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STEPHANIE LENZ

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

STEPHANIE LENZ,

Plaintiff,

v.

UNIVERSAL MUSIC CORP., UNIVERSAL
MUSIC PUBLISHING, INC.,

and

UNIVERSAL MUSIC PUBLISHING GROUP,

Defendants.

No. C 07-03783-JF

SECOND AMENDED COMPLAINT

(Jury Trial Demanded)

1. This is a civil action seeking injunctive relief and damages for misrepresentation of copyright claims under the Digital Millennium Copyright Act ("DMCA").

2. This case arises from an improper assertion of copyright infringement against a mother who made a short home video recording of her children playing and dancing, which she shared with her family and friends via the popular Internet video website YouTube. The infringement claim successfully compelled YouTube to remove Plaintiff's original video from public access.

PARTIES

3. Plaintiff Stephanie Lenz (“Lenz”) is an individual residing in Gallitzin, Pennsylvania.

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

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this claim pursuant to the Copyright Act (17 U.S.C. §§ 101 et seq.), 28 U.S.C. §§ 1331 and 1338.

6. On information and belief, Defendants are subject to the general and specific jurisdiction of this Court.

VENUE AND INTRADISTRICT ASSIGNMENT

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

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

FACTUAL ALLEGATIONS

9. YouTube is a video-sharing website where millions of Internet users post videos to make them available to others for viewing. These videos range from traditional home recordings of personal events to news reports, advertisements, and television programs. YouTube’s website is available at the web address www.youtube.com. Its corporate headquarters is located in San Bruno, California.

10. On information and belief, Defendants are music publishing companies. On information and belief, Defendants own and/or administer the copyrights in musical compositions owned or controlled by the artist Prince Rogers Nelson, professionally known as “Prince,” including the song “Let’s Go Crazy.”

1 11. Plaintiff Stephanie Lenz is a mother, wife, writer and editor. She and her husband
2 have two children, Zoe and Holden.

3 12. On or about February 7, 2007, Lenz's children were playing in the family's kitchen
4 when Holden (then 13 months old) began dancing to the Prince song "Let's Go Crazy," which was
5 playing in the background on the Lenz family CD player. Zoe and Holden had recently heard
6 Prince perform on television during the Super Bowl halftime show. Lenz used her digital camera
7 to create a 29-second video recording of the children's activities, which consisted primarily of
8 Holden's dance performance. Lenz later transferred the recording onto her computer and saved it
9 as a video computer file (hereafter "Holden Dance Video").

10 13. The video bears all the hallmarks of a family home movie—it is somewhat blurry,
11 the sound quality is poor, it was filmed with an ordinary digital video camera, and it focuses on
12 documenting Holden's "dance moves" against a background of normal household activity,
13 commotion and laughter.

14 14. Due to the noise and commotion made by the children, the song "Let's go Crazy"
15 can only be heard in the background for approximately 20 seconds of the 29-second video and even
16 then not all that clearly. The portion of the song used is near the song's end and includes only a
17 few words of the lyrics.

18 15. On information and belief, the snippet of "Let's Go Crazy" that plays in the
19 background (not dubbed as a soundtrack) of the Holden Video could not substitute for the original
20 Prince song in any conceivable market. This is due, in part, to the abbreviated nature of the use of
21 the work, the low audio quality of the ordinary digital video camera Ms. Lenz used, the household
22 noises, laughter and talking of Ms. Lenz that partially obscure the music, and the sounds made by
23 the toys that Holden and his sister are pushing around the kitchen during the video.

24 16. Holden was just learning to walk when Lenz made the video. Lenz thought her
25 friends and family, particularly her mother in California, would enjoy seeing Holden's new ability
26 to dance as well. Lenz's mother has difficulty downloading email files but knows how to access
27 the YouTube website.

28 17. Therefore, on or about February 8, 2007, Lenz uploaded the Holden Dance Video

1 from her computer to the YouTube website for her family and friends to enjoy. The video was
2 publicly available at the Internet address <<http://www.youtube.com/watch?v=N1KfJHFWlhQ>>.

3 18. Thus, the purpose and character of the video was for Ms. Lenz to amuse her family
4 and friends with her young child's nascent dancing ability. This was non-commercial and
5 transformative, as it made a use of the work that was distinct and separate from its original context
6 and added additional creative elements, such as Holden's dancing. Moreover, the amount of the
7 song taken was approximately 20 seconds of a 3 1/2 minute song – the necessary background of
8 the almost equally brief video—and the content of the Holden Dance Video did not and could not
9 substitute for the original song or inflict any harm to the market for the original song.

10 19. On information and belief, Defendants are sophisticated music industry companies,
11 have extensive experience with copyright law, and employ staff who are familiar with the Digital
12 Millennium Copyright Act (including the Section 512 “good faith” requirements and the obligation
13 to submit Section 512 notices under penalty of perjury), as well as the principles and application of
14 the fair use doctrine.

15 20. On information and belief, between February and June 2007, Defendants, and/or
16 their representatives, viewed the Holden Dance Video and decided to issue a DMCA takedown
17 notice despite their knowledge that the use of the Prince song in the video was a non-infringing fair
18 use.

19 21. On June 4, 2007, Defendants, through their representative, demanded that YouTube
20 remove the Holden Dance Video from the YouTube website because the video allegedly infringed
21 a copyright owned or administered by Defendants. By authorizing the demand, Defendants
22 affirmed under penalty of perjury that the notice of infringement was accurate and that they were
23 authorized to make the infringement claim arising from the Prince song “Let's Go Crazy.” See
24 Notice of Copyright Infringement, attached hereto as Ex. A.

25 22. On information and belief, Defendants sent this notice to copyright@youtube.com.
26 Section 8 of YouTube's Terms of Use expressly states that “only DMCA notices should go to the
27 Copyright Agent [with the email address ‘copyright@youtube.com’.]” See YouTube Terms of
28 Use, downloaded on April 17, 2008, from <http://www.youtube.com/t/terms> and attached hereto as

1 Ex. B. On information and belief, the relevant portions of this webpage have not been
2 substantively modified since June 4, 2007.

3 23. The notice precisely tracked the language specified for a notice of claimed
4 infringement under Section 512(c)(3) of the DMCA.

5 24. On information and belief, YouTube treated the demand as a request for takedown
6 pursuant to the Section 512(c)(3) of the DMCA.

7 25. On June 5, 2007, YouTube sent Lenz an email notifying her that it had removed the
8 Holden Dance Video pursuant to Universal's notification that the material infringed their
9 copyright. The email warned Lenz that repeated incidents of copyright infringement could lead to
10 the deletion of her YouTube account and all videos uploaded to the account. See Notice of Video
11 Removal, attached hereto as Ex. C.

12 26. The email advised Lenz that she was entitled to submit a counter-notice, and
13 directed her to webpages that explained the procedures for a counter-notice pursuant to Section
14 512(g) of the DMCA. Id. See also "Help Center: How do I file a counter notice?" downloaded on
15 April 17, 2008, from <http://www.google.com/support/youtube/bin/answer.py?answer+59826> and
16 attached hereto as Ex. D. On information and belief, the relevant portions of this webpage have not
17 been substantively modified since June 4, 2007.

18 27. On June 27, 2007, Lenz sent YouTube a counter-notice, pursuant to Section 512(g)
19 of the DMCA, demanding that her video be reposted because it did not infringe Universal's
20 copyright in any way. Following that counter-notice, YouTube restored the video. Regardless, the
21 Holden Dance Video remained unavailable on YouTube for more than six weeks.

