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Attorney for Defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

10 GROUP, INC., a California corporation; CHANNEL ONE RELEASING, INC., a California corporation; and LIBERTY MEDIA HOLDINGS, LLC, a California corporation,

Plaintiffs,

vs.

GLBT, Ltd, a British limited company; et al.

Defendants.

Case No. CV-10-1282 MMC

**DEFENDANTS GLBT, Ltd.,
MASH and NEW, Ltd., PORT 80,
Ltd., STEVEN JOHN
COMPTON, & DAVID
GRAHAM COMPTON ANSWER
TO COMPLAINT**

DEMAND FOR JURY TRIAL

Defendants GLBT, Ltd., MASH and NEW, Ltd., PORT 80, Ltd.,
STEVEN JOHN COMPTON, and DAVID GRAHAM COMPTON, hereby
answer the complaint of Plaintiffs and all of them as follows:

- 1 1. Answering paragraph 1, Defendants lack information or knowledge
2 sufficient to determine the truth or falsity of said allegations and on that
3 basis Defendants generally and specifically deny each and every
4 allegation contained therein.
- 5 2. Answering paragraph 2, Defendants lack information or knowledge
6 sufficient to determine the truth or falsity of said allegations and on that
7 basis Defendants generally and specifically deny each and every
8 allegation contained therein.
- 9 3. Answering paragraph 3, Defendants generally and specifically deny each
10 and every allegation contained therein.

11 **THE PARTIES**

- 12 4. Answering paragraph 4, Defendants lack information or knowledge
13 sufficient to determine the truth or falsity of said allegations and on that
14 basis Defendants generally and specifically deny each and every
15 allegation contained therein.
- 16 5. Answering paragraph 5, Defendants lack information or knowledge
17 sufficient to determine the truth or falsity of said allegations and on that
18 basis Defendants generally and specifically deny each and every
19 allegation contained therein.
- 20 6. Answering paragraph 6, Defendants lack information or knowledge
21 sufficient to determine the truth or falsity of said allegations and on that
22 basis Defendants generally and specifically deny each and every
23 allegation contained therein.
- 24 7. Answering paragraph 7, Defendants admit said allegations.
- 25 8. Answering paragraph 8, Defendants admit that Defendant MASH &
26 NEW LIMITED is a British Ltd company as stated but specifically
27 denies that it operates the stated websites.
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1 9. Answering paragraph 9, Defendants admit said allegations.

2 10. Answering paragraph 10, Defendants admit that STEPHEN JOHN
3 COMPTON is an individual living in the United Kingdom, otherwise
4 Defendants generally and specifically deny each and every allegation
5 contained therein.

6 11. Answering paragraph 11, Defendants admit that DAVID GRAHAM
7 COMPTON is an individual living in the United Kingdom, otherwise
8 Defendants generally and specifically deny each and every allegation
9 contained therein.

10 12. Answering paragraph 12, Defendants generally and specifically deny
11 each and every allegation contained therein.

12 **JURISDICTION**

13 13. Answering paragraph 13, Defendants admit said allegations.

14 14. Answering paragraph 14, and subject to their affirmative defense of the
15 application of foreign law, Defendants admit said allegations.

16 15. Answering paragraph 15, and subject to their affirmative defense of the
17 application of foreign law, Defendants admit said allegations.

18 16. Answering paragraph 16, Defendants generally and specifically deny
19 each and every allegation contained therein. Defendants contest the
20 jurisdiction of this Court over their person and furthermore, as British
21 and EU citizens and residents, contest the imposition of punitive and
22 arbitrary damages over them which they deem to be grotesque, abhorrent,
23 and offensive to basic concepts of Natural Justice.

24 **INTRADISTRICT ASSIGNMENT**

25 17. Answering paragraph 17, Defendants admit said allegations.

26 **VENUE**

1 18. Answering paragraph 18, Defendants generally and specifically deny
2 each and every allegation contained therein. This court is an inconvenient
3 forum.

