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STEPHANIE LENZ

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14
15 STEPHANIE LENZ,) No. C 07-03783-MEJ
16) Plaintiff,) **AMENDED COMPLAINT**
17) v.) (Jury Trial Demanded)
18)
19 UNIVERSAL MUSIC CORP., UNIVERSAL)
MUSIC PUBLISHING, INC.,)
20) and)
21) UNIVERSAL MUSIC PUBLISHING GROUP,)
22) Defendants.)
23 _____)

24 1. This is a civil action seeking injunctive relief and damages for misrepresentation of
25 copyright claims under the Digital Millennium Copyright Act (“DMCA”), intentional interference
26 with contract, and declaratory relief.

27 2. This case arises from an improper legal claim of copyright infringement against a
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1 mother who made a short video recording of her children playing and dancing, which she later
2 made available to her family and friends on the popular Internet video website YouTube. The
3 threat successfully compelled YouTube to remove Plaintiff's original video from public access.

4 **PARTIES**

5 3. Plaintiff Stephanie Lenz ("Lenz") is an individual residing in Gallitzin, Pennsylvania.

6 4. On information and belief, Defendants Universal Music Corp., Universal Music
7 Publishing, Inc. and Universal Music Publishing Group (collectively, "Universal" or "Defendants")
8 are business entities and/or corporations that each maintain a principal place of business in Los
9 Angeles, California.

10 **JURISDICTION AND VENUE**

11 5. This Court has subject matter jurisdiction over this claim pursuant to the Copyright
12 Act (17 U.S.C. §§ 101 et seq.), 28 U.S.C. §§ 1331 and 1338, and the Declaratory Judgment Act (28
13 U.S.C. § 2291). This Court has supplemental subject matter jurisdiction over the state law claim
14 pursuant to 28 U.S.C. § 1367(a) in that the state law claim arises from the same case or controversy
15 and transaction or occurrence as the federal law claims arise.

16 6. Plaintiff is informed, believes and thereon alleges that Defendants have sufficient
17 contacts with this district generally and, in particular, with the events herein alleged, that they are
18 subject to the exercise of jurisdiction of this Court.

19 **VENUE AND INTRADISTRICT ASSIGNMENT**

20 7. Venue is proper in this district under 28 U.S.C. § 1391.

21 8. Assignment to the San Jose division is proper pursuant to Local Rule 3-2(c) and (d)
22 because a substantial portion of the events giving rise to this action occurred in this district and
23 division.

24 **FACTUAL ALLEGATIONS**

25 9. YouTube is a video-sharing website where millions of Internet users post videos to
26 make them available to others for viewing. These videos range from traditional home recordings
27 of personal events to news reports, advertisements, and television programs. YouTube's website is
28 available at the web address www.youtube.com.

1 10. On information and belief, Defendants are music publishing companies. On
2 information and belief, Defendants own or administer the copyrights in music written and
3 performed by the artist Prince, including the song “Let’s Go Crazy.”

4 11. Plaintiff Stephanie Lenz is a mother, wife, writer and editor. She and her husband
5 have two children, three-year-old Zoe and eighteen-month-old Holden.

6 12. On or about February 7, 2007, Lenz’s children were playing in the family’s kitchen
7 when Holden began dancing to the Prince song “Let’s Go Crazy,” which Zoe and Holden had
8 recently heard on television during the Super Bowl halftime show. Lenz used her digital camera to
9 create a 29-second video recording of the children’s activities, which consisted primarily of
10 Holden’s dance performance. Lenz later transferred the recording onto her computer and saved it
11 as a video computer file (hereafter “Holden Dance Video”).

12 13. On or about February 8, 2007, Lenz uploaded the Holden Dance Video from her
13 computer to the YouTube website for her family and friends to enjoy. The video was publicly
14 available at the Internet address <<http://www.youtube.com/watch?v=N1KfJHFwIhQ>>.

15 14. On information and belief, on or about June 4, 2007, Defendants, through their
16 representative, demanded that YouTube remove the Holden Dance Video from the YouTube
17 website because the video allegedly infringed a copyright owned or administered by Defendants.
18 By authorizing the demand, Defendants affirmed under penalty of perjury that their notice of
19 infringement was accurate and that they were authorized to make the infringement claim arising
20 from the Prince song “Let’s Go Crazy.”

21 15. On June 6, 2007, YouTube sent Lenz an email notifying her that it had removed the
22 Holden Dance Video pursuant to Universal’s notification that the material infringed their
23 copyright. The email also warned Lenz that repeated incidents of copyright infringement could
24 lead to the deletion of her YouTube account and all videos uploaded to the account.

25 16. Lenz sent YouTube a counter-notification on June 27, 2007, demanding that her
26 video be reposted because it does not infringe Universal’s copyright in any way. Regardless, the
27 Holden Dance Video has remained unavailable on YouTube for more than six weeks.

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1 than six weeks.

2 27. As a direct and proximate result of Defendants' actions, Lenz has been injured
3 substantially and irreparably. Such injuries include, but are not limited to, the harm to her free
4 speech rights under the First Amendment.

5 **COUNT III: DECLARATORY RELIEF OF NON-INFRINGEMENT**

6 28. Plaintiff repeats and incorporates herein by reference the allegations in the
7 preceding paragraphs of this complaint.

8 29. There is a real and actual controversy between Plaintiff and Defendants regarding
9 whether the Holden Dance Video constitutes infringement of a copyright lawfully owned or
10 administered by Defendants.

11 30. Plaintiff contends that posting of her footage was and is lawful, consistent with the
12 Copyright Act of the United States of America, including those laws prohibiting direct,
13 contributory or vicarious infringement, laws protecting fair use and the First Amendment to the
14 United States Constitution, and judicial decisions construing such laws, doctrines, and provisions.

15 31. Wherefore, Plaintiff requests that the Court determine and adjudge that each and
16 every one of the above-stated propositions states the law applicable to the facts involved in this
17 action.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, the Plaintiff prays for judgment as follows:

- 20
- 21 1. A declaratory judgment that the Holden Dance Video posted by Plaintiff does not
22 infringe any copyright owned or administered by Defendants;
 - 23 2. Injunctive relief restraining Defendants, their agents, servants, employees,
24 successors and assigns, and all others in concert and privity with Defendants, from
25 bringing any lawsuit or threat against Plaintiff for copyright infringement in
26 connection with the Holden Dance Video, including, but not limited to, the video's
27 publication, distribution, performance, display, licensing, or the ability to host it
28 online or link to it from any website;

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- 3. Damages according to proof;
- 4. Attorneys fees pursuant to 17 U.S.C. § 512(f), other portions of the Copyright Act including Section 505, on a Private Attorney General basis, or otherwise as allowed by law;
- 6. Plaintiff's costs and disbursements; and
- 7. Such other and further relief as the Court shall find just and proper.

Plaintiff hereby requests a jury trial for all issues triable by jury including, but not limited to, those issues and claims set forth in any amended complaint or consolidated action.

DATED: August 15, 2007

By _____ /s/
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