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Libyan Jamahiriya Broadcasting Corporation

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JCS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Libyan Jamahiriya Broadcasting
Corporation,

Plaintiff,

vs.

Abdalla Saleh,

Defendant.

CV 10-03713

Civil Action No.

JCS

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

COMPLAINT

Plaintiff Libyan Jamahiriya Broadcasting Corporation, which for the purposes of this
Complaint includes all predecessors in interest, subsidiaries and affiliates, (collectively "LJBC"),
for its Complaint against Defendant Abdalla Saleh, alleges:

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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THE PARTIES

1. Plaintiff LJBC is a corporation organized and existing under the laws of the Libyan Arab Jamahiriya and maintains its principal place of business at Al Nasr Street, Tripoli, Libya. LJBC operates television stations throughout Libya and creates and broadcasts audiovisual works including news programs and dramatic programs.

2. On information and belief, Defendant Abdalla Saleh is an individual and resides at 20 Shallmar Blvd., Toronto, ON, Canada.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) with respect to claims arising under the Copyright Act, 17 U.S.C. § 101 *et seq.*

4. Upon information and belief, there is also diversity of citizenship between LJBC and Saleh and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Therefore, this Court also has subject matter jurisdiction over this action under 28 U.S.C. § 1332(a).

5. This Court has personal jurisdiction over Saleh, who has consented to the jurisdiction of the Federal District Court for the Northern District of California. Saleh expressly consented to the jurisdiction of this Court in a counter-notification submitted to YouTube LLC under the Digital Millennium Copyright Act (DMCA), 17 U.S.C. § 512(g).

6. Venue is proper in this judicial district pursuant to *inter alia* 28 U.S.C. § 1391(b).

INTRADISTRICT ASSIGNMENT

7. This is an Intellectual Property Action and shall therefore be assigned on a district-wide basis in accordance with Local Rule 3-2(c).

1 **NATURE OF THE ACTION**

2 8. Under Section 106 of the Copyright Act of 1976, 17 U.S.C. § 101 *et seq.*, LJBC
3 has the distinct, severable, and exclusive rights to, among other things, reproduce, publicly
4 perform, and publicly display their copyrighted works. 17 U.S.C. §§ 106(1), (4), (5).

5 9. LJBC produces, markets and distributes programming that is owned and
6 copyrighted in accordance with Libyan law. Libya is a member of the Berne Convention for the
7 Protection of Literary and Artistic Work. On information and belief, LJBC has complied with the
8 requirements for protection of the copyrighted material, including under the Berne Convention,
9 and such protection is still applicable to the subject copyrighted works. As such LJBC is afforded
10 the same rights that the United States affords its nationals as well as the rights afforded under the
11 Berne Convention.

12 10. Saleh has uploaded videos to YouTube LLC's website, www.youtube.com,
13 ("YouTube") as well as to other video sharing web sites such as Blip.tv. YouTube enables users
14 to view videos uploaded by other users.

15 11. The videos uploaded by Saleh were contained at the following links:

16 http://www.youtube.com/watch?v=M6D3DwwAn_U; <http://www.youtube.com/watch?v=5doe-sRKK4g>;

17 <http://www.youtube.com/watch?v=JU1t9HdSw58>; <http://www.youtube.com/watch?v=4cdc--8SSOs>;

18 <http://www.youtube.com/watch?v=JyvJSmwhSf4>; <http://www.youtube.com/watch?v=Wsdr7brLXyI>; and

19 <http://blip.tv/file/1363665?filename=Abdoellibie-GaddafiCrimesAgainstHumanity540.flv>. On

20 information and belief, the video includes numerous copyrighted works owned by LJBC,

21 including, but not limited to the photographs at 0:01:00, 0:01:04, 0:01:15, 0:01:32, 0:11:19,

22 0:11:24, 0:11:29, 0:11:52-57, 0:16:07, 0:16:22, 0:17:07, 0:19:19, 0:34:18, 1:02:22, 1:06:12 and

23 1:06:24.¹

24 12. On information and belief, Saleh's activities have included the un-authorized use
25 and un-authorized alteration, including removal of names and authors of the copyrighted material.

26 _____
27 ¹ <http://blip.tv/file/1363665?filename=Abdoellibie-GaddafiCrimesAgainstHumanity540.flv>

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1 36. LJBC is entitled to its costs, including reasonable attorneys' fees pursuant to 17
2 U.S.C. § 505.

3 37. Saleh's conduct is causing and, unless enjoined by this Court, will continue to
4 cause LJBC great and irreparable injury that cannot fully be compensated or measured in money.
5 LJBC has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, LJBC is entitled to a
6 permanent injunction requiring Saleh to cease his infringement of LJBC's copyrights.

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, LJBC prays for the following relief:

10 A. A declaration that Saleh willfully infringed LJBC's copyrights.

11 B. A permanent injunction restraining Saleh from continuing to infringe any of
12 LJBC's copyrights or exclusive rights protected by the Copyright Act, whether now in existence
13 or hereafter created.

14 C. Statutory damages pursuant to 17 U.S.C. § 504(c). Alternatively, at LJBC's
15 election, pursuant to 17 U.S.C. §504(b), for actual damages plus Saleh's profits from
16 infringement, as will be proven at trial.

17 D. For LJBC's costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. §
18 505.

19 E. For pre- and post-judgment interest according to law.

20 F. For such other and further relief as this Court deems just.

21 DATED: August 20, 2010

22 Respectfully submitted,

23 
24 _____
25 JENNIFER L. ISHIMOTO (SBN 211845)
26 BANIE & ISHIMOTO LLP

27 JOHN R. FUISZ (*pro hac vice* pending)
28 THE FUISZ LAW FIRM

Attorneys for Plaintiff
Libyan Jamahiriya Broadcasting Corporation