22 28. On information and belief, on or around September 13, 2007, Prince issued a
23 statement threatening to sue several Internet service providers for copyright infringement as part of
24 an effort to "to reclaim his art on the internet." See M. Collett-White, "Prince to Sue YouTube,
25 eBay Over Music Use," Reuters, Sept. 13, 2007, downloaded on April 16, 2008, from
26 <http://www.reuters.com/article/internetNew/idUSL1364328420070914?feedtype=RSS&feedName>
27 [InternetNews&rpc=22&sp=true](http://www.reuters.com/article/internetNew/idUSL1364328420070914?feedtype=RSS&feedName), and attached hereto as Ex. E. On information and belief, the
28 relevant portions of this webpage have not been substantively modified since September 13, 2007.

1 29. On information and belief, the statement asserted that “Prince strongly believes that
2 artists as creators and owners of their music need to reclaim their art.”

3 30. On or around October 26, 2007, Defendants released the following statement to
4 ABC News, in response to a request for comment regarding the take down of the Holden Dance
5 Video:

6 Prince believes it is wrong for YouTube, or any other user-generated site, to
7 appropriate his music without his consent. That position has nothing to do with any
8 particular video that uses his songs. It’s simply a matter of principle. And legally,
9 he has the right to have his music removed. We support him and this important
10 principle. That’s why, over the last few months, we have asked YouTube to remove
11 thousands of different videos that use Prince music without his permission.

12 See J. Avila et al, “The Home Video Prince Doesn’t Want You to See,” ABC News, October 26,
13 2007, downloaded on November 7, 2007, from <http://abcnews.go.com/print?id+3777651> and
14 attached hereto as Ex. F.

15 31. On information and belief, Prince himself demanded that Universal seek the removal
16 of the Holden Video. On information and belief, Universal sent the DMCA notice at Prince’s
17 behest, based not on the particular characteristics of the Holden Video or any good-faith belief that
18 it actually infringed a copyright but on its belief that, as “a matter of principle,” Prince “has the
19 right to have his music removed.”

20 **COUNT I: 17 U.S.C. § 512(F) MISREPRESENTATION**

21 32. Plaintiff repeats and incorporates herein by reference the allegations in the preceding
22 paragraphs of this complaint.

23 33. The Holden Dance Video does not infringe any copyright owned or administered by
24 Defendants.

25 34. Lenz’s use of the Prince song “Let’s Go Crazy” is a self-evident non-infringing fair
26 use under 17 U.S.C. § 107. This is in part because the Holden Dance Video non commercially
27 transforms the song into partially obscured background music for a family video about a toddler
28 just learning to dance, uses only a small, nonsubstantial portion of the original work, and does not
substitute for the work or harm any market for the work.

 35. On information and belief, Defendants had actual subjective knowledge of the

1 contents of the Holden Dance Video and that it did not infringe any Universal copyrights on the
 2 date they sent YouTube the takedown notice regarding the Holden Dance Video. With this actual
 3 subjective knowledge, Defendants acted in bad faith when they sent the takedown notice,
 4 knowingly and materially misrepresenting that they had concluded that the video was infringing.

5 36. In the alternative, Defendants should have known, if they had acted with reasonable
 6 care or diligence, or would have no substantial doubt had they been acting in good faith, that the
 7 Holden Dance Video did not infringe any Universal copyrights on the date they sent YouTube their
 8 complaint under the DMCA.

9 37. Defendants violated 17 U.S.C. § 512(f) by knowingly materially misrepresenting
 10 that Holden Dance Video infringed Universal's copyright.

11 38. As a direct and proximate result of Defendants' actions, Plaintiff has been injured
 12 substantially and irreparably. Such injury includes, but is not limited to, the financial and personal
 13 expenses associated with responding to the claim of infringement and harm to her free speech
 14 rights under the First Amendment. Because Universal's notice was intimidating, Ms. Lenz is now
 15 fearful that someone might construe some portion of a new home video to infringe a copyright. As
 16 a result, she has not posted a single video on YouTube since she received the takedown notice.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, the Plaintiff prays for judgment as follows:

- 19 1. Injunctive relief restraining Defendants, their agents, servants, employees,
 20 successors and assigns, and all others in concert and privity with Defendants, from
 21 bringing any lawsuit or threat against Plaintiff for copyright infringement in
 22 connection with the Holden Dance Video, including, but not limited to, the video's
 23 publication, distribution, performance, display, licensing, or the ability to host it
 24 online or link to it from any website;
- 25 2. Damages according to proof;
- 26 3. Attorneys fees pursuant to 17 U.S.C. § 512(f), other portions of the Copyright Act
 27 including Section 505, on a Private Attorney General basis, or otherwise as allowed
 28

1 by law;

2 4. Plaintiff's costs and disbursements; and

3 5. Such other and further relief as the Court shall find just and proper.

4
5 Plaintiff hereby requests a jury trial for all issues triable by jury including, but not limited
6 to, those issues and claims set forth in any amended complaint or consolidated action.

7
8 DATED: April 18, 2008

9 By _____/s/
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15 Facsimile: (415) 436-9993

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Attorneys for Plaintiff
STEPHANIE LENZ

EXHIBIT A

From: Moffat, Alina
Sent: Monday, June 04, 2007 5:30 PM
To: copyright@youtube.com
Cc: Benjamin, David; Renzer, David; Allen, Robert; Johnson, Sean
Subject: Copyright Infringement of Musical Compositions Written in Whole
p/k/a "Prince"

Monday, June 4, 2007

VIA E-MAIL (copyright@youtube.com)

YouTube, Inc.
1000 Cherry Ave.
Second Floor
San Bruno, CA 94066

Re:

http://www.youtube.com/watch?v=rlUaxR_v1i4
http://www.youtube.com/watch?v=B5SkL_KW3_w
http://www.youtube.com/watch?v=qv998JG_i3c
<http://www.youtube.com/watch?v=I90HSJKcXVw>
<http://www.youtube.com/watch?v=4kukZGZ7Dpk>
<http://www.youtube.com/watch?v=F77o0v3h-0Q>
<http://www.youtube.com/watch?v=K5XbVWKTMY>
http://www.youtube.com/watch?v=CV9oj_845uA
<http://www.youtube.com/watch?v=g5j8f7qOoBk>
<http://www.youtube.com/watch?v=kdoNchqcDYo>
<http://www.youtube.com/watch?v=6NNUdSFDWfo>
<http://www.youtube.com/watch?v=JmZ7ya6se6o>
<http://www.youtube.com/watch?v=hdd6KgNxxhw>
<http://www.youtube.com/watch?v=azhXlJLnyIQ>
<http://www.youtube.com/watch?v=-bRuVomqZHU>
<http://www.youtube.com/watch?v=ZBDtixdPTks>
http://www.youtube.com/watch?v=_b58aaO8c1s
<http://www.youtube.com/watch?v=YytKU0nrlPs>
<http://www.youtube.com/watch?v=iOewTz-aI7c>
<http://www.youtube.com/watch?v=j8SlscGTQGI>
<http://www.youtube.com/watch?v=Sq4ArmTVNxc>
http://www.youtube.com/watch?v=ajR2_zwnUb4
<http://www.youtube.com/watch?v=qlHvMXCVE88>
<http://www.youtube.com/watch?v=PDJjn8LHRJ8>
<http://www.youtube.com/watch?v=7cdFKT2xgUs>

