U.S.C. §301)

8. Plaintiff's allegations are barred by preemption 17 U.S.C. § 301.

NINTH DEFENSE

(Unclean Hands)

9. Plaintiff's claim and the relief requested is barred based on Plaintiff's unclean hands.

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TENTH DEFENSE
(Unjust Enrichment)

10. Plaintiff’s relief requested is barred as a result of unjust enrichment.

ELEVENTH DEFENSE
(Set Off)

11. Plaintiff’s relief requested is barred as a result off set. Any amount sought to be recovered in this action is barred in whole or in part by the amount owing from Plaintiff to Defendant.

TWELFTH DEFENSE
(Copyright Misuse)

12. Plaintiff’s copyright is unenforceable because he has committed copyright misuse in one or more of the following ways:

- Plaintiff is asserting copyright rights beyond its scope.
- Plaintiff is asserting copyright ownership in unprotectable elements.
- Plaintiff is asserting copyright ownership in portions of the work that are unoriginal to Plaintiff.
- Plaintiff is asserting copying based upon similarities known to exist in musical works which predate Plaintiff’s works.
- Plaintiff is asserting copying based upon similarities that are not copyrightable.
- Plaintiff is asserting copying based upon similarities that are music commonplaces.
- Plaintiff is asserting copying based upon similarities between works that are not original to Plaintiff.

THIRTEENTH DEFENSE
(Waiver)

13. Plaintiff’s claims and relief requested are barred by the doctrine of waiver.

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FOURTEENTH DEFENSE

(Acquiescence)

14. Plaintiff’s claims and relief requested are barred by the doctrine of acquiescence.

FIFTEENTH DEFENSE

(Estoppel)

15. Plaintiff’s claims and relief requested are barred by estoppel.

SIXTEENTH DEFENSE

(Speculative Damages)

16. The damages alleged in Plaintiff’s Complaint are impermissibly remote and speculative, and therefore, Plaintiff is barred from the recovery of any such damages against Defendant.

SEVENTEENTH DEFENSE

(Fraud on the U.S. Copyright Office)

17. Plaintiff’s claims and relief requested are barred because the copyrights claimed by Plaintiff were obtained fraudulently from the Copyright Office.

EIGHTEENTH DEFENSE

(Unenforceability)

18. Plaintiff’s claims and relief requested are barred because the registrations referenced in the Complaint are unenforceable.

NINETEENTH DEFENSE

(Invalidity)

19. Plaintiff’s claims and relief requested are barred because the registrations referenced in the Complaint are invalid.

RESERVATION OF RIGHTS

Defendant Adams reserves the right, upon completion of its investigation and discovery, to file such additional defenses and/or counterclaims as may be appropriate.

1 WHEREFORE, having fully answered Plaintiff's Complaint, Defendant
2 Adams prays for judgment against Plaintiff and awarding Defendant Adams its
3 costs, interest, reasonable attorneys' fees, together with such other and further relief
4 as the Court may deem proper.

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6 Dated: February 10, 2011

BRYAN CAVE LLP
Kara Cenar
Jonathan Pink
Mariangela Seale

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10 By: /s/ Jonathan Pink
Jonathan Pink
Attorneys for Defendants
WILLIAM ADAMS; STACY FERGUSON;
11 ALLAN PINEDA; JAIME GOMEZ; all
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13 group THE BLACK EYED PEAS; TAB
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JURY DEMAND

Defendants will.i.am music, llc and William Adams demand a jury trial.

Dated: February 10, 2011

BRYAN CAVE LLP

Kara Cenar
Jonathan Pink
Mariangela Seale

By: /s/ Jonathan Pink

Jonathan Pink

Attorneys for Defendants

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