

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDMOND GRANT P/K/A “EDDY GRANT”,
GREENHEART MUSIC LIMITED, a United
Kingdom Limited Company, and
GREENHEART MUSIC LIMITED, an
Antigua and Barbuda Limited Company,

Plaintiffs,

-against-

DONALD J. TRUMP and DONALD J.
TRUMP FOR PRESIDENT, INC.,

Defendants.

Civil Action No. 1:20-cv-07103-JGK

**DEFENDANTS DONALD J. TRUMP
AND DONALD J. TRUMP FOR
PRESIDENT, INC.’S ANSWER TO
COMPLAINT**

Defendants Donald J. Trump and Donald J. Trump For President, Inc. (collectively “Defendants”), by and through their undersigned counsel, hereby submit this Answer to the Complaint filed Plaintiffs Edmond Grant p/k/a “Eddy Grant,” Greenheart Music Limited, a United Kingdom Limited Company, and Greenheart Music Limited, an Antigua and Barbuda Limited Company (collectively “Plaintiffs”). To the extent any allegation contained in this Answer is not specifically admitted, it is hereby denied. Defendants have adopted the headings found in the Complaint for ease of reference. However, to the extent that such headings themselves contain factual or legal statements, allegations, or characterizations, Defendants deny those statements, allegations, or characterizations.

NATURE OF ACTION

1. Defendants admit the statement in Paragraph 1 of the Complaint that this is an

action for copyright infringement regarding an animated video tweeted by Mr. Trump on his Twitter account on August 12, 2020 that featured an animated caricature of Mr. Biden (“the Animated Video”). Defendants deny the remaining allegations in Paragraph 1 of the Complaint.

2. Defendants deny that they have willfully and wrongfully infringed Plaintiffs’ copyrights. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 2 of the Complaint, and therefore deny the same.

3. Paragraph 3 of the Complaint contains legal arguments and other nonfactual allegations to which no response is required.

JURISDICTION AND VENUE

4. Defendants admit that this Court has subject matter jurisdiction over Plaintiffs’ copyright claims.

5. Defendants admit that this Court has personal jurisdiction over Mr. Trump, but deny the remaining allegations in Paragraph 5 of the Complaint.

6. Defendants admit that this Court has personal jurisdiction over the Company and that it conducts and solicits business in this District. Defendants deny the remaining allegations in Paragraph 6 of the Complaint.

7. Defendants admit that venue in this District is proper. Defendants deny the remaining allegations in Paragraph 7 of the Complaint.

PARTIES

8. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint, and therefore deny the same.

9. Defendants lack knowledge or information sufficient to form a belief as to the

truth of the allegations contained in Paragraph 9 of the Complaint, and therefore deny the same.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Complaint, and therefore deny the same.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint, and therefore deny the same.

12. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint, and therefore deny the same.

13. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint, and therefore deny the same.

14. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint, and therefore deny the same.

15. Defendants admit the allegations in Paragraph 15 of the Complaint.

16. Defendants admit that Mr. Trump maintains a residence in this District, but aver that Mr. Trump currently resides in Palm Beach, Florida and is a citizen of the State of Florida. Defendants deny the remaining allegations in Paragraph 16 of the Complaint.

17. Defendants admit the allegations in Paragraph 17 of the Complaint.

18. Defendants admit that, at all relevant times, the Company was involved in Mr. Trump's campaign to be re-elected as President of the United States in 2020. Defendants deny

the remaining allegations in Paragraph 18 of the Complaint.

PLAINTIFFS' WORKS

19. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint, and therefore deny the same.

20. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Complaint, and therefore deny the same.

21. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint, and therefore deny the same.

22. Defendants admit that according to public records in the U.S. Copyright Office, the copyright that is the subject of registration number PA0000164029 was registered. Defendants further admit that Exhibit A purports to be a copy of the copyright registration for registration number PA0000164029. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 22 of the Complaint, and therefore deny the same.

23. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Complaint, and therefore deny the same.

24. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of the Complaint, and therefore deny the same.

25. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Complaint, and therefore deny the same.

26. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Complaint, and therefore deny the same.

27. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Complaint, and therefore deny the same.

28. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Complaint, and therefore deny the same.

29. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of the Complaint, and therefore deny the same.

30. Defendants admit that according to public records in the U.S. Copyright Office, the copyright that is the subject of registration number SR0000344006 was registered. Defendants further admit that Exhibit B purports to be a copy of the copyright registration for registration number SR0000344006. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 30 of the Complaint, and therefore deny the same.

31. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 of the Complaint, and therefore deny the

same.

32. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 of the Complaint, and therefore deny the same.

33. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of the Complaint, and therefore deny the same.

34. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the Complaint, and therefore deny the same.

DEFENDANTS' ALLEGEDLY UNLAWFUL ACTS

35. Defendants admit that on August 12, 2020, at or about 9:35 p.m. ET, Mr. Trump published the Tweet from his Twitter account containing the 55-second Animated Video. Defendants deny the remaining allegations in Paragraph 35 of the Complaint.

36. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of the Complaint, and therefore deny the same.

37. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of the Complaint, and therefore deny the same.