<http://www.youtube.com/watch?v=Gjk7Fwg4viA>
<http://www.youtube.com/watch?v=Hacix7Ke38U>
<http://www.youtube.com/watch?v=DloCrT-VbLU>
<http://www.youtube.com/watch?v=VLm37aU9ru0>
<http://www.youtube.com/watch?v=h88rHlHGkKY>
<http://www.youtube.com/watch?v=25hqf110sWo>
http://www.youtube.com/watch?v=H_LELulak30
<http://www.youtube.com/watch?v=tm6UGhxsUWs>
<http://www.youtube.com/watch?v=zTym4960riE>
<http://www.youtube.com/watch?v=yrw6XAh40Dk>
<http://www.youtube.com/watch?v=hQ0Az98pZKQ>
<http://www.youtube.com/watch?v=DILgOVRT51I>
<http://www.youtube.com/watch?v=D3rtR8ghZ7k>
<http://www.youtube.com/watch?v=eMuVO72Rffg>
http://www.youtube.com/watch?v=_u1u6a15UZE
<http://www.youtube.com/watch?v=QE6JEY-Yqmjw>
<http://www.youtube.com/watch?v=zIIQB-km02E>
<http://www.youtube.com/watch?v=t6wNo0QJAck>

<http://www.youtube.com/watch?v=lwMj501cIOo>
<http://www.youtube.com/watch?v=ytRyo2ESFzA>
<http://www.youtube.com/watch?v=9Wy-cAX1MI8>
<http://www.youtube.com/watch?v=IBhADtUpZEY>
http://www.youtube.com/watch?v=_X7ZaRoqzHk
<http://www.youtube.com/watch?v=pwBhcVHr4VA>
<http://www.youtube.com/watch?v=cXB7U5035Lg>
<http://www.youtube.com/watch?v=S1NOK9ELdBM>
<http://www.youtube.com/watch?v=KU2Rab3CO9c>
http://www.youtube.com/watch?v=HUUKVv_JaYk
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<http://www.youtube.com/watch?v=RIT2A8OnHFE>
<http://www.youtube.com/watch?v=Zbf-9WMzoE8>
<http://www.youtube.com/watch?v=7Bf2SUOfCow>
http://www.youtube.com/watch?v=x1coX_q8xR4
<http://www.youtube.com/watch?v=vyXHiWLRcWE>
<http://www.youtube.com/watch?v=IwrkczSkaY8>
<http://www.youtube.com/watch?v=w88fNsXX4QI>
<http://www.youtube.com/watch?v=lbUdpt00iIA>
<http://www.youtube.com/watch?v=X1AcZ-HKp64>
<http://www.youtube.com/watch?v=SmE9ryZfKVc>
<http://www.youtube.com/watch?v=OVEFn5wvyY8>
<http://www.youtube.com/watch?v=Cmu8QEdIoV0>
<http://www.youtube.com/watch?v=JfYtka03Nwo>
<http://www.youtube.com/watch?v=7Yjw60RCV3g>
<http://www.youtube.com/watch?v=QE9kuzGYtoM>
<http://www.youtube.com/watch?v=xsY5yeop950>
<http://www.youtube.com/watch?v=2gcQsDj6Tt4>
<http://www.youtube.com/watch?v=HLlLydpD44>
<http://www.youtube.com/watch?v=GknGLk87aGg>
<http://www.youtube.com/watch?v=fUxq-HvBS7s>
<http://www.youtube.com/watch?v=v3N4ZiRFQdk>
<http://www.youtube.com/watch?v=J-BgAUndpmo>
<http://www.youtube.com/watch?v=Ns21W6v4xhs>
<http://www.youtube.com/watch?v=woL79PYj4ms>
<http://www.youtube.com/watch?v=hdd6KgNxhgw>
http://www.youtube.com/watch?v=oa9WN4I_B2A
<http://www.youtube.com/watch?v=5UHeXzZ4ejc>
<http://www.youtube.com/watch?v=yo8W4ejUUtc>
<http://www.youtube.com/watch?v=8miBeEVjATk>
<http://www.youtube.com/watch?v=WIZCKsfvh-4>
<http://www.youtube.com/watch?v=uXXr4RL62As>
<http://www.youtube.com/watch?v=rqmLcpSU2kU>
<http://www.youtube.com/watch?v=uC2f6CqES60>
<http://www.youtube.com/watch?v=2B1b4K1Od-g>
<http://www.youtube.com/watch?v=N1KfJHFWlhQ>
<http://www.youtube.com/watch?v=5NGdTnkY9i0>
<http://www.youtube.com/watch?v=JF79HbAK6Rg>
<http://www.youtube.com/watch?v=JmZ7ya6se6o>

http://www.youtube.com/watch?v=oxT69Ays_cU
<http://www.youtube.com/watch?v=VGreBD1xOZs>
<http://www.youtube.com/watch?v=LZFBGe08Fqc>
<http://www.youtube.com/watch?v=l3kN36j7E04>
<http://www.youtube.com/watch?v=keeSBZt2XYU>
http://www.youtube.com/watch?v=_qkllEgfpnk
<http://www.youtube.com/watch?v=MQoCoebKtpw>
<http://www.youtube.com/watch?v=sgAd6jhXkHg>
<http://www.youtube.com/watch?v=asbp5csVUkQ>
<http://www.youtube.com/watch?v=Iau8PEh2ML4>
<http://www.youtube.com/watch?v=Payv76ZNGn8>
http://www.youtube.com/watch?v=yeDU_jC-hLs
<http://www.youtube.com/watch?v=2GoGYZ401oA>
<http://www.youtube.com/watch?v=Ae0uqbZ90EQ>
<http://www.youtube.com/watch?v=1zRWVBON0PU>
<http://www.youtube.com/watch?v=u-Vd6EKu4Uo>
<http://www.youtube.com/watch?v=QGzkdk5kwVg>
http://www.youtube.com/watch?v=CwMvvaV_-5Y
<http://www.youtube.com/watch?v=JF79HbAK6Rg>
<http://www.youtube.com/watch?v=pzKgB3yXduU>
<http://www.youtube.com/watch?v=xlHXIAoaxOI>
http://www.youtube.com/watch?v=nk_6JVwIXWc
<http://www.youtube.com/watch?v=yV5piNXhe20>
http://www.youtube.com/watch?v=ipX_168eb6Y
<http://www.youtube.com/watch?v=CuTqnClhfhE>
<http://www.youtube.com/watch?v=p4LLrVIEKfY>
<http://www.youtube.com/watch?v=53hJx7fLbH0>
http://www.youtube.com/watch?v=hrLTCq_Yjf4
<http://www.youtube.com/watch?v=K0b4EGQtWS0>
<http://www.youtube.com/watch?v=Ie-eHTEPy-M>
<http://www.youtube.com/watch?v=ceLW7r4fynE>
<http://www.youtube.com/watch?v=8zhhvRaQEX4>
<http://www.youtube.com/watch?v=bGLjgCt2se8>
<http://www.youtube.com/watch?v=3k8WKN8fizk>
<http://www.youtube.com/watch?v=mYTbb8Yg0J0>
<http://www.youtube.com/watch?v=5d2YjPeZpUo>
http://www.youtube.com/watch?v=pFPDY5Ml_jU
<http://www.youtube.com/watch?v=4HKYDy1lleg>
<http://www.youtube.com/watch?v=xhzBxicAp60>
<http://www.youtube.com/watch?v=ScuuOE5HeG4>
<http://www.youtube.com/watch?v=Yktpc9hMLtl>
<http://www.youtube.com/watch?v=Y3jiTfMzSyM>
<http://www.youtube.com/watch?v=ge09zqGqpgQ>
<http://www.youtube.com/watch?v=7ZNb4zgElew>
<http://www.youtube.com/watch?v=oVZcty2ee8k>
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<http://www.youtube.com/watch?v=aSQq70tSHSs>
<http://www.youtube.com/watch?v=mpnaFPtDE94>
<http://www.youtube.com/watch?v=19BRyN3iyxw>
<http://www.youtube.com/watch?v=7DnP8j0ppqM>
http://www.youtube.com/watch?v=-Np_gnYYaS4

