

against Defendants, they are denied. Except as stated, Defendant denies the allegations of ¶ 2 in their entirety.

3. Defendant denies the allegations in paragraph 3.
4. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of ¶ 4 and, therefore, neither admits nor denies the allegations of ¶ 4 but demands strict proof thereof. Except as stated, Defendant denies the allegations of ¶ 4 in their entirety.
5. Admitted.
6. Defendant does not object to this court's jurisdiction over the pled matter.
7. Admitted.
8. Defendant does not object to this court's jurisdiction over the pled matter. To the extent that the allegations of ¶ 8 are construed against Defendant, they are denied.
9. Defendant does not object to this venue.
10. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of ¶ 10 and, therefore, neither admits nor denies the allegations of ¶ 10 but demands strict proof thereof. Except as stated, Defendant denies the allegations of ¶ 10 in their entirety.
11. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of ¶ 11 and, therefore, neither admits nor denies the allegations of ¶ 11 but demands strict proof thereof. Except as stated, Defendant denies the allegations of ¶ 11 in their entirety.
12. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of ¶ 12 and, therefore, neither admits nor denies the

allegations of ¶ 12 but demands strict proof thereof. Except as stated, Defendant denies the allegations of ¶ 12 in their entirety.

13. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of ¶ 13 and, therefore, neither admits nor denies the allegations of ¶ 13 but demands strict proof thereof. Except as stated, Defendant denies the allegations of ¶ 13 in their entirety.

14. Defendant admits that Plaintiff has in the past attended or participated in ADC events. To the extent that ¶ 14 alleges the intent behind Plaintiff's participation in ADC events, Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations regarding the purpose of Plaintiff's participation and, therefore, neither admits nor denies the allegations but demands strict proof thereof. Except as stated, Defendant denies the allegations of ¶ 14 in their entirety..

15. Defendant admits that Mr. Jandali was invited to the ADC convention in June 2011.

16. Defendant denies that ADC revoked its invitation to Jandali. As to whether Plaintiff attended or did not attend the ADC convention in 2011, Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in ¶ 16 and, therefore, neither admits nor denies the allegations of ¶ 16 but demands strict proof thereof. Defendant admits that Jandali did not perform at the ADC convention in 2011. Except as admitted or otherwise stated, Defendant denies the allegations of ¶ 16 in their entirety.

17. Defendant denies that an audio recording of "Watani Ana" was performed at the ADC convention in 2011. To the extent that ¶ 17 alleges the playing of a rendition of "Watani Ana," Defendant states that one of the many YOU TUBE selections of

“Watani Ana” was played on June 11, 2011, at the ADC convention. Except as admitted or otherwise stated, Defendant denies the allegations of ¶ 17 in their entirety.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Defendant incorporates and realleges its answer to paragraphs 1-22 as though fully set forth herein as ¶¶ 1-23 of their answer.

24. Defendant lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in ¶ 87 and, therefore, neither admits nor denies the allegations of ¶ 87 but demands strict proof thereof.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

Affirmative Defenses

First Affirmative Defense

Plaintiff’s complaint fails to state a cause of action upon which relief can be granted.

Second Affirmative Defense

Plaintiff has not suffered any damages.

Third Affirmative Defense

Defendant played a YouTube video of the work in question. The YouTube Terms of Service and License Agreement grant Defendant an explicit license.

Fourth Affirmative Defense

Plaintiff knowingly uploaded the video on YouTube which is accepted as a vehicle of wide dissemination. Subsequently Plaintiff also posted the link to the YouTube video on numerous social networking sites. Defendant embedded the YouTube video, and posted a link to the video in public e-mail messages. Defendant also posted the YouTube video on social media websites, with no objection from the Plaintiff. Plaintiff was advised by Defendant prior to June 11, 2011 that his YouTube post of the song “Watani Ana” would be played at the Convention. However, Plaintiff failed to object to the playing of the song at any time prior to the filing of this lawsuit; nor did Plaintiff avail himself of any remedy prior to the Convention on June 11, 2011 such as requesting that the video be removed or seeking a temporary injunction pursuant to 17 U. S. C. §502(a). The actions of the Plaintiff constitute an implied license.

Fifth Affirmative Defense

As a registered 501(c)(3) organization, Defendant is exempt pursuant to 17 USC §110(4)(B), which in relevant part states that copyright is not infringed when “the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial

gain...”

Sixth Affirmative Defense

Defendant qualifies for a Fair Use Exemption pursuant to 17 USC §107. As a non-profit organization, defendant did not play the YouTube video for commercial gain; the playing of the video was well received by the audience members and had a positive impact on the work.

Seventh Affirmative Defense

Defendant qualifies for an exemption under 17 U.S.C. §110. Defendant did not financially benefit from the performance of “Watani Ana” and any tangential benefit to Defendant is solely for a charitable purpose and not for private financial gain. Plaintiff did not serve any notice of objection to the audio performance of “Watani Ana.”

Additional Affirmative Defenses

Defendant states the following affirmative defenses:

- assumption of risk;
- contributory negligence;
- estoppel;
- laches;
- license;
- payment;
- release and;
- waiver.

WHEREFORE, Defendant American-Arab Anti-Discrimination Committee denies that Plaintiff is entitled to any relief and Defendant prays for:

- A. Judgment in its favor and against the Plaintiff;
- B. An award of costs incurred in this action; and
- C. Such other relief as the Court deems just and appropriate.

Respectfully Submitted on this day of December 23, 2011,

/s/ Haytham Faraj
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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2011, I electronically filed the foregoing paper with the Clerk of Court using the ECF system which will send notification of such filing to the following:

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Respectfully submitted,

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