4 **FACTS COMMON TO ALL CLAIMS**

5 19. Answering paragraph 19, Defendants lack information or knowledge
6 sufficient to determine the truth or falsity of said allegations and on that
7 basis Defendants generally and specifically deny each and every
8 allegation contained therein.

9 20. Answering paragraph 20, Defendants lack information or knowledge
10 sufficient to determine the truth or falsity of said allegations and on that
11 basis Defendants generally and specifically deny each and every
12 allegation contained therein.

13 21. Answering paragraph 21, Defendants lack information or knowledge
14 sufficient to determine the truth or falsity of said allegations and on that
15 basis Defendants generally and specifically deny each and every
16 allegation contained therein.

17 22. Answering paragraph 22, Defendants lack information or knowledge
18 sufficient to determine the truth or falsity of said allegations and on that
19 basis Defendants generally and specifically deny each and every
20 allegation contained therein.

21 23. Answering paragraph 23, Defendants lack information or knowledge
22 sufficient to determine the truth or falsity of said allegations and on that
23 basis Defendants generally and specifically deny each and every
24 allegation contained therein.

25 24. Answering paragraph 24, Defendants lack information or knowledge
26 sufficient to determine the truth or falsity of said allegations and on that
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1 basis Defendants generally and specifically deny each and every
2 allegation contained therein.

3 25. Answering paragraph 25, Defendants lack information or knowledge
4 sufficient to determine the truth or falsity of said allegations and on that
5 basis Defendants generally and specifically deny each and every
6 allegation contained therein.

7 26. Answering paragraph 26, Defendants lack information or knowledge
8 sufficient to determine the truth or falsity of said allegations and on that
9 basis Defendants generally and specifically deny each and every
10 allegation contained therein.

11 27. Answering paragraph 27, Defendants lack information or knowledge
12 sufficient to determine the truth or falsity of said allegations and on that
13 basis Defendants generally and specifically deny each and every
14 allegation contained therein.

15 28. Answering paragraph 28, Defendants generally and specifically deny
16 each and every allegation contained therein.

17 29. Answering paragraph 29, Defendants generally and specifically deny
18 each and every allegation contained therein.

19 30. Answering paragraph 30, Defendants generally and specifically deny
20 each and every allegation contained therein.

21 31. Answering paragraph 31, except that Defendants deny that Viewers feed
22 the system and perpetuate the massive infringement scheme, or that
23 Defendants even operate these websites, Defendants admit said
24 allegations.

25 32. Answering paragraph 32, Defendants generally and specifically deny
26 each and every allegation contained therein.
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1 33. Answering paragraph 33, Defendants generally and specifically deny
2 each and every allegation contained therein.

3 34. Answering paragraph 34, Defendants generally and specifically deny
4 each and every allegation contained therein.

5 35. Answering paragraph 35, Defendants generally and specifically deny
6 each and every allegation contained therein.

7 36. Answering paragraph 36, Defendants generally and specifically deny
8 each and every allegation contained therein.

9 37. Answering paragraph 37, Defendants generally and specifically deny
10 each and every allegation contained therein.

11 38. Answering paragraph 38, Defendants generally and specifically deny
12 each and every allegation contained therein.

13 39. Answering paragraph 39, Defendants generally and specifically deny
14 each and every allegation contained therein.

15 40. Answering paragraph 40, Defendants generally and specifically deny
16 each and every allegation contained therein.

17 41. Answering paragraph 41, Defendants lack information or knowledge
18 sufficient to determine the truth or falsity of said allegations and on that
19 basis Defendants generally and specifically deny each and every
20 allegation contained therein.

21 42. Answering paragraph 42, Defendants generally and specifically deny
22 each and every allegation contained therein.

23 43. Answering paragraph 43, Defendants generally and specifically deny
24 each and every allegation contained therein.

25 44. Answering paragraph 44, Defendants generally and specifically deny
26 each and every allegation contained therein.
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1 45. Answering paragraph 45, Defendants generally and specifically deny
2 each and every allegation contained therein.