<http://www.youtube.com/watch?v=TSqmvi6Z3wI>
http://www.youtube.com/watch?v=5i43_VEUFU
<http://www.youtube.com/watch?v=rmA9QkFrzYU>
<http://www.youtube.com/watch?v=bpHCtTZulcU>
<http://www.youtube.com/watch?v=iHO6eWbsfcw>
http://www.youtube.com/watch?v=cWZM_cnSkks
<http://www.youtube.com/watch?v=dRzfJjPpC4w>
<http://www.youtube.com/watch?v=roM866A8x7s>
<http://www.youtube.com/watch?v=V6JsFiR9Djo&mode=related&search=>
<http://www.youtube.com/watch?v=4VGLLxWx-Jo>
<http://www.youtube.com/watch?v=UKPuvMh3wC8>
<http://www.youtube.com/watch?v=Ke6rl-bIPQ0>
http://www.youtube.com/watch?v=t94_22mvhDE
<http://www.youtube.com/watch?v=Wq-qWmOT9F8>
http://www.youtube.com/watch?v=mLU8YiL_iEY
<http://www.youtube.com/watch?v=Klyc3WoINzs>
<http://www.youtube.com/watch?v=0l-VxIQkDgw>
<http://www.youtube.com/watch?v=udFvKB926fc>
<http://www.youtube.com/watch?v=gTE36iuFfhQ>
<http://www.youtube.com/watch?v=GSDNHUVyAxc>
<http://www.youtube.com/watch?v=lhXoSbgAG7Y>
<http://www.youtube.com/watch?v=YWn3OHYAqro>
<http://www.youtube.com/watch?v=6oQOT0D4V-Q>
<http://www.youtube.com/watch?v=XuBf6utEXt4>
<http://www.youtube.com/watch?v=daPlyZlWPzw>
<http://www.youtube.com/watch?v=fmT55EWU0gk>
<http://www.youtube.com/watch?v=cKqy2hGcWng>
<http://www.youtube.com/watch?v=g55qdr2npyg>
http://www.youtube.com/watch?v=Q1nplhahm_k
<http://www.youtube.com/watch?v=4r4pgGA46h4>
<http://www.youtube.com/watch?v=GCfAO-VEMTA>
<http://www.youtube.com/watch?v=YO2UmG5PVPs>
<http://www.youtube.com/watch?v=vaTn3v2km-I>
<http://www.youtube.com/watch?v=fHfrnD8jxwY>
<http://www.youtube.com/watch?v=1yHcCyALlsc>
<http://www.youtube.com/watch?v=exbkamQuZhg>
<http://www.youtube.com/watch?v=sPnKlk4RdDw>
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<http://www.youtube.com/watch?v=1A2ZSN0i7pw&mode=related&search=>
<http://www.youtube.com/watch?v=H62udnN82WA&mode=related&search=>
<http://www.youtube.com/watch?v=wCCi2F0fRB8&mode=related&search=>
<http://www.youtube.com/watch?v=GHkB2d3Or5A&mode=related&search=>
<http://www.youtube.com/watch?v=vjE3FR83xyA>
<http://www.youtube.com/watch?v=dIeVncRYEtM>
<http://www.youtube.com/watch?v=3GzSoWm2uLI>
<http://www.youtube.com/watch?v=kFpXzE67eL8>
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<http://www.youtube.com/watch?v=5VFRdxQdlcQ>
<http://www.youtube.com/watch?v=iX6cDIP4GTg>

<http://www.youtube.com/watch?v=PqkhS8-CCpE>
<http://www.youtube.com/watch?v=FiVkGk-7QAY>
http://www.youtube.com/watch?v=D_W-ftEuj8E
<http://www.youtube.com/watch?v=YJlmbWxtv8>
<http://www.youtube.com/watch?v=qCx2isyE1Xw>
<http://www.youtube.com/watch?v=UuG5jDxLdg0>
<http://www.youtube.com/watch?v=IsEY5xpa07Y>
<http://www.youtube.com/watch?v=pNg4nmrUZOU>

Dear Sir or Madam,

I am contacting you on behalf of Universal Music Publishing Group. Under penalty of perjury, we submit that we are authorized to act in matters involving the infringement of the sound recordings which are the subject hereof, including enforcing the copyrights and common law rights therein and thereto on the Internet.

We believe your service is hosting the above-referenced files on its network. These files are offering video recordings in an interactive streaming format that embody musical compositions written by the artist known as Prince. We have a good faith belief that the above-described activity is not authorized by the copyright owner, its agent, or the law. We assert that the information in this notification is accurate, based upon the data available to us.

We are asking for your immediate assistance in stopping this unauthorized activity. Specifically, we request that you remove the infringing files from the system, or that you disable access to the infringing files, and that you inform the site operator of the illegality of his or her conduct.

This e-mail does not constitute a waiver of any right to recover damages incurred by virtue of any such unauthorized activities, and such rights as well as claims for other relief are expressly retained. In addition, our use of YouTube's required notice form does not indicate we believe that the above referenced copyright infringement is within the scope of the Digital Millennium Copyright Act ("DMCA"). Our use of this form, as required by YouTube, is meant to facilitate YouTube's removal of the infringing material listed above and is not meant to suggest or imply that YouTube's activities and services are within the scope of the DMCA safe harbor.

You may contact me at Universal Music Publishing Group, 2440 Sepulveda Boulevard, Los Angeles, CA 90064, Tel. (310) 235-4739, or e-mail at alina.moffat@umusic.com, to discuss this notice. We await your response. Best regards.

Sincerely,

Alina Moffat
Associate Director, Business Affairs

Universal Music Publishing Group
2440 Sepulveda Boulevard, Suite 100
Los Angeles, CA 90064-1712
Direct: (310) 235-4739
Fax: (310) 235-4906
alina.moffat@umusic.com

EXHIBIT B

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Terms of Use

1. Your Acceptance

A. By using and/or visiting this website (collectively, including all content and functionality available through the YouTube.com domain name, the "YouTube Website", or "Website"), you signify your agreement to (1) these terms and conditions (the "Terms of Service"), (2) YouTube's privacy notice, found at <http://www.youtube.com/t/privacy> and incorporated here by reference, and (3) YouTube's Community Guidelines, found at http://www.youtube.com/t/community_guidelines and also incorporated here by reference. If you do not agree to any of these terms, the YouTube privacy notice, or the Community Guidelines, please do not use the YouTube Website.

B. Although we may attempt to notify you when major changes are made to these Terms of Service, you should periodically review the most up-to-date version <http://www.youtube.com/t/terms>. YouTube may, in its sole discretion, modify or revise these Terms of Service and policies at any time, and you agree to be bound by such modifications or revisions. Nothing in this Agreement shall be deemed to confer any third-party rights or benefits.

2. YouTube Website

A. These Terms of Service apply to all users of the YouTube Website, including users who are also contributors of video content, information, and other materials or services on the Website. The YouTube Website includes all aspects of YouTube, including but not limited to all products, software and services offered via the website such as the YouTube channels, the YouTube "Embeddable Player," the YouTube "Uploader" and other applications.

