| 1           |   | TES DISTRICT COURT<br>N DISTRICT OF OHIO           |
|-------------|---|--|
| 2           |   |  |
| 3<br>4      | American Hellenic Educational<br>Progressive Association,                       | Case No. 1:19-cv-01814-DAP                         |
| 5           | Plaintiff,  | ANSWER AND COUNTERCLAIMS                           |
| 6<br>7<br>8 | PicRights Ltd.<br>PicRights Europe GmbH<br>Agence France-Presse,<br>Defendants. |  |
| 9           | Defendants.   |  |
| 10          |   |  |
| 11          | Defendant AGENCE FRANCE-PRESSE  | , respectfully submits this Answer and             |
| 12          | accompanying Counterclaims in response to the                                   | Complaint filed by in the above-captioned          |
| 13          | matter:   |  |
| 14          | ANS   | WER  |
| 15          | Defendant hereby responds to the allegati                                       | ion(s) contained in each of the numbered           |
| 16          | paragraphs in the Plaintiff's Complaint as follow                               | s:   |
| 17<br>18    | 1. Defendant denies knowledge or inform   | mation sufficient to form a belief as to the truth |
| 10          | of the allegation(s) in Paragraph 1, and thereby d                              | enies the allegations contained in Paragraph 1.    |
| 20          | 2. Defendant denies knowledge or inform   | mation sufficient to form a belief as to the truth |
| 21          | of the allegation(s) in Paragraph 2, and thereby d                              | enies the allegations contained in Paragraph 2.    |
| 22          | 3. Defendant admits to the allegation(s)  | contained in Paragraph 3.                          |
| 23          | 4. Defendant denies knowledge or inform   | mation sufficient to form a belief as to the truth |
| 24          | of the allegation(s) in Paragraph 4, and thereby d                              | enies the allegations contained in Paragraph 4.    |
| 25          | 5. Defendant denies knowledge or inform   | mation sufficient to form a belief as to the truth |
| 26          | of the allegation(s) in Paragraph 5, and thereby d                              |  |
| 27          | or the anegation(s) in raragraph 5, and thereby u                               | emes the anegations contained in raragraph 3.      |
| 28          |   |  |