3 **FIRST CAUSE OF ACTION**

4 46. Answering paragraph 46, Defendants repeat and reallege paragraphs 1
5 through 45 of this Answer and incorporates the same by reference as if
6 fully set forth.

7 47. Answering paragraph 47, Defendants lack information or knowledge
8 sufficient to determine the truth or falsity of said allegations and on that
9 basis Defendants generally and specifically deny each and every
10 allegation contained therein.

11 48. Answering paragraph 48, Defendants generally and specifically deny
12 each and every allegation contained therein.

13 49. Answering paragraph 49, Defendants generally and specifically deny
14 each and every allegation contained therein.

15 50. Answering paragraph 50, Defendants generally and specifically deny
16 each and every allegation contained therein.

17 51. Answering paragraph 51, Defendants generally and specifically deny
18 each and every allegation contained therein.

19 52. Answering paragraph 52, Defendants generally and specifically deny
20 each and every allegation contained therein.

21 53. Answering paragraph 53, Defendants generally and specifically deny
22 each and every allegation contained therein.

23 54. Answering paragraph 54, Defendants generally and specifically deny
24 each and every allegation contained therein.

25 55. Answering paragraph 55, Defendants generally and specifically deny
26 each and every allegation contained therein.
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1 56. Answering paragraph 56, Defendants generally and specifically deny
2 each and every allegation contained therein.

3 57. Answering paragraph 57, Defendants generally and specifically deny
4 each and every allegation contained therein.

5 58. Answering paragraph 58, Defendants generally and specifically deny
6 each and every allegation contained therein.

7 **SECOND CAUSE OF ACTION**

8 59. Answering paragraph 59, Defendants repeat and reallege paragraphs 1
9 through 58 of this Answer and incorporates the same by reference as if
10 fully set forth.

11 60. Answering paragraph 60, Defendants generally and specifically deny
12 each and every allegation contained therein.

13 61. Answering paragraph 61, Defendants generally and specifically deny
14 each and every allegation contained therein.

15 62. Answering paragraph 62, Defendants generally and specifically deny
16 each and every allegation contained therein.

17 63. Answering paragraph 63, Defendants generally and specifically deny
18 each and every allegation contained therein.

19 64. Answering paragraph 64, Defendants generally and specifically deny
20 each and every allegation contained therein.

21 65. Answering paragraph 65, Defendants generally and specifically deny
22 each and every allegation contained therein.

23 66. Answering paragraph 66, Defendants generally and specifically deny
24 each and every allegation contained therein.
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THIRD CAUSE OF ACTION

1
2 67. Answering paragraph 67, Defendants repeat and reallege paragraphs 1
3 through 66 of this Answer and incorporates the same by reference as if
4 fully set forth.

5 68. Answering paragraph 68, Defendants generally and specifically deny
6 each and every allegation contained therein.

7 69. Answering paragraph 69, Defendants generally and specifically deny
8 each and every allegation contained therein.

9 70. Answering paragraph 70, Defendants generally and specifically deny
10 each and every allegation contained therein.

11 71. Answering paragraph 71, Defendants generally and specifically deny
12 each and every allegation contained therein.

FOURTH CAUSE OF ACTION

13
14
15 72. Answering paragraph 72, Defendants repeat and reallege paragraphs 1
16 through 71 of this Answer and incorporates the same by reference as if
17 fully set forth.

18 73. Answering paragraph 73, Defendants lack information or knowledge
19 sufficient to determine the truth or falsity of said allegations and on that
20 basis Defendants generally and specifically deny each and every
21 allegation contained therein.

22 74. Answering paragraph 74, Defendants lack information or knowledge
23 sufficient to determine the truth or falsity of said allegations and on that
24 basis Defendants generally and specifically deny each and every
25 allegation contained therein.

26 75. Answering paragraph 75, Defendants generally and specifically deny
27 each and every allegation contained therein.
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1 76. Answering paragraph 76, Defendants generally and specifically deny
2 each and every allegation contained therein.

