

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

<p>American Hellenic Educational Progressive Association,</p> <p>Plaintiff,</p> <p>PicRights Ltd. PicRights Europe GmbH Agence France-Presse,</p> <p>Defendants.</p>	<p>Case No. 1:19-cv-01814-DAP</p> <p>ANSWER AND COUNTERCLAIMS</p>
--	--

Defendant AGENCE FRANCE-PRESSE, respectfully submits this Answer and accompanying Counterclaims in response to the Complaint filed by in the above-captioned matter:

ANSWER

Defendant hereby responds to the allegation(s) contained in each of the numbered paragraphs in the Plaintiff's Complaint as follows:

1. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegation(s) in Paragraph 1, and thereby denies the allegations contained in Paragraph 1.
2. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegation(s) in Paragraph 2, and thereby denies the allegations contained in Paragraph 2.
3. Defendant admits to the allegation(s) contained in Paragraph 3.
4. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegation(s) in Paragraph 4, and thereby denies the allegations contained in Paragraph 4.
5. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegation(s) in Paragraph 5, and thereby denies the allegations contained in Paragraph 5.

6. The allegations contained in Paragraph 6 are irrelevant as Higbee & Associates is not a party to the action or an owner of the subject copyright. Defendant further notes that the basis for the allegations is inane as a Google search produces more than 14,000 results for the term “Bigfoot In Ohio Federal Court” and “Gugliotta copyright troll.” 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 response is required. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 8.

9. The allegation(s) contained in Paragraph 9 contain legal conclusions to which no response is required. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 8.

10. The allegation(s) contained in Paragraph 10 contain legal conclusions to which no response is required. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 10.

11. The allegation(s) contained in Paragraph 11 contain legal conclusions to which no response is required. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 11.

12. Defendant admits that The Law Firm of Higbee & Associates sent the Plaintiff the letter (dated June 7, 2019) and attachments that are appended to the Complaint as “Exhibit D” (Doc #1-5) and referenced in Paragraph 12. Defendant denies the Plaintiff’s characterization of the letter as a “cease and desist letter” and denies the Plaintiff’s characterization of The Law Firm of Higbee & Associates as a “Copyright Troll”.

13. Defendant admits that the aforementioned letter (dated June 7, 2019) was sent from

The Law Firm of Higbee & Associates and signed by Attorney Mathew K. Higbee. Defendant denies that The Law Firm of Higbee & Associates purported in that letter to be “attorney in fact”

14. Defendant denies the allegation(s) in Paragraph 14.

15. Defendant denies the allegation(s) in Paragraph 15.

16. Defendant denies the allegation(s) in Paragraph 16.

17. The allegation(s) contained in Paragraph 17 contain legal conclusions to which no response is required. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 34.

18. Defendant denies the allegation(s) in Paragraph 18.

19. Defendant denies the allegation(s) in Paragraph 19.

20. Defendant denies the allegation(s) in Paragraph 20.

21. Defendant denies the allegation(s) in Paragraph 21.

22. Defendant admits that the Plaintiff’s claim purports to arise under the Declaratory Judgment Act, 28 USC § 2201 et seq., and the copyright laws of the United States, 17 USC § 101 et seq., and that the Plaintiff is seeking the declaratory judgment as described. Defendant denies that the Plaintiff is entitled to such declaratory judgment, and denies the remainder of Paragraph 22.

23. Defendant denies the allegation(s) in Paragraph 23.

24. Defendant denies the allegation(s) in Paragraph 24.

25. Defendant denies the allegation(s) in Paragraph 25.

26. Defendant admits that the Plaintiff is seeking such a declaratory judgment in this action. Defendant denies that the Plaintiff is entitled to such a declaratory judgment.

27. Defendant denies the allegation(s) in Paragraph 27.

28. Defendant admits that the Plaintiff’s claim purports to arise under the Declaratory

Judgment Act, 28 USC § 2201 et seq., and the copyright laws of the United States, 17 USC § 101 et seq., and that the Plaintiff is seeking the declaratory judgment as described. Defendant denies that the Plaintiff is entitled to such declaratory judgment, and denies the remainder of Paragraph 28.

29. Defendant admits that one or more of the defendants named in this action is the assignee and owner of the copyrighted materials which gave rise to this action.

30. Defendant denies the allegation(s) in Paragraph 30.

31. Defendant denies the allegation(s) in Paragraph 31.

32. Defendant denies the allegation(s) in Paragraph 32. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 32.

33. The allegation(s) contained in Paragraph 33 contain legal conclusions to which no response is required. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 33.

34. The allegation(s) contained in Paragraph 34 contain legal conclusions to which no response is required. To the extent any response is required, Defendant denies the allegation(s) contained in Paragraph 34.

35. Defendant admits that the copyrighted images giving rise to this action were not affixed with any copyright mark or copyright notice but denies that this fact provides the Plaintiff any legal defense against copyright infringement liability.

36. Defendant denies the allegation(s) in Paragraph 36.

37. Defendant denies the allegation(s) in Paragraph 37.

38. Defendant admits that the copyrighted images giving rise to this action were not

affixed with any copyright mark or copyright notice but denies that this fact provides the Plaintiff any legal defense against copyright infringement liability. Defendant also denies that AHEPA was not aware of or did not have reason to know its actions constituted copyright infringement.

39. Defendant denies the allegation(s) in Paragraph 39.

40. Defendant denies the allegation(s) in Paragraph 40.

41. Defendant denies the allegation(s) in Paragraph 41.

42. Defendant denies the allegation(s) in Paragraph 42.

43. Defendant denies the allegation(s) in Paragraph 43.

44. Defendant denies the allegation(s) in Paragraph 44.

45. Defendant admits the allegation(s) contained in Paragraph 45.

46. Defendant admits the allegation(s) contained in Paragraph 46 only to the extent that it appears to be an accurate quotation from a decision of the Ninth Circuit Court of Appeals, but denies that this standard for awarding attorney's fees, as articulated in the quoted Ninth Circuit decision, is binding on this Court. Even if binding on this Court or otherwise applicable, Defendant denies that the Plaintiff is entitled to any award of attorney's fees.

47. Defendant admits the allegation(s) contained in Paragraph 47 only to the extent that they appear to be accurate quotations from certain decisions of the Ninth Circuit Court of Appeals and the United States Supreme Court. Defendant denies that the Plaintiff is entitled to any award of attorney's fees.

48. Defendant denies the allegation(s) in Paragraph 48.

COUNTERCLAIMS

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.