B. The YouTube Website may contain links to third party websites that are not owned or controlled by YouTube. YouTube has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, YouTube will not and cannot censor or edit the content of any third-party site. By using the Website, you expressly relieve YouTube from any and all liability arising from your use of any third-party website.

C. Accordingly, we encourage you to be aware when you leave the YouTube Website and to read the terms and conditions and privacy policy of each other website that you visit.

3. YouTube Accounts

A. In order to access some features of the Website, you will have to create a YouTube account. You may never use another's account without permission. When creating your account, you must provide accurate and complete information. You are solely responsible for the activity that occurs on your account, and you must keep your account password secure. You must notify YouTube immediately of any breach of security or unauthorized use of your account.

B. Although YouTube will not be liable for your losses caused by any unauthorized use of your account, you may be liable for the losses of YouTube or others due to such unauthorized use.

4. General Use of the Website—Permissions and Restrictions

YouTube hereby grants you permission to access and use the Website as set forth in these Terms of Service, provided that:

A. You agree not to distribute in any medium any part of the Website, including but not limited to User Submissions (defined below), without YouTube's prior written authorization.

B. You agree not to alter or modify any part of the Website, including but not limited to YouTube's Embeddable Player or any of its related technologies.

C. You agree not to access User Submissions (defined below) or YouTube Content through any technology or means other than the video playback pages of the Website itself, the YouTube Embeddable Player, or other explicitly authorized means YouTube may designate.

D. You agree not to use the Website, including the YouTube Embeddable Player for any commercial use, without the prior written authorization of YouTube. Prohibited commercial uses include any of the following actions taken without YouTube's express approval:

- sale of access to the Website or its related services (such as the Embeddable Player) on another website;
- use of the Website or its related services (such as the Embeddable Player), for the primary purpose of gaining advertising or subscription revenue;
- the sale of advertising, on the YouTube website or any third-party website, targeted to the content of specific User Submissions or YouTube content;
- and any use of the Website or its related services (such as the Embeddable player) that YouTube finds, in its sole

discretion, to use YouTube's resources or User Submissions with the effect of competing with or displacing the market for YouTube, YouTube content, or its User Submissions. (For more information about prohibited commercial uses, [see our FAQ.](#))

E. Prohibited commercial uses do not include:

- uploading an original video to YouTube, or maintaining an original channel on YouTube, to promote your business or artistic enterprise;
- using the Embeddable Player to show YouTube videos on an ad-enabled blog or website, provided the primary purpose of using the Embeddable Player is not to gain advertising revenue or compete with YouTube;
- any use that YouTube expressly authorizes in writing.

(For more information about what constitutes a prohibited commercial use, [see our FAQ.](#))

F. If you use the YouTube Embeddable Player on your website, you must include a prominent link back to the YouTube website on the pages containing the Embeddable Player and you may not modify, build upon, or block any portion of the Embeddable Player in any way.

G. If you use the YouTube Uploader, you agree that it may automatically download and install updates from time to time from YouTube. These updates are designed to improve, enhance and further develop the Uploader and may take the form of bug fixes, enhanced functions, new software modules and completely new versions. You agree to receive such updates (and permit YouTube to deliver these to you) as part of your use of the Uploader.

H. You agree not to use or launch any automated system, including without limitation, "robots," "spiders," or "offline readers," that accesses the Website in a manner that sends more request messages to the YouTube servers in a given period of time than a human can reasonably produce in the same period by using a conventional on-line web browser. Notwithstanding the foregoing, YouTube grants the operators of public search engines permission to use spiders to copy materials from the site for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials. YouTube reserves the right to revoke these exceptions either generally or in specific cases. You agree not to collect or harvest any personally identifiable information, including account names, from the Website, nor to use the communication systems provided by the Website (e.g. comments, email) for any commercial solicitation purposes. You agree not to solicit, for commercial purposes, any users of the Website with respect to their User Submissions.

I. In your use of the website, you will otherwise comply with the terms and conditions of these Terms of Service, YouTube Community Guidelines, and all applicable local, national, and international laws and regulations.

J. YouTube reserves the right to discontinue any aspect of the YouTube Website at any time.

5. Your Use of Content on the Site

In addition to the general restrictions above, the following restrictions and conditions apply specifically to your use of content on the YouTube Website.

A. The content on the YouTube Website, except all User Submissions (as defined below), including without limitation, the text, software, scripts, graphics, photos, sounds, music, videos, interactive features and the like ("Content") and the trademarks, service marks and logos contained therein ("Marks"), are owned by or licensed to YouTube, subject to copyright and other intellectual property rights under the law. Content on the Website is provided to you AS IS for your information and personal use only and may not be downloaded, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. YouTube reserves all rights not expressly granted in and to the Website and the Content.

B. You may access User Submissions solely:

- for your information and personal use;
- as intended through the normal functionality of the YouTube Service; and
- for Streaming.

"Streaming" means a contemporaneous digital transmission of an audiovisual work via the Internet from the YouTube Service to a user's device in such a manner that the data is intended for real-time viewing and not intended to be copied, stored, permanently downloaded, or redistributed by the user. Accessing User Videos for any purpose or in any manner other than Streaming is expressly prohibited. User Videos are made available "as is."

C. User Comments are made available to you for your information and personal use solely as intended through the normal functionality of the YouTube Service. User Comments are made available "as is", and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, downloaded, or otherwise exploited in any manner not intended by the normal functionality of the YouTube Service or otherwise as prohibited under this Agreement.

D. You may access YouTube Content, User Submissions and other content only as permitted under this Agreement. YouTube reserves all rights not expressly granted in and to the YouTube Content and the YouTube Service.

E. You agree to not engage in the use, copying, or distribution of any of the Content other than expressly permitted herein, including any use, copying, or distribution of User Submissions of third parties obtained through the Website for any commercial purposes.

F. You agree not to circumvent, disable or otherwise interfere with security-related features of the YouTube Website or features

that prevent or restrict use or copying of any Content or enforce limitations on use of the YouTube Website or the Content therein.

G. You understand that when using the YouTube Website, you will be exposed to User Submissions from a variety of sources, and that YouTube is not responsible for the accuracy, usefulness, safety, or intellectual property rights of or relating to such User Submissions. You further understand and acknowledge that you may be exposed to User Submissions that are inaccurate, offensive, indecent, or objectionable, and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against YouTube with respect thereto, and agree to indemnify and hold YouTube, its Owners/Operators, affiliates, and/or licensors, harmless to the fullest extent allowed by law regarding all matters related to your use of the site.

6. Your User Submissions and Conduct

A. As a YouTube account holder you may submit video content ("User Videos") and textual content ("User Comments"). User Videos and User Comments are collectively referred to as "User Submissions." You understand that whether or not such User Submissions are published, YouTube does not guarantee any confidentiality with respect to any User Submissions.

B. You shall be solely responsible for your own User Submissions and the consequences of posting or publishing them. In connection with User Submissions, you affirm, represent, and/or warrant that: you own or have the necessary licenses, rights, consents, and permissions to use and authorize YouTube to use all patent, trademark, trade secret, copyright or other proprietary rights in and to any and all User Submissions to enable inclusion and use of the User Submissions in the manner contemplated by the Website and these Terms of Service.