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| 2       a party to the action or an owner of the subject copyright. Defendant further notes tha         3       the basis for the allegations is inane as a Google search produces more than 14,000         4       results for the term "Bigfoot In Ohio Federal Court" and "Gugliotta copyright troll."         5       Defendant denies the allegation(s) in Paragraph 6.         7       Defendant denies the allegation(s) in Paragraph 7.         8       The allegation(s) contained in Paragraph 8 contain legal conclusions to which no         9       response is required. To the extent any response is required, Defendant denies the allegation(s)         10       contained in Paragraph 9.         11       9. The allegation(s) contained in Paragraph 10 contain legal conclusions to which no         12       response is required. To the extent any response is required, Defendant denies the allegation(s)         13       contained in Paragraph 8.         14       10. The allegation(s) contained in Paragraph 10 contain legal conclusions to which no         15       response is required To the extent any response is required, Defendant denies the allegation(s)         16       response is required. To the extent any response is required, Defendant denies the allegation(s)         16       response is required. To the extent any response is required, Defendant denies the allegation(s)         17       contained in Paragraph 10.         18       <  | 1  | 6. The allegations contained in Paragraph 6 are irrelevant as Higbee & Associates is not         |
|---|----|--|
| 4       results for the allegations is inane as a Google search produces more than 14,000         4       results for the term "Bigfoot In Ohio Federal Court" and "Gugliotta copyright troll."         5       Defendant denies the allegation(s) in Paragraph 6.         7       7. Defendant denies the allegation(s) in Paragraph 7.         8       8. The allegation(s) contained in Paragraph 8 contain legal conclusions to which no         9       response is required. To the extent any response is required, Defendant denies the allegation(s)         10       contained in Paragraph 8.         11       9. The allegation(s) contained in Paragraph 9 contain legal conclusions to which no         12       response is required. To the extent any response is required, Defendant denies the allegation(s)         13       contained in Paragraph 8.         14       10. The allegation(s) contained in Paragraph 10 contain legal conclusions to which no         15       response is requiredTo the extent any response is required, Defendant denies the allegation(s)         16       response is requiredTo the extent any response is required, Defendant denies the allegation(s)         17       contained in Paragraph 10.         18       11. The allegation(s) contained in Paragraph 11 contain legal conclusions to which no         19       response is required. To the extent any response is required, Defendant denies the allegation(s)         20 <t< td=""><td>2</td><td>a party to the action or an owner of the subject copyright. Defendant further notes that</td></t<>  | 2  | a party to the action or an owner of the subject copyright. Defendant further notes that         |
| results for the term "Bigfoot In Ohio Federal Court" and "Gugliotta copyright troll."<br>Defendant denies the allegation(s) in Paragraph 6.<br>7. Defendant denies the allegation(s) in Paragraph 7.<br>8. The allegation(s) contained in Paragraph 8 contain legal conclusions to which no<br>response is required. To the extent any response is required, Defendant denies the allegation(s)<br>contained in Paragraph 8.<br>9. The allegation(s) contained in Paragraph 9 contain legal conclusions to which no<br>response is required. To the extent any response is required, Defendant denies the allegation(s)<br>contained in Paragraph 8.<br>10. The allegation(s) contained in Paragraph 9 contain legal conclusions to which no<br>response is required. To the extent any response is required, Defendant denies the allegation(s)<br>contained in Paragraph 8.<br>10. The allegation(s) contained in Paragraph 10 contain legal conclusions to which no<br>response is required To the extent any response is required, Defendant denies the allegation(s)<br>contained in Paragraph 10.<br>11. The allegation(s) contained in Paragraph 11 contain legal conclusions to which no<br>response is required. To the extent any response is required, Defendant denies the allegation(s)<br>contained in Paragraph 10.<br>12. Defendant admits that The Law Firm of Higbee & Associates sent the<br>13. Plaintiff the letter (dated June 7, 2019) and attachments that are appended to the Complaint as<br>14. "Exhibit D" (Doc #1-5) and referenced in Paragraph 12. Defendant denies the Plaintiff's<br>characterization of the letter as a "cease and desist letter" and denies the Plaintiff's<br>characterization of The Law Firm of Higbee & Associates as a "Copyright Troll".<br>13. Defendant admits that the aforementioned letter (dated June 7, 2019) was sent from | 3  | the basis for the allegations is inane as a Google search produces more than 14,000              |
| 6Defendant denies the allegation(s) in Paragraph 6.7Defendant denies the allegation(s) in Paragraph 7.8The allegation(s) contained in Paragraph 8 contain legal conclusions to which no9response is required. To the extent any response is required, Defendant denies the allegation(s)10contained in Paragraph 8.119. The allegation(s) contained in Paragraph 9 contain legal conclusions to which no12response is required. To the extent any response is required, Defendant denies the allegation(s)13contained in Paragraph 8.1410. The allegation(s) contained in Paragraph 10 contain legal conclusions to which no16response is required. To the extent any response is required, Defendant denies the allegation(s)16response is requiredTo the extent any response is required, Defendant denies the allegation(s)17contained in Paragraph 10.1811. The allegation(s) contained in Paragraph 11 contain legal conclusions to which no19response is required. To the extent any response is required, Defendant denies the allegation(s)20contained in Paragraph 10.1811. The allegation(s) contained in Paragraph 11 contain legal conclusions to which no19response is required. To the extent any response is required, Defendant denies the allegation(s)20contained in Paragraph 10.1312. Defendant admits that The Law Firm of Higbee & Associates sent the21Plaintiff the letter (dated June 7, 2019) and attachments that are appended to the Complaint as24"Exhibit D" (Doc #1-5) and referenced in Paragraph 12. Def   | 4  | results for the term "Bigfoot In Ohio Federal Court" and "Gugliotta copyright troll."            |
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| <ul> <li>27</li> <li>13. Defendant admits that the aforementioned letter (dated June 7, 2019) was sent from</li> </ul>  | 25 | characterization of the letter as a "cease and desist letter" and denies the Plaintiff's         |
| 13. Defendant admits that the aforementioned letter (dated June 7, 2019) was sent from  | 26 | characterization of The Law Firm of Higbee & Associates as a "Copyright Troll".                  |
| 28  | 27 | 13. Defendant admits that the aforementioned letter (dated June 7, 2019) was sent from           |
|   | 28 |  |

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| 1        | The Law Firm of Higbee & Associates and signed by Attorney Mathew K. Higbee. Defendant             |
|----------|--|
| 2        | denies that The Law Firm of Higbee & Associates purported in that letter to be "attorney in fact"  |
| 3        | 14. Defendant denies the allegation(s) in Paragraph 14.  |
| 4        | 15. Defendant denies the allegation(s) in Paragraph 15.  |
| 5        | 16. Defendant denies the allegation(s) in Paragraph 16.  |
| 6<br>7   | 17. The allegation(s) contained in Paragraph 17 contain legal conclusions to which no              |
| 8        | response is required. To the extent any response is required, Defendant denies the allegation(s)   |
| 9        | contained in Paragraph 34.   |
| 10       | 18. Defendant denies the allegation(s) in Paragraph 18.  |
| 11       | 19. Defendant denies the allegation(s) in Paragraph 19.  |
| 12       | 20. Defendant denies the allegation(s) in Paragraph 20.  |
| 13       | 21. Defendant denies the allegation(s) in Paragraph 21.  |
| 14       | 22. Defendant admits that the Plaintiff's claim purports to arise under the Declaratory            |
| 15<br>16 | Judgment Act, 28 USC § 2201 et seq., and the copyright laws of the United States, 17 USC § 101     |
| 17       | et seq., and that the Plaintiff is seeking the declaratory judgment as described. Defendant denies |
| 18       | that the Plaintiff is entitled to such declaratory judgment, and denies the remainder of Paragraph |
| 19       |  |
| 20       | 22.  |
| 21       | 23. Defendant denies the allegation(s) in Paragraph 23.  |
| 22       | 24. Defendant denies the allegation(s) in Paragraph 24.  |
| 23       | 25. Defendant denies the allegation(s) in Paragraph 25.  |
| 24       | 26. Defendant admits that the Plaintiff is seeking such a declaratory judgment in this             |
| 25       | action. Defendant denies that the Plaintiff is entitled to such a declaratory judgment.            |
| 26       | 27. Defendant denies the allegation(s) in Paragraph 27.  |
| 27       | 28. Defendant admits that the Plaintiff's claim purports to arise under the Declaratory            |
| 28       |  |

