

1 JOHN R. FUISZ (*pro hac vice* pending)
SUDIP KUNDU (*pro hac* pending)
2 **THE FUISZ LAW FIRM**
1455 Pennsylvania Avenue, NW
3 Suite 400
Washington, DC 20004
4 Telephone: (202) 621-1889
E-mail: Jfuisz@fuiszlaw.com

5 JENNIFER L. ISHIMOTO (SBN 211845)
6 **BANIE & ISHIMOTO LLP**
600 Chesapeake Drive
7 Redwood City, CA 94063
Office: (650) 549-5660
8 Fax: (415) 665-2520
E-mail: ishimoto@banishlaw.com

9 Attorneys for Plaintiff
10 Libyan Jamahiriya Broadcasting Corporation

11
12
13
14
15 Libyan Jamahiriya Broadcasting
Corporation,
16
17 Plaintiff,
18 vs.
19 Maher Adly Fadel,
20 Defendant.

FILED
2010 DEC -1 P 12: 16
RICHARD W. WIEKING
CLERK OF COURT
ADR

Paid
Sl
9

E-filing

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

JCS

[Signature]

15 C V 10-05432
16 Civil Action No. JCS

17
18 COMPLAINT FOR COPYRIGHT
INFRINGEMENT

1 **COMPLAINT**

2 Plaintiff Libyan Jamahiriya Broadcasting Corporation, which for the purpose of this
3 Complaint includes all predecessors in interest, subsidiaries and affiliates, (collectively “LJBC”),
4 for its Complaint against Defendant Maher Adly Fadel, alleges:

5 **THE PARTIES**

6
7 1. Plaintiff LJBC is a corporation organized and existing under the laws of the
8 Libyan Arab Jamahiriya and maintains its principal place of business at Al Nasr Street, Tripoli,
9 Libya. LJBC operates television stations throughout Libya and creates and broadcasts audiovisual
10 works including news programs and dramatic programs.

11 2. On information and belief, Defendant Maher Adly Fadel is an individual and
12 resides at 23 Al Eman Street, Second Floor, Alexandria, Egypt, 02003. Fadel operates under the
13 YouTube user name “the lion330” and uses the email address zebooeIgamed@yahoo.com.

14
15 **JURISDICTION AND VENUE**

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

18 4. Upon information and belief, there is also diversity of citizenship between LJBC
19 and Fadel and the amount in controversy exceeds \$75,000, exclusive of interest and costs.
20 Therefore, this Court also has subject matter jurisdiction over this action under 28 U.S.C. §
21 1332(a).

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

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

1 **INTRADISTRICT ASSIGNMENT**

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

4 **NATURE OF THE ACTION**

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

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

15 10. Fadel has uploaded videos to YouTube LLC's website, www.youtube.com,
16 ("YouTube"). YouTube enables users to view videos uploaded by other users.

17 11. The video uploaded by Fadel was contained at the following link:
18 <http://www.youtube.com/watch?v=Xa9zetxgteA>. On information and belief, the video
19 includes copyrighted works owned by LJBC. For example, at the 0:24 mark in the video an
20 LJBC image appears with the LJBC logo removed.

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

23 13. LJBC did not authorize Fadel to cause the copyrighted videos to be viewed by
24 users of the YouTube website. Upon information and belief, the videos uploaded to YouTube's
25 website, and others, by Fadel, contain clips of audiovisual works for which LJBC owns the
26 copyright.

1 **FIRST COUNT**

2 **(Direct Copyright Infringement – Public Performance)**

3
4 14. LJBC incorporates paragraphs 1-13 above by reference as though fully set forth
5 herein.

6 15. Fadel, without the permission or consent of LJBC, and without authority, is
7 publicly performing and purporting to authorize the public performance of LJBC's registered
8 copyrighted audiovisual works, which constitutes direct infringement of LJBC's exclusive rights
9 under the Copyright Act to publicly perform its copyrighted audiovisual works.

10 16. Fadel's acts of infringement have been willful, intentional, and purposeful, in
11 disregard of and indifferent to the rights of LJBC.

12 17. As a direct and proximate result of Fadel's infringement of LJBC's copyrights and
13 exclusive rights under copyright, LJBC is entitled to the maximum statutory damages pursuant to
14 17 U.S.C. § 504(c). Alternatively, at LJBC's election, pursuant to 17 U.S.C. § 504(b), LJBC is
15 entitled to its actual damages plus Fadel's profits from infringement, as will be proven at trial.

