

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RON TOMA, an individual,)	
)	
Plaintiff,)	
)	Case No. 08CV3479
v.)	
)	
MOTLEY CRUE, INC., a California)	
corporation; SIGNATURES NETWORK,)	Judge Coar
INC., a California corporation; UNIVERSAL)	Magistrate Judge Keys
MUSIC GROUP, INC., a Delaware)	
Corporation,)	
)	
Defendants.)	
)	

SIGNATURES NETWORK, INC.'S ANSWER TO COMPLAINT

Defendant Signatures Network, Inc. (“Defendant”) hereby responds to the complaint of plaintiff Ron Toma (“Toma”) as follows:

1. This is an action by Ron Toma for injunctive relief and damages relating to the defendants' copyright infringement of Toma's intellectual property. More specifically, Toma possesses copyrights in photographic images of the members of Motley Crue, a popular band, that were created by author Michael Pinter in 1981. The defendants have copied and distributed those images. The defendants' actions in this regard constitute copyright infringement.

ANSWER: Defendant admits that the complaint purports to set forth a claim for copyright infringement, but denies that Defendant's actions constitute copyright infringement. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 1 of the Complaint and therefore denies them.

PARTIES AND JURISDICTION

2. The plaintiff is a citizen of Illinois residing in DuPage County. Defendant MOTLEY CRUE, INC., is a corporation incorporated under the laws of California with its principal place of business in California. Defendant SIGNATURES is a corporation incorporated under the laws of California with its principal place of business in California. Defendant UMG is a corporation incorporated under the laws of Delaware with its principal places of business in California and New York.

ANSWER: Defendant admits that it is a California corporation with its principal place of business in California. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 2 of the Complaint and therefore denies them.

3. The amount in controversy, without interest and costs, exceeds the sum or value specified by 28 U.S.C. § 1332.

ANSWER: Denied.

4. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1332 (diversity); and 28 U.S.C. § 1338(a) (copyright).

ANSWER: Defendant admits that this Court has jurisdiction over copyright claims pursuant to 28 U.S.C. §§ 1331 and 1338(a); otherwise, Defendant denies the remaining allegations of Paragraph 4.

5. Venue is proper pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400.

ANSWER: Defendant admits that venue is proper.

6. This action arises under federal statutes. Defendants' conduct and activities were, and are, unauthorized and constitute copyright infringement under the United States Copyright Act, 17 U.S.C. § 101, *et seq.*

ANSWER: Defendant admits that a copyright claim arises under a federal statute, the United States Copyright Act, 17 U.S.C. § 101, *et seq.*; otherwise, Defendant denies the allegations of paragraph 6.

7. In 1981, Michael Pinter created original photograph images of the members of the band Motley Crue.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Complaint and therefore denies them.

8. The photographic images, individually and collectively, are original works that may be copyrighted under United States law. Copies of the photographic images are attached as Exhibit A-1 through A-7.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Complaint and therefore denies them.

9. Upon information and belief, proper copyright notices were affixed to all authorized copies of the photographic images that have been published to date.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Complaint and therefore denies them.

10. Plaintiff acquired the copyright in the photographic images through written assignments which have been provided to the Copyright Office.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Complaint and therefore denies them.

11. On March 19, 2008, the plaintiff applied to the copyright office for a certificate of registration.

ANSWER: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Complaint and therefore denies them.

12. The defendants have infringed the copyright by publishing and selling one or more images that were copied from the plaintiffs photographic images that are attached hereto as Exhibit A.

ANSWER: Denied.

13. Upon information and belief, defendants continue to infringe and/or are planning to infringe the copyright by continuing to publish and sell the infringing images in violation of the copyright thus causing irreparable damage.

ANSWER: Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense

14. Plaintiff is not entitled to the relief he seeks because he has failed to state any claim upon which relief can be granted.

Second Affirmative Defense

15. If and/or to the extent that Toma acquired any copyrights in any photographs that were copied or used by Defendant, Toma's rights were subject to the prior grants of rights, licenses, and/or consents by Toma's predecessors in interest to Defendant and/or Defendant's predecessors in interest.

Third Affirmative Defense

16. If and/or to the extent that Toma acquired any copyrights in any photographs that were copied or used by Defendant, Toma brought this action more than twenty-five years after such use began and any claim is barred by estoppel, laches, acquiescence, and/or unclean hands.

Fourth Affirmative Defense

17. Any causes of action by Toma are barred by the statutes of limitations, including but not limited to the statute of limitations set forth in 17 U.S.C. § 507(b).

Fifth Affirmative Defense

18. On information and belief, at the time that this action was filed, Toma had not been issued any copyright registration certificate and therefore this action is barred for lack of jurisdiction.

PRAYER FOR RELIEF

WHEREFORE, Defendant prays for judgment with respect Toma's complaint as follows:

19. Judgment be entered in favor of Defendant as to the complaint and each and every cause of action contained therein.
20. Defendant be awarded its attorneys' fees and costs.
21. Defendant be awarded such other and further relief as may be just or equitable.

Dated: November 24, 2008

LOEB & LOEB LLP

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Attorneys for Defendant
SIGNATURE NETWORKS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of November 2008, a copy of the foregoing Answer to Complaint was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

Lawrence E. Thompson, Esq.
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s/ Thomas P. Jirgal

Thomas P. Jirgal