3 77. Answering paragraph 77, Defendants generally and specifically deny
4 each and every allegation contained therein.

5 78. Answering paragraph 78, Defendants generally and specifically deny
6 each and every allegation contained therein.

7 79. Answering paragraph 79, Defendants generally and specifically deny
8 each and every allegation contained therein.

9 80. Answering paragraph 80, Defendants generally and specifically deny
10 each and every allegation contained therein.

11 81. Answering paragraph 81, Defendants generally and specifically deny
12 each and every allegation contained therein.

13
14 **FIFTH CAUSE OF ACTION**

15 82. Answering paragraph 82, Defendants repeat and reallege paragraphs 1
16 through 81 of this Answer and incorporates the same by reference as if
17 fully set forth.

18 83. Answering paragraph 83, Defendants lack information or knowledge
19 sufficient to determine the truth or falsity of said allegations and on that
20 basis Defendants generally and specifically deny each and every
21 allegation contained therein.

22 84. Answering paragraph 84, Defendants generally and specifically deny
23 each and every allegation contained therein.

24 85. Answering paragraph 85, Defendants generally and specifically deny
25 each and every allegation contained therein.

26 86. Answering paragraph 86, Defendants generally and specifically deny
27 each and every allegation contained therein.
28

1 87. Answering paragraph 87, Defendants generally and specifically deny
2 each and every allegation contained therein.

3 88. Answering paragraph 88, Defendants generally and specifically deny
4 each and every allegation contained therein.

5 89. Answering paragraph 89, Defendants generally and specifically deny
6 each and every allegation contained therein.

7 90. Answering paragraph 90, Defendants generally and specifically deny
8 each and every allegation contained therein.

9 91. Answering paragraph 91, Defendants generally and specifically deny
10 each and every allegation contained therein.

11 **SIXTH CAUSE OF ACTION**

12 92. Answering paragraph 92, Defendants repeat and reallege paragraphs 1
13 through 91 of this Answer and incorporates the same by reference as if
14 fully set forth.

15 93. Answering paragraph 93, Defendants generally and specifically deny
16 each and every allegation contained therein.

17 94. Answering paragraph 94, Defendants generally and specifically deny
18 each and every allegation contained therein.

19 95. Answering paragraph 95, Defendants generally and specifically deny
20 each and every allegation contained therein.

21 96. Answering paragraph 96, Defendants generally and specifically deny
22 each and every allegation contained therein.

23 97. Answering paragraph 97, Defendants generally and specifically deny
24 each and every allegation contained therein.

25 98. Answering paragraph 98, Defendants generally and specifically deny
26 each and every allegation contained therein.
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1 99. Answering paragraph 99, Defendants generally and specifically deny
2 each and every allegation contained therein.

3 100. Answering paragraph 100, Defendants generally and specifically deny
4 each and every allegation contained therein.

5 **SEVENTH CAUSE OF ACTION**

6 101. Answering paragraph 101, Defendants repeat and reallege paragraphs
7 1 through 100 of this Answer and incorporates the same by reference as
8 if fully set forth.

9 102. Answering paragraph 102, Defendants admit said allegations.

10 103. Answering paragraph 103, Defendants generally and specifically deny
11 each and every allegation contained therein.

12 104. Answering paragraph 104, Defendants generally and specifically deny
13 each and every allegation contained therein.

14 105. Answering paragraph 105, Defendants generally and specifically deny
15 each and every allegation contained therein.

16 106. Answering paragraph 106, Defendants generally and specifically deny
17 each and every allegation contained therein.

18 **EIGHTH CAUSE OF ACTION**

19 107. Answering paragraph 107, Defendants repeat and reallege
20 paragraphs 1 through 106 of this Answer and incorporates the same by
21 reference as if fully set forth.

22 108. Answering paragraph 108, Defendants generally and specifically deny
23 each and every allegation contained therein.

24 109. Answering paragraph 109, Defendants generally and specifically deny
25 each and every allegation contained therein.