C. For clarity, you retain all of your ownership rights in your User Submissions. However, by submitting User Submissions to YouTube, you hereby grant YouTube a worldwide, non-exclusive, royalty-free, sublicenseable and transferable license to use, reproduce, distribute, prepare derivative works of, display, and perform the User Submissions in connection with the YouTube Website and YouTube's (and its successors' and affiliates') business, including without limitation for promoting and redistributing part or all of the YouTube Website (and derivative works thereof) in any media formats and through any media channels. You also hereby grant each user of the YouTube Website a non-exclusive license to access your User Submissions through the Website, and to use, reproduce, distribute, display and perform such User Submissions as permitted through the functionality of the Website and under these Terms of Service. The above licenses granted by you in User Videos terminate within a commercially reasonable time after you remove or delete your User Videos from the YouTube Service. You understand and agree, however, that YouTube may retain, but not display, distribute, or perform, server copies of User Submissions that have been removed or deleted. The above licenses granted by you in User Comments are perpetual and irrevocable.

D. In connection with User Submissions, you further agree that you will not submit material that is copyrighted, protected by trade secret or otherwise subject to third party proprietary rights, including privacy and publicity rights, unless you are the owner of such rights or have permission from their rightful owner to post the material and to grant YouTube all of the license rights granted herein.

E. You further agree that you will not, in connection with User Submissions, submit material that is contrary to the YouTube Community Guidelines, found at http://www.youtube.com/t/community_guidelines, which may be updated from time to time, or contrary to applicable local, national, and international laws and regulations.

F. YouTube does not endorse any User Submission or any opinion, recommendation, or advice expressed therein, and YouTube expressly disclaims any and all liability in connection with User Submissions. YouTube does not permit copyright infringing activities and infringement of intellectual property rights on its Website, and YouTube will remove all Content and User Submissions if properly notified that such Content or User Submission infringes on another's intellectual property rights. YouTube reserves the right to remove Content and User Submissions without prior notice.

7. Account Termination Policy

A. YouTube will terminate a User's access to its Website if, under appropriate circumstances, they are determined to be a repeat infringer.

B. YouTube reserves the right to decide whether Content or a User Submission is appropriate and complies with these Terms of Service for violations other than copyright infringement, such as, but not limited to, pornography, obscene or defamatory material, or excessive length. YouTube may remove such User Submissions and/or terminate a User's access for uploading such material in violation of these Terms of Service at any time, without prior notice and at its sole discretion.

8. Digital Millennium Copyright Act

A. If you are a copyright owner or an agent thereof and believe that any User Submission or other content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our Copyright Agent with the following information in writing (see 17 U.S.C 512(c)(3) for further detail):

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit the service provider to locate the material;
- Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail;
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

- A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

YouTube's designated Copyright Agent to receive notifications of claimed infringement is: Heather Gillette, 901 Cherry Ave., San Bruno, CA 94066, email: copyright@youtube.com, fax: 650-872-8513. For clarity, only DMCA notices should go to the Copyright Agent; any other feedback, comments, requests for technical support, and other communications should be directed to YouTube customer service through <http://www.google.com/support/youtube>. You acknowledge that if you fail to comply with all of the requirements of this Section 5(D), your DMCA notice may not be valid.

B. Counter-Notice. If you believe that your User Submission that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to post and use the content in your User Submission, you may send a counter-notice containing the following information to the Copyright Agent:

- Your physical or electronic signature;
- Identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
- A statement that you have a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content; and
- Your name, address, telephone number, and e-mail address, a statement that you consent to the jurisdiction of the federal court in San Francisco, California, and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Copyright Agent, YouTube may send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at YouTube's sole discretion.

9. Warranty Disclaimer

YOU AGREE THAT YOUR USE OF THE YOUTUBE WEBSITE SHALL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, YOUTUBE, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE WEBSITE AND YOUR USE THEREOF. YOUTUBE MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THIS SITE'S CONTENT OR THE CONTENT OF ANY SITES LINKED TO THIS SITE AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE, (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, AND/OR (V) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE YOUTUBE WEBSITE. YOUTUBE DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE YOUTUBE WEBSITE OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND YOUTUBE WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

10. Limitation of Liability

IN NO EVENT SHALL YOUTUBE, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR WEBSITE, (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH OUR WEBSITE BY ANY THIRD PARTY, AND/OR (V) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE YOUTUBE WEBSITE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

YOU SPECIFICALLY ACKNOWLEDGE THAT YOUTUBE SHALL NOT BE LIABLE FOR USER SUBMISSIONS OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY AND THAT THE RISK OF HARM OR DAMAGE FROM THE FOREGOING RESTS ENTIRELY WITH YOU.

The Website is controlled and offered by YouTube from its facilities in the United States of America. YouTube makes no representations that the YouTube Website is appropriate or available for use in other locations. Those who access or use the YouTube Website from other jurisdictions do so at their own volition and are responsible for compliance with local law.

11. Indemnity

You agree to defend, indemnify and hold harmless YouTube, its parent corporation, officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the YouTube Website; (ii) your violation of any term of these Terms of Service; (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iv) any claim that one of your User Submissions caused damage to a third party. This defense and indemnification obligation will survive these Terms of Service and your use of the YouTube Website.

12. Ability to Accept Terms of Service

You affirm that you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Terms of Service, and to abide by and comply with these Terms of Service. In any case, you affirm that you are over the age of 13, as the YouTube Website is not intended for children under 13. If you are under 13 years of age, then please do not use the YouTube Website. There are lots of other great web sites for you. Talk to your parents about what sites are appropriate for you.

13. Assignment

These Terms of Service, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by YouTube without restriction.

14. General

You agree that: (i) the YouTube Website shall be deemed solely based in California; and (ii) the YouTube Website shall be deemed a passive website that does not give rise to personal jurisdiction over YouTube, either specific or general, in jurisdictions other than California. These Terms of Service shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. Any claim or dispute between you and YouTube that arises in whole or in part from the YouTube Website shall be decided exclusively by a court of competent jurisdiction located in San Mateo County, California. These Terms of Service, together with the Privacy Notice at <http://www.youtube.com/t/privacy> and any other legal notices published by YouTube on the Website, shall constitute the entire agreement between you and YouTube concerning the YouTube Website. If any provision of these Terms of Service is deemed invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of the remaining provisions of these Terms of Service, which shall remain in full force and effect. No waiver of any term of this these Terms of Service shall be deemed a further or continuing waiver of such term or any other term, and YouTube's failure to assert any right or provision under these Terms of Service shall not constitute a waiver of such right or provision. YouTube reserves the right to amend these Terms of Service at any time and without notice, and it is your responsibility to review these Terms of Service for any changes. Your use of the YouTube Website following any amendment of these Terms of Service will signify your assent to and acceptance of its revised terms. YOU AND YOUTUBE AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE YOUTUBE WEBSITE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

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EXHIBIT C

From: **DMCA Notice** <no_reply@support.youtube.com>
Date: Jun 5, 2007 12:46 PM
Subject: Video Removed: Copyright Infringement
To: edenza <eden@piggyhawk.net>

Dear Member:

This is to notify you that we have removed or disabled access to the following material as a result of a third-party notification by Universal Music Publishing Group claiming that this material is infringing:

"Let's Go Crazy" #1: <http://www.youtube.com/watch?v=N1KfJHFWlhQ>

Please Note: Repeat incidents of copyright infringement will result in the deletion of your account and all videos uploaded to that account. In order to avoid future strikes against your account, please delete any videos to which you do not own the rights, and refrain from uploading additional videos that infringe on the copyrights of others. For more information about YouTube's copyright policy, please read the [Copyright Tips](#) guide.

If you elect to send us a counter notice, please go to our [Help Center](#) to access the instructions.

Please note that under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity was removed or disabled by mistake or misidentification may be subject to liability.

Sincerely, YouTube, Inc.