38. Defendants admit that the Animated Video contains a visual depiction of a red train bearing the words "Trump Pence KAG 2020" and a handcar bearing the words "Biden President: Your Hair Smells Terrific" being powered by an animated likeness of Former Vice

President Biden while Former Vice President Biden's voice is played over an excerpt of the song referenced as Plaintiffs' Recording. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 38 of the Complaint, and therefore deny the same.

39. Defendants admit that an excerpt of the song referenced as Plaintiffs' Recording can be heard at or around the 15 second mark of the Animated Video and continues for the duration of the video. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 39 of the Complaint, and therefore deny the same.

40. Defendants deny the allegations in Paragraph 40 of the Complaint.

41. Defendants deny the allegations in Paragraph 41 of the Complaint.

42. Defendants deny the allegations in Paragraph 42 of the Complaint.

43. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of the Complaint, and therefore deny the same.

44. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of the Complaint, and therefore deny the same.

45. Defendants admit the allegations in Paragraph 45 of the Complaint.

46. Defendants admit the allegations in Paragraph 46 of the Complaint.

47. Defendants deny the allegations of Paragraph 47 of the Complaint.

48. Defendants admit that Exhibit C purports to be a copy of a letter sent by Plaintiffs, through their counsel, dated August 13, 2020, to the Company. Defendants lack

knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 48 of the Complaint, and therefore deny the same.

49. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of the Complaint, and therefore deny the same.

50. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of the Complaint, and therefore deny the same.

51. Defendants deny the allegations in Paragraph 51 of the Complaint.

52. Defendants deny the allegations in Paragraph 52 of the Complaint.

53. Defendants deny the allegations in Paragraph 53 of the Complaint.

COUNT I

COPYRIGHT INFRINGEMENT

54. Defendants repeat their answers to the allegations in the preceding Paragraphs 1-53 as if fully set forth herein.

55. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of the Complaint, and therefore deny the same.

56. Defendants admit they did not have permission, license or consent of Plaintiffs to use the Composition in connection with the Animated Video. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 56 of the Complaint, and therefore deny the same.

- 57. Defendants deny the allegations of Paragraph 57 of the Complaint.
- 58. Defendants deny the allegations of Paragraph 58 of the Complaint.
- 59. Defendants deny the allegations of Paragraph 59 of the Complaint.
- 60. Defendants deny the allegations of Paragraph 60 of the Complaint.
- 61. Defendants deny the allegations of Paragraph 61 of the Complaint.
- 62. Defendants deny the allegations of Paragraph 62 of the Complaint.

COUNT II

COPYRIGHT INFRINGEMENT

63. Defendants repeat their answers to the allegations in the preceding Paragraphs 1-62 as if fully set forth herein.

64. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 64 of the Complaint, and therefore deny the same.

65. Defendants admit they did not have permission, license or consent of Plaintiffs to use the Recording in connection with the Animated Video. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 65 of the Complaint, and therefore deny the same.

- 66. Defendants deny the allegations of Paragraph 66 of the Complaint.
- 67. Defendants deny the allegations of Paragraph 67 of the Complaint.
- 68. Defendants deny the allegations of Paragraph 68 of the Complaint.
- 69. Defendants deny the allegations of Paragraph 69 of the Complaint.
- 70. Defendants deny the allegations of Paragraph 70 of the Complaint.
- 71. Defendants deny the allegations of Paragraph 71 of the Complaint.

PRAYER FOR RELIEF

Defendants deny that Plaintiffs are entitled to any relief set forth in the Complaint including, without limitation, the relief requested in Paragraphs A-E of the Complaint.

AFFIRMATIVE DEFENSES

Pursuant to Federal Rule of Civil Procedure 8(c), and without assuming any burden that they would not otherwise bear, and reserving their right to assert additional affirmative defenses, Defendants assert the following affirmative defenses to Plaintiffs' Complaint.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' claims against Defendants are barred, either in whole or in part, by Plaintiffs' failure to state a claim upon which a relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims against Defendants are barred, either in whole or in part, by the doctrines of waiver, laches, acquiescence, inequitable conduct and/or unclean hands.

THIRD AFFIRMATIVE DEFENSE

Defendants have not infringed, either directly or indirectly, Plaintiffs' copyrights, if any.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims against Defendants are barred, either in whole or in part, by the doctrines of fair use and/or nominative use.

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' claims against Donald J. Trump are barred, either in whole or in part, by Presidential absolute immunity.

Dated: October 18, 2021
New York, New York

Respectfully submitted,

/s/ Darren W. Saunders_____

Darren W. Saunders
dsaunders@peroffsaunders.com
Mark I. Peroff
mark.peroff@peroffsaunders.com
Cassandra M. Tam
cassandra.tam@peroffsaunders.com
Jason H. Kasner
jkasner@peroffsaunders.com
PEROFF SAUNDERS P.C.
745 5th Avenue | Suite 500
New York, NY 10151
Tel: 646.898.2030

Kenneth Andrew Caruso
ken.caruso@mfsllp.com
MUKASEY FRENCHMAN & SKLAROFF LLP
2 Grand Central Tower
140 East 45th Street, 17th Floor
New York, NY 10017
Tel: 212.466.6400

Attorneys for Defendants