

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ICOPYRIGHT, INC.,

Plaintiff,

-against-

THE ASSOCIATED PRESS and
PRESS ASSOCIATION, INC.,

Defendants.

10 CV 8860 (NRB)

**ICOPYRIGHT'S
ANSWER TO
DEFENDANTS'
COUNTERCLAIM**

Plaintiff and Counterclaim Defendant iCopyright, Inc. (“iCopyright” or “Plaintiff/Counterclaim Defendant”), by their attorneys, Cadwalader, Wickersham & Taft LLP, for their Answer to the Associated Press and Press Association, Inc.’s (collectively, the “AP”) counterclaim dated December 29, 2010, state on personal knowledge as to matters relating to themselves and on information and belief as to all other matters, as follows:

Admits that AP purports to bring a counterclaim against iCopyright in the action titled, iCopyright, Inc. v. The Associated Press and Press Association, Inc., 10 CV 8860 (S.D.N.Y. November 23, 2010). For its answer to the counterclaim of AP, iCopyright alleges as follows:

1. Admits on information and belief the allegations in Paragraph 1.
2. Admits the allegations in Paragraph 2.
3. Admits that AP purports to lay jurisdiction based on the allegations in Paragraph 3.
4. Admits that AP purports to assert venue based on the allegations in Paragraph 4, and refers to the Content Services Agreement dated April 15, 2008 (“CSA”) for the true and complete contents thereof.

5. Admits the allegations in Paragraph 5, and refers to the CSA for its true and complete contents.

6. Denies the allegations in Paragraph 6, and refers to the CSA for its true and complete contents including the definition of AP Hosted, and refers to paragraphs 12 through 26 of iCopyright's Verified Complaint dated November 23, 2010 (the "Verified Complaint") for an accurate description of iCopyright's licensing services.

7. Admits that AP is obligated under the CSA to promote iCopyright under the terms specified under the CSA, and refers to the CSA for its true and complete contents. Denies the remaining allegations in Paragraph 7.

8. Avers that Paragraph 8 requires no responsive pleading in that the term "commercially reasonable efforts" consists of legal conclusions, and refers to the CSA for its true and complete contents, and states that AP did not fulfill its obligations as alleged in Paragraph 8. Denies in all other respects the allegations in Paragraph 8.

9. Denies the allegations in Paragraph 9, and refers to the CSA for its true and complete contents.

10. Denies the allegations in Paragraph 10, and refers to the CSA for its true and complete contents.

11. Denies the allegations in Paragraph 11, and refers to the CSA for its true and complete contents.

12. Denies the allegations in Paragraph 12, and refers to the CSA for its true and complete contents.

13. Denies the allegations in Paragraph 13, and refers to the CSA for its true and complete contents.

14. Denies the allegations in Paragraph 14, except admits that the AP and iCopyright agreed to amend the CSA on March 15, 2009 (the “March 15, 2009 Amendment”) and refers to the CSA and the March 15, 2009 Amendment for their true and complete contents. Denies in all other respects the allegations in Paragraph 14.

15. Denies the allegations in Paragraph 15.

16. Denies the allegations in Paragraph 16.

17. Denies the allegations in Paragraph 17.

18. Denies the allegations in Paragraph 18, except admits that the AP sent Mr. Elston an e-mail on October 14, 2010 and refers to the October 14, 2010 e-mail from AP to Mr. Elston for its true and complete contents, and denies in all other respects the allegations in Paragraph 18.

19. Denies the allegations in Paragraph 19, except admits that AP sent Mr. Elston an e-mail on November 3, 2010 and refers to the November 3, 2010 e-mail from the AP to Mr. Elston for its true and complete contents, and denies in all other respects the allegations in Paragraph 19.

20. Denies the allegations in Paragraph 20, except admits that Bruce Glover of the AP sent an e-mail to Mr. Elston on November 15, 2010 and refers to the November 15, 2010 e-mail from Mr. Glover to Mr. Elston for its true and complete contents, and denies in all other respects the allegations in Paragraph 20.

21. Denies the allegations in Paragraph 21.

22. Repeats the admissions, denials, and averments and incorporate by reference iCopyright’s responses to the allegations contained Paragraphs 1 through 21.

23. Denies the allegations in Paragraph 23.

24. Denies the allegations in Paragraph 24.

25. Denies the allegations in Paragraph 25.

26. Denies the allegations in Paragraph 26.

Denies that AP is entitled to any of the relief set forth in the unnumbered paragraph following Paragraph 26.

AFFIRMATIVE DEFENSES

First Affirmative Defense

27. The counterclaim fails to state a claim upon which relief may be granted.

Second Affirmative Defense

28. The counterclaim is barred under the doctrines of waiver, estoppel, laches, election of remedies, oral modification, ratification, and unclean hands.

Third Affirmative Defense

29. The counterclaim is barred by reasons of AP's prior breaches of the CSA and its actions to frustrate iCopyright's performance.

Fourth Affirmative Defense

30. The counterclaim is barred by accord and satisfaction.

Fifth Affirmative Defense

31. The counterclaim is barred for failure of consideration.

FURTHER DENIAL AND RESERVATION OF RIGHTS

Plaintiff/Counterclaim Defendant iCopyright denies all allegations not explicitly admitted in this Answer, except those allegations as to the truth of which iCopyright denies possessing knowledge or information sufficient to form a belief.

Plaintiff/Counterclaim Defendant iCopyright reserves the right to amend its pleadings, and to assert additional or different defenses, based upon information or evidence developed in discovery or otherwise.

Dated: New York, New York
February 14, 2011

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