Copyright © 2007 YouTube, Inc.

EXHIBIT D

Help Center

[Help Resources Home](#) > [Help Center](#) > [Account and Policies](#) > [Copyright](#)

How do I file a counter notice?

Please note that this page lists 2 different processes:

- [DMCA counter notice](#)
- [International counter notice](#)

How do I file a DMCA counter notice?

The process for counter-notifications is governed by Section 512(g) of the Digital Millennium Copyright Act: <http://www.copyright.gov/legislation/dmca.pdf>

To file a counter notification with us, you must provide a written communication that sets forth the items specified below.

Please note that under Section 512(f) of the Copyright Act, any person who knowingly materially misrepresents that material or activity was removed or disabled by mistake or misidentification may be subject to liability. Please also be advised that we enforce a policy that provides for the termination in appropriate circumstances of subscribers who are repeat infringers. Accordingly, if you are not sure whether certain material infringes the copyrights of others, we suggest that you first contact an attorney.

Elements of Counter-Notification

A sample counter notification may be found at: <http://www.chillingeffects.org/dmca/counter512.pdf>. To expedite our ability to process your counter notification, please use the following format (including section numbers):

1. Identify the specific URLs of material that YouTube has removed or to which YouTube has disabled access.
2. Provide your full name, address, telephone number, and email address, and the username of your YouTube account.
3. Provide a statement that you consent to the jurisdiction of Federal District Court for the judicial district in which your address is located (or San Francisco County, California if your address is outside of the United States), and that you will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.
4. Include the following statement: "I swear, under penalty of perjury, that I have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled."
5. Sign the notice. If you are providing notice by e-mail, a scanned physical signature or a valid electronic signature will be accepted.

Send the written communication to the following address:

YouTube, LLC
Attn: YouTube DMCA Counter-Notification
1000 Cherry Ave
Suite 200
San Bruno, CA 94066

or fax to:
(650) 872-8513, Attn: YouTube DMCA Counter-Notification

or email to:
copyright@youtube.com, Subject: YouTube DMCA Counter-Notification

What happens next?

What can we help you with?

☒ YouTube Help

☐ All Google Help

☐ Web Search

Search

What are we fixing?

Check a list of [current site issues](#) and review suggested workarounds

What's that word?

Check our [glossary](#)

After we receive your counter-notification, we will forward it to the party who submitted the original claim of copyright infringement. Please note that when we forward the counter-notification, it includes your personal information. By submitting a counter-notification, you consent to having your information revealed in this way. We will not forward the counter-notification to any party other than the original claimant.

After we send out the counter-notification, the claimant must then notify us within 10 days that he or she has filed an action seeking a court order to restrain you from engaging in infringing activity relating to the material on YouTube. If we receive such notification we will be unable to restore the material. If we do not receive such notification, we may reinstate the material.

DISCLAIMER: WE ARE NOT YOUR ATTORNEYS, AND THE INFORMATION WE PRESENT HERE IS NOT LEGAL ADVICE. WE PRESENT THIS INFORMATION FOR INFORMATIONAL PURPOSES ONLY.

How do I file a counter notice (International complaints*)?

To file a counter notification with us, you must provide a written communication that sets forth the items specified below. Please understand that filing a counter notice may lead to legal proceedings between you and the complaining party to determine ownership. Be aware that there may be adverse legal consequences in your country if you make a false or bad faith allegation by using this process. Please also be advised that we enforce a policy that provides for the termination in appropriate circumstances of subscribers who are repeat infringers. So, if you are not sure whether certain material infringes the copyrights of others, we suggest that you first contact a lawyer.

Elements of Counter Notification

To expedite our ability to process your counter notification, please use the following format (including section numbers):

1. Identify the specific URLs of material that YouTube has removed or to which YouTube has disabled access.
2. Provide your full name, address, telephone number, email address and the username of your YouTube account.
3. Provide a statement that you will accept service of process from the person who provided YouTube with the original copyright complaint or an authorised agent of such person.
4. Include the following statement: "I have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled."
5. Sign the notice. If you are providing notice by email, a scanned physical signature or a valid electronic signature will be accepted.

Send the written communication to the following address:

Attn: YouTube Copyright Counter Notification
Gordon House
Barrow Street
Dublin 4
Ireland

or fax to:
+353 1 437 0741, Attn: YouTube Copyright Counter Notification

or email to:
ukcopyright@youtube.com, Subject: YouTube Copyright Counter Notification

What happens next?

After we receive your counter notification, we will forward it to the party who submitted the original claim of copyright infringement. Please note that when we forward the counter notification, it includes your personal information. By submitting a counter notification, you consent to having your information revealed in this way. We will not forward the counter notification to any party other than the original claimant. We may then reinstate the material in question at our discretion.

*If you have questions about the originating locale of the complaint against your video, please email copyright@youtube.com

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Prince to sue YouTube, eBay over music use

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By Mike Collett-White

LONDON (Reuters) - U.S. pop star Prince plans to sue YouTube and other major Web sites for unauthorized use of his music in a bid to "reclaim his art on the Internet".

The man behind hit songs "Purple Rain", "1999" and "When Doves Cry" said on Thursday that YouTube could not argue it had no control over which videos users posted on its site.

"YouTube ... are clearly able (to) filter porn and pedophile material but appear to choose not to filter out the unauthorized music and film content which is core to their business success," a statement released on his behalf said.

YouTube responded by saying it was working with artists to help them manage their music on the site.

"Most content owners understand that we respect copyrights, we work every day to help them manage their content, and we are developing state-of-the-art tools to let them do that even better," said YouTube chief counsel Zahavah Levine.

"We have great partnerships with major music labels all over the world that understand the benefit of using YouTube as another way to communicate with their fans."

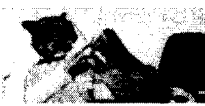
In addition to YouTube, Prince plans legal action against online auctioneer eBay and Pirate Bay, a site accused by Hollywood and the music industry as being a major source of music and film piracy.

The legal action is the latest bid by the music industry to wrest back control over content in an age where file sharing, mobile phones and video sites make enforcing copyright increasingly difficult.

But it is believed to be rare for an individual artist of Prince's stature to take on popular Web sites, while some up-and-coming performers actually encourage online file sharing to create a fan base and buzz around a record.

"Prince strongly believes artists as the creators and owners of their music need to reclaim their art," the statement added.

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British company Web Sheriff has been hired to help coordinate the action.

"In the last couple of weeks we have directly removed approximately 2,000 Prince videos from YouTube," said Web Sheriff managing director John Giacobbi.

"The problem is that one can reduce it to zero and then the next day there will be 100 or 500 or whatever. This carries on ad nauseam at Prince's expense," he told Reuters.

He said his company had also removed around 300 items from eBay, where whole lines of pirated goods trading on Prince's name had appeared, including clocks, socks, mugs and key rings.

Prince's latest initiative is likely to please record industry executives and music retailers, who have not always seen eye-to-eye with the 49-year-old.

He has referred to the record industry as "the speculation business" and gave away copies of his new album "Planet Earth" for free with a British Sunday newspaper.

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EXHIBIT F



The Home Video Prince Doesn't Want You to See

Pa. Mom Fights Back With Lawsuit Against Music Company

By JIM AVILA, CHRIS FRANCESCANI and MARY HARRIS
ABC News Law & Justice Unit

Oct. 26, 2007 —

A bouncing YouTube baby has be-bopped his way right into the legal cross-hairs of the pop star Prince, sparking a lawsuit that could test the boundaries of U.S. copyright law.