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| 1        | Judgment Act, 28 USC § 2201 et seq., and the copyright laws of the United States, 17 USC § 101       |
|----------|--|
| 2        | et seq., and that the Plaintiff is seeking the declaratory judgment as described. Defendant denies   |
| 3        | that the Plaintiff is entitled to such declaratory judgment, and denies the remainder of Paragraph   |
| 4        | 28.  |
| 5        | 29. Defendant admits that one or more of the defendants named in this action is the                  |
| 6<br>7   | assignee and owner of the copyrighted materials which gave rise to this action.                      |
| 8        | 30. Defendant denies the allegation(s) in Paragraph 30.  |
| 9        | 31. Defendant denies the allegation(s) in Paragraph 31.  |
| 10       | 32. Defendant denies the allegation(s) in Paragraph 32. To the extent any response is                |
| 11       | required, Defendant denies the allegation(s) contained in Paragraph 32.                              |
| 12       | 33. The allegation(s) contained in Paragraph 33 contain legal conclusions to which no                |
| 13       |  |
| 14       | response is required. To the extent any response is required, Defendant denies the allegation(s)     |
| 15       | contained in Paragraph 33.   |
| 16       | 34. The allegation(s) contained in Paragraph 34 contain legal conclusions to which no                |
| 17       | response is required. To the extent any response is required, Defendant denies the allegation(s)     |
| 18       | contained in Paragraph 34.   |
| 19       | 35. Defendant admits that the copyrighted images giving rise to this action were not                 |
| 20       | affixed with any copyright mark or copyright notice but denies that this fact provides the Plaintiff |
| 21<br>22 | any legal defense against copyright infringement liability.  |
| 22       | 36. Defendant denies the allegation(s) in Paragraph 36.  |
| 24       | 37. Defendant denies the allegation(s) in Paragraph 37.  |
| 25       | 38. Defendant admits that the copyrighted images giving rise to this action were not                 |
| 26       |  |
| 27       |  |
| 28       |  |

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| 1      | affixed with any copyright mark or copyright notice but denies that this fact provides the Plaintiff |
|--------|--|
| 2      | any legal defense against copyright infringement liability. Defendant also denies that AHEPA         |
| 3      | was not aware of or did not have reason to know its actions constituted copyright infringement.      |
| 4      | 39. Defendant denies the allegation(s) in Paragraph 39.  |
| 5      | 40. Defendant denies the allegation(s) in Paragraph 40.  |
| 6<br>7 | 41. Defendant denies the allegation(s) in Paragraph 41.  |
| 8      | 42. Defendant denies the allegation(s) in Paragraph 42.  |
| 9      | 43. Defendant denies the allegation(s) in Paragraph 43.  |
| 10     | 44. Defendant denies the allegation(s) in Paragraph 44.  |
| 11     | 45. Defendant admits the allegation(s) contained in Paragraph 45.                                    |
| 12     | 46. Defendant admits the allegation(s) contained in Paragraph 46 only to the extent that it          |
| 13     |  |
| 14     | appears to be an accurate quotation from a decision of the Ninth Circuit Court of Appeals, but       |
| 15     | denies that this standard for awarding attorney's fees, as articulated in the quoted Ninth Circuit   |
| 16     | decision, is binding on this Court. Even if binding on this Court or otherwise applicable,           |
| 17     | Defendant denies that the Plaintiff is entitled to any award of attorney's fees.                     |
| 18     | 47. Defendant admits the allegation(s) contained in Paragraph 47 only to the extent that             |
| 19     | they appear to be accurate quotations from certain decisions of the Ninth Circuit Court of Appeals   |
| 20     | and the United States Supreme Court. Defendant denies that the Plaintiff is entitled to any award    |
| 21     | of attorney's fees.  |
| 22     | 48. Defendant denies the allegation(s) in Paragraph 48.  |
| 23     | 48. Defendant demes the anegation(s) in Paragraph 48.  |
| 24     |  |
| 25     | COUNTERCLAIMS  |
| 26     |  |
| 27     |  |
| 28     |  |

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