26 110. Answering paragraph 110, Defendants generally and specifically deny
27 each and every allegation contained therein.
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1 **PRAYER FOR RELIEF**

2 Defendants deny the allegations contained in paragraphs (1) through (7) of
3 Plaintiff's prayer for relief, and contends that Plaintiffs are not entitled to
4 any relief sought therein.
5

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7 **AFFIRMATIVE DEFENSES**

8 **First Affirmative Defense**

9 (Failure to State a Claim for Relief)

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11 110. Plaintiffs' Complaint fails to state a claim upon which relief may be
12 granted.

13 **Second Affirmative Defense**

14 (17 U.S.C. § 512)

15 111. Plaintiffs' claims are barred by the statutory immunity granted to
16 service providers under the safe harbor provisions of the Digital
17 Millennium Copyright Act, 17 U.S.C. § 512.
18

19 **Third Affirmative Defense**

20 (Lack of personal jurisdiction)

21 112. Plaintiffs' claims are barred in that this Court has no personal
22 jurisdiction over UK citizen and resident Defendants STEVEN JOHN
23 COMPTON and DAVID GRAHAM COMPTON who in turn have no
24 minimum contacts with this jurisdiction.
25

26 **Fourth Affirmative Defense**

27 (Lack of personal jurisdiction)
28

1 113. Plaintiffs' claims are barred in that this Court has no personal
2 jurisdiction over Limited company Defendants who in turn have no
3 minimum contacts with this jurisdiction.
4

5 **Fifth Affirmative Defense**
6 **(Application of Foreign law)**

7 114. Under applicable conflict of law principles, Plaintiffs claims should be
8 adjudicated under the laws of England. Defendants have no liability to
9 Plaintiffs under English law and which, in any event does not impose or
10 recognize damages beyond any actual loss sustained by a Plaintiff.
11

12 **Sixth Affirmative Defense**
13 **(Inconvenient forum)**

14 115. This court is an inconvenient forum in that the conduct at issue
15 occurred elsewhere and the witnesses and documents are located elsewhere,
16 and primarily in England.

17 **Seventh Affirmative Defense**
18 **(No Direct Financial Benefit)**

19 116. Plaintiffs' claims are barred because Defendants did not obtain a direct
20 financial benefit from the alleged primary infringement.

21 **Eighth Affirmative Defense**
22 **(No Right or Ability to Control)**

23 117. Plaintiffs' claims are barred because Defendants do not have the right or
24 ability to control the alleged primary infringement.

25 **Ninth Affirmative Defense**
26 **(Fair Use)**

27 118. Defendants' alleged conduct constitutes fair use.
28

Tenth Affirmative Defense

1 (Laches)

2 119. Plaintiffs' claims are barred by laches.

3 **Eleventh Affirmative Defense**

4 (Waiver)

5 120. Plaintiffs' claims are barred by waiver.

6 **Twelfth Affirmative Defense**

7 (Estoppel)

8 121. Plaintiffs' claims are barred by estoppel.

9 **Thirteenth Affirmative Defense**

10 (Unclean Hands)

11 122. Plaintiffs' claims are barred by unclean hands.

12 **Fourteenth Affirmative Defense**

13 (Invalidity and Unenforceability of Copyrights and/or Trademarks)

14 123. Plaintiffs' copyrights and/or Trademarks are invalid and/or
15 unenforceable.

16 **Fifteenth Affirmative Defense**

17 (License, Consent and Acquiescence)

18 124. Plaintiffs' claims are barred by Plaintiffs' license, consent and
19 acquiescence to Defendants' use.

20 **Sixteenth Affirmative Defense**

21 (Lack of Subject Matter Jurisdiction)

22 125. Plaintiffs' claims are barred for lack of subject matter jurisdiction
23 because they lack valid registrations for the intellectual property rights
24 asserted.

25 **Seventeenth Affirmative Defense**

26 (Abandonment and Forfeiture)

27 126. Plaintiffs' claims are barred to the extent that they have forfeited or
28

1 abandoned their intellectual property.