Holden Lenz, 18 months old, is the pajama-clad star of a 29-second home movie shot by his mother in the family's rural Pennsylvania kitchen and posted last February on the popular video site YouTube.

In the video, the child is seen bouncing and swaying for the camera, as, faintly, the Prince hit "Let's Go Crazy" plays on a CD player in the background.

Twenty eight people, mostly friends and family, had viewed the YouTube video by June, when mom Stephanie Lenz said she received an e-mail from YouTube informing her that her video had been removed from the site at the request of Universal Music Publishing Group, the recording industry's largest label, and warning her that future copyright infringements on her part could force the Web site to cancel her account.

'Frightened, Then Angry'

"All of my [YouTube] videos are home videos, so I thought it was some kind of scam," Lenz told ABC News' Law & Justice Unit. When she realized YouTube had actually taken her video down, she said she was shocked.

"At first it frightened me, because I saw who had filed" the takedown notice, she said.

"It was Universal Music Publishing Group, and I was afraid that ... they might come after me. ... And the more afraid I got, the angrier I got. ... I was afraid that the recording industry might come after me the way they've come after other people for downloading music or file sharing.

"I thought even though I didn't do anything wrong that they might want to file some kind of suit against me, take my house, come after me.

"And I didn't like feeling afraid," she continued. "I didn't like feeling that I could get in trouble for something as simple as posting a home video for my friends and family to see."

Lenz filed a "counter-notice" with YouTube, and the Web site put her video back up about six weeks later.

What Constitutes a Ripoff of an Artist's Work?

But Lenz was angry, and she said she wasn't ready to let it go.

She contacted a leading cyber rights legal organization called the Electronic Frontier Foundation, and filed a **civil lawsuit** against the music publisher, claiming they were abusing the Digital Millennium Copyright Act by sending out reams of what are known in the industry as "take down notices" to Web sites like YouTube, claiming their artists' copyrights had been infringed upon -- when in fact, sometimes they may not have been at all.

Universal Music Publishing Group has filed a motion to dismiss the complaint, a spokesman said.

File-sharing and illegally downloading of music has devastated a once-booming music industry. Some observers say the industry is just trying to protect itself.

"I think the large copyright holders believe that if they do not police every single use of their copyrighted work -- no matter how benign -- that somehow that will open the floodgates to massive piracy," said Gigi Sohn of the Washington think-tank Public Knowledge.

"The problem with that is that viewers, Internet users, consumers, have rights under copyright law as well, and one of those rights is the ability to make fair, lawful uses of copyrighted work, for a variety of reasons," she said.

"The 'Let's Go Crazy baby?'" she asked rhetorically. "When you look at the facts, it's obvious that a take down notice should never have been sent. ... I mean, nobody downloads a video from YouTube with a song on it -- particularly 29 seconds of a song and says, 'OK, I don't have to buy the song' -- so clearly this was a type of use that didn't violate copyright."

Source: Prince 'Scours the Internet' Looking for Violations

For its part, Universal said it was simply acting at the behest of one of its top artists.

"Prince believes it is wrong for YouTube, or any user-generated site, to appropriate his music without his consent," the company said in a statement released to ABC News Thursday. "That position has nothing to do with any particular video that uses his songs. It's simply a matter of principle. And legally, he has the right to have his music removed. We support him and this important principle. That is why, over the last few months, we have asked YouTube to remove thousands of different videos that use Prince music without his permission."

A well-placed source directly involved in the situation confirmed to ABC News that Prince was directly involved in seeking the takedown of Lenz's video.

"This guy scours the Internet," the source said of the legendary artist, who once changed his name to an unpronounceable symbol and wrote the word "Slave" on his cheek until he won back the rights to his music from another publishing company.

"He's really intense about this stuff," the source said, adding that Lenz's video "happened to be one of

nany" that artist apparently located online and demanded be taken down.

A publicist for Prince directed ABC News to the artist's personal assistant's cell phone. The assistant did not return a call for comment.

The case is part of what some cyber rights advocates says is an alarming trend in aggressive copyright protection that can sometimes go too far. Entire companies have sprung up to troll the Internet and send thousands of take down notices, warning of legal action if videos that could be deemed to violate a copyright are not immediately removed.

"This is the first major case that we've seen where someone like a housewife is being targeted by a major recording company, but we're starting to see more and more of these kinds of abuses," said Jason Schultz, an attorney with the Electronic Frontier Foundation.

"Because of the way the law is set up, it's very easy for people to send copyright complaints to any Web site and demand that videos come down or music comes down, and a lot of providers can't verify.

"What's going on here is that people like Universal are abusing the copyright law in order to censor, take down videos they frankly don't like, but aren't actually infringing copyright," Schultz said.

"They aren't violating copyright law. So here Stephanie Lenz posted a video of her kids dancing," Schultz said. "It's just a home video. She wanted her friends and family to see it, and Universal had no right to [have it] take[n] down. And by sending an abusive copyright complaint, they really abused the law."

Lenz and E.F.F. are seeking unspecified damages from the music company.

"I'd like to see [Universal] say that I wasn't a copyright infringer," Lenz said.

By Law, YouTube Honors Takedown Notices -- and Counter-Notices

A YouTube spokesman told ABC News that under the provisions of the Digital Millennium Copyright Act, hosting platforms like YouTube are legally obligated to take both the original takedown notices and the counter-notices at face-value, and to honor them.

"This litigation doesn't involve us," Ricardo Reyes, a spokesman for YouTube said.

"We are what the DMCA call a hosting platform," he said. "We provide a platform for people to post their content and share it. When we're notified that something is infringing, we take that [content] down. To not take it down would put us in violation of the DMCA. What we have to do is take them at face value. What you are saying under penalty of law is saying you are the owner. If you say you are the owner and you're not, you can be sued."

Conversely, Reyes said, "When we're counter notified, we basically have to take the counter notice at face value too. Our responsibility is to abide by the notices or counter notices."

Caught to some extent in the middle of the takedown notice wars, Reyes declined to address the Prince controversy directly, but said YouTube had been down this road before.

He cited the case of a North Carolina school board council candidate, Christopher Knight, who produced a laffy commercial in which he donned a "Star Wars"-like light saber and promised to protect the school district's students from a metaphorical Death Star.

The VH1 cable television show "Best Week Ever," which highlights amusing online content, featured a clip of the video on their show.

Knight "thought that was so cool he put up the VH1 clip up on his channel on YouTube," Reyes said. "And VH1 sent us a take down notice." (To view Knight's video, go to YouTube and search "Christopher Knight.")

Lenz, a blogger and fiction writer, said she's sympathetic to the plight of the music industry and its artists.

"I do understand where the record industry is coming from," she said. "They should go after people who infringe on their copyrights. Artists and musicians are owed the money for the product that they create, but I didn't take their product. I bought my CD at my local record store and I played it for my kids, and I wasn't trying to make any money or pass it off as anything other than a home movie of my child."

But the legal controversy has changed the way Lenz thinks, she said, every time she picks up her digital camera. "I'm constantly thinking about what's going on in the background, what's on the TV, what's on the CD player, the characters on my kids' clothes, the characters on the toys that they are playing with," she said.

"I'm cognizant of what's going on at every step, instead of focusing on my kids, which is where my attention should be."

As for Holden, the toddler has moved on to punk music.

"He loves music," his mother said. "He likes all kind of music. At the time [of the video] he liked anything that was funk or anything that was R & B, and Prince fit perfectly in with that.

"I haven't played Prince for him lately," she said, laughing. "But he's getting a little bit more into punk now, so I'm trying to turn him on to Nirvana."

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