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

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

22 **SECOND COUNT**

23 **(Direct Copyright Infringement – Public Display)**

24 20. LJBC incorporates paragraphs 1-19 above by reference as though fully set forth
25 herein.

26 21. Fadel, without the permission or consent of LJBC, and without authority, is
27 publicly displaying and purporting to authorize the public display of LJBC's registered
28

1 copyrighted audiovisual works, which constitutes direct infringement of LJBC's exclusive rights
2 under the Copyright Act to publicly perform its copyrighted audiovisual works.

3 22. Fadel's acts of infringement have been willful, intentional, and purposeful, in
4 disregard of and indifferent to the rights of LJBC.

5 23. As a direct and proximate result of Fadel's infringement of LJBC's copyrights and
6 exclusive rights under copyright, LJBC is entitled to the maximum statutory damages pursuant to
7 17 U.S.C. § 504(c). Alternatively, at LJBC's election, pursuant to 17 U.S.C. § 504(b), LJBC is
8 entitled to its actual damages plus Fadel's profits from infringement, as will be proven at trial.

9 24. LJBC is entitled to its costs, including reasonable attorneys' fees pursuant to 17
10 U.S.C. § 505.

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

15 **THIRD COUNT**

16 **(Direct Copyright Infringement - Reproduction)**

17 26. LJBC incorporates paragraphs 1-25 above by reference as though fully set forth
18 herein.

19 27. Fadel, without the permission or consent of LJBC, and without authority, is
20 making, causing to be made, and purporting to authorize the making of unauthorized copies of
21 LJBC's registered copyrighted audiovisual works, which constitutes direct infringement of
22 LJBC's exclusive right under the Copyright Act to reproduce its copyrighted works.

23 28. Fadel's acts of infringement have been willful, intentional, and purposeful, in
24 disregard of and indifferent to the rights of LJBC.

25 29. As a direct and proximate result of Fadel's infringement of LJBC's copyrights and
26 exclusive rights under copyright, LJBC is entitled to the maximum statutory damages pursuant to
27 17 U.S.C. § 504(c). Alternatively, at LJBC's election, pursuant to 17 U.S.C. § 504(b), LJBC is
28 entitled to its actual damages plus Fadel's profits from infringement, as will be proven at trial.

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

3 31. Fadel'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 Fadel to cease his infringement of LJBC's copyrights.

7 **FOURTH COUNT**

8 **(Direct Copyright Infringement – Distribution)**

9 32. LJBC incorporates paragraphs 1-31 above by reference as though fully set forth
10 herein.

11 33. Fadel, without the permission or consent of LJBC, and without authority, is
12 distributing LJBC's registered copyrighted audiovisual works by making available to YouTube
13 users copies of audiovisual works posted and maintained on YouTube's website, which
14 constitutes direct infringement of LJBC's exclusive right under the Copyright Act to distribute its
15 copyrighted works to the public.

16 34. Fadel's acts of infringement have been willful, intentional, and purposeful, in
17 disregard of and indifferent to the rights of LJBC.

18 35. As a direct and proximate result of Fadel's infringement of LJBC's copyrights and
19 exclusive rights under copyright, LJBC is entitled to the maximum statutory damages pursuant to
20 17 U.S.C. § 504(c). Alternatively, at LJBC's election, pursuant to 17 U.S.C. § 504(b), LJBC is
21 entitled to its actual damages plus Fadel's profits from infringement, as will be proven at trial.

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

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

28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, LJBC prays for the following relief:

3 A. A declaration that Fadel willfully infringed LJBC's copyrights.

4 B. A permanent injunction restraining Fadel from continuing to infringe any of
5 LJBC's copyrights or exclusive rights protected by the Copyright Act, whether now in existence
6 or hereafter created.

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

10 D. For LJBC's costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. §
11 505.

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

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

14
15 DATED: December 1, 2010

16 Respectfully submitted,

17 
18 _____
19 JENNIFER L. ISHIMOTO (SBN 211845)
20 **BANIE & ISHIMOTO LLP**

21 JOHN R. FUISZ (*pro hac vice* pending)
22 SUDIP KUNDU (*pro hac vice* pending)
23 **THE FUISZ LAW FIRM**

24 Attorneys for Plaintiff
25 Libyan Jamahiriya Broadcasting Corporation
26
27
28