2 **Eighteenth Affirmative Defense**

3 (Standing)

4 127. Plaintiffs' claims are barred to the extent that the Plaintiffs lack
5 standing.

6
7 **Nineteenth Affirmative Defense**

8 (Misuse of Copyright and/or Trademark)

9 128. Plaintiffs' claims are barred by the doctrine of misuse of copyright
10 and/or Trademark.

11 **Twentieth Affirmative Defense**

12 (Non-Infringing Use)

13 129. Plaintiffs' claims are barred because Defendants' products and/or
14 services are capable of substantial non-infringing uses.

15 **Twenty-First Affirmative Defense**

16 (Failure to Mitigate Damages)

17 130. Plaintiffs' claims are barred due to Plaintiffs' failure to mitigate
18 damages.

19 **Twenty-Second Affirmative Defense**

20 (Innocent Intent)

21 131. Plaintiffs' claims are barred, in whole or in part, because Defendants
22 conduct was in good faith and with non-willful intent, at all times.

23 **Twenty-Third Affirmative Defense**

24 (Unconstitutionality)

25 132. The statutory damages sought by Plaintiffs are unconstitutionally
26 excessive and disproportionate to any actual damages that may have been
27 sustained, in violation of the Due Process Clause.
28

1 **Twenty-Fourth Affirmative Defense**

2 (Statutes of Limitations)

3 133. Plaintiffs' claims are barred by the applicable statutes of limitations.

4 **Twenty-Fifth Affirmative Defense**

5 (First Amendment)

6 134. Plaintiffs' claims are barred to the extent that Defendants' actions and
7 speech are protected by the First Amendment of the Constitution of the
8 United States.

9 **Twenty-Sixth Affirmative Defense**

10 (Preemption)

11 135. Plaintiffs' claims are barred to the extent they are preempted by the
12 Communications Decency Act, Trademark Act, & Copyright Act, 17 U.S.C.
13 § 101 *et seq.*

14 **Twenty-Seventh Affirmative Defense**

15 (Failure to Register)

16 136. Plaintiffs' claims are barred in whole or part to the extent that Plaintiffs
17 have not properly or timely registered their works with the U.S. Copyright
18 Office or Trademark office.

19 **Twenty-Eighth Affirmative Defense**

20 (No Primary Liability)

21 137. Plaintiffs' claims based upon secondary liability are barred because
22 Plaintiffs cannot establish the primary liability of Defendants' users,
23 including because such users' alleged conduct constitutes fair use, de
24 minimus use and/or is otherwise not actionable.

25 **Twenty-Ninth Affirmative Defense**

26 (Staple Articles of Commerce)

1 138. Plaintiffs' claims based upon secondary liability are barred because
2 Defendants' products and/or services are staple articles of commerce.

3 **Thirtieth Affirmative Defense**

4 (No Volitional Act)

5 139. Plaintiffs' claims are barred because the alleged infringement was not
6 caused by a volitional act attributable to Defendants.

7 **Thirty-First Affirmative Defense**

8 (Lack of Knowledge)

9 140. Plaintiffs' claims based upon contributory liability are barred because
10 Defendants did not have requisite knowledge of the alleged primary
11 infringement and did not encourage or induce the alleged primary
12 infringement.

13 WHEREFORE Defendants request that the Court:

- 14 A. Dismiss all claims asserted by Plaintiffs, with prejudice;
15 B. Award Defendants their reasonable costs and attorneys' fees; and
16 C. Grant all other and further relief that the Court deems just and proper.
17

18
19 **JONATHAN CHARLES CAPP**

20 Dated: August 17, 2010 By: /s/ Jonathan Charles Capp

21
22
23 **DEMAND FOR JURY TRIAL**

24 Defendants, and each of them, request a trial by jury.

25
26 **JONATHAN CHARLES CAPP**

27 Dated: August 17, 2010 By: /s/ Jonathan Charles Capp