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10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 ERIC WATKINS, an individual,

14 Plaintiff,

15 vs.

16 PROQUEST, LLC, a Delaware Limited
17 Liability Company; and DOES 1-10,
18

19 Defendant.
20

Case No.:

PLAINTIFF'S COMPLAINT FOR:

- 1. COPYRIGHT INFRINGEMENT
- 2. UNFAIR COMPETITION

Jury Trial Demanded

21
22 Eric Watkins, by and through its undersigned attorneys, hereby prays to this
23 honorable Court for relief based on the following:

24 **JURISDICTION AND VENUE**

- 25 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
26 *et seq.*

1 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
2 1338 (a) and (b).

3 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
4 1400(a) in that this is the judicial district in which a substantial part of the acts and
5 omissions giving rise to the claims occurred.

6 **PARTIES**

7 4. Plaintiff Eric Watkins is an individual residing in the State of California.

8 5. Plaintiff is informed and believes and thereon alleges that ProQuest LLC
9 (“ProQuest”) is a Delaware Limited Liability Company with its principal place of
10 business are 7200 Wisconsin Avenue, Suite 601, Bethesda, MC 20814, and is doing
11 business in and with the State of California.

12 6. Defendants DOES 1 through 10, inclusive, are other parties not yet
13 identified who have infringed Plaintiff’s copyrights, have contributed to said
14 infringement, or have engaged in one or more of the wrongful practices alleged
15 herein. The true names, whether corporate, individual or otherwise, of Defendants 1
16 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said
17 Defendants by such fictitious names, and will seek leave to amend this Complaint to
18 show their true names and capacities when same have been ascertained.

19 7. Plaintiff is informed and believes and thereon alleges that at all times
20 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
21 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
22 at all times acting within the scope of such agency, affiliation, alter-ego relationship
23 and/or employment; and actively participated in or subsequently ratified and
24 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
25 all the facts and circumstances, including, but not limited to, full knowledge of each
26 and every violation of Plaintiff’s rights and the damages to Plaintiff proximately
27 caused thereby.

FACTUAL BACKGROUND

1
2 8. For over 20 years Plaintiff has been a correspondent and consultant with
3 an expertise in world energy news and issues. Over the span of his career he has
4 authored thousands of articles and press releases as a freelance journalist for a
5 number of international publications and organizations including the Oil and Gas
6 Journal, the Financial Times, Wall Street Journal, Washington Post and the
7 Associated Press.

8 9. Plaintiff has never had any contractual relationship with ProQuest or
9 otherwise authorized it to publish his work, and in fact was unaware of the existence
10 of the ProQuest database until 2012.

11 10. Plaintiff has recently learned that many of his works have been reproduced
12 by ProQuest without his permission, including but not limited to the following (with
13 the indicated source of those articles in the parenthetical):

- 14 a. *Point of View in Depictive Representation* (Nous)
- 15 b. *The Authorial Allusion* (Plaintiff's Ph.D. dissertation)
- 16 c. *Grim Passage For Somali Boat People; 3,000 Refugees Are Aboard*
17 *An Overloaded Boat; Without Food Or Water, 100 May Have Died*
18 (Philadelphia Inquirer)
- 19 d. *Somali Refugee Ship Reaches Yemeni Port* (Philadelphia Inquirer)
- 20 e. *Starving Somalis Arrive in Yemen // Refugees Given Food, Rerouted*
21 *To Another City* (Austin American-Statesman)
- 22 f. *Relief Vessel Races To Aid 3,000 Starving Somalis At Sea* (Austin
23 American-Statesman)
- 24 g. *Somalis Receive Aid Aboard Ship* (Philadelphia Inquirer)
- 25 h. *Parliamentary Election In Yemen Is First Since Reunification;*
26 *Violence Has Marred The Campaign; On Saturday One Candidate*
27 *Shot And Killed His Opponent* (Philadelphia Inquirer)

- i. *Starving Somalis Arrive, Ship Carrying 3,000 Refugees Reach Yemen* (Philadelphia Daily News)
- j. *Yemen Holds First Election Since Merging* (Sun Sentinel)
- k. *Starving Somalis Arrive in Yemen // Refugees Given Food, Rerouted To Another City* (Austin American Statesman)
- l. *Relief Vessel Races To Aid 3,000 Starving Somalis At Sea* (Austin American Statesman)
- m. *Restoring Balance To Mideast Policy* (Chicago Tribune)
- n. *Open Window To Iran Cautiously* (Chicago Tribune)
- o. *Yemen Stalls Yard Kidnap Investigation* (The Independent)
- p. *Yemenis Stalling Yard Kidnap Inquiry* (The Independent)
- q. *Yemen Raises Stakes With New Claim Of Kidnap Conspiracy* (The Independent)

11. Plaintiff is informed and believes, and thereon alleges, that the source of each of the above-referenced works (collectively “Copyrighted Works”) provided those works to ProQuest without authority or permission from Plaintiff.

FIRST CLAIM FOR RELIEF

(Copyright Infringement – Against all Defendants)

12. Plaintiff repeats, re-alleges, and incorporates herein by reference as though fully set forth, the allegations contained in the preceding paragraphs of this Complaint.

13. Plaintiff holds a valid copyright in the Copyrighted Works.

14. Plaintiff has either registered the Copyrighted Works with the United States Copyright Office or applied for registration for each work prior to the filing of this action.

1 15. As described herein, Defendants, and each of them, exploited, published,
2 posted, indexed, and distributed the Copyrighted Works in violation of Plaintiff's
3 copyrights, including but not limited to those identified above.

4 16. Due to Defendants' acts of infringement, Plaintiff has suffered damages
5 in an amount to be established at trial.

6 17. Due to Defendants' acts of copyright infringement as alleged herein,
7 Defendants, and each of them, have obtained direct and indirect profits they would
8 not otherwise have realized but for their infringement of Plaintiff's rights in the
9 Copyrighted Works. As such, Plaintiff is entitled to disgorgement of Defendants'
10 profits directly and indirectly attributable to Defendants' infringement of his rights in
11 the Copyrighted Works in an amount to be established at trial.

12 18. Plaintiff is further informed and believes that the infringements alleged
13 herein were committed with knowledge and/or reckless disregard of Plaintiff's rights
14 such that they constitute willful copyright infringement.

15 **SECOND CLAIM FOR RELIEF**

16 (Unfair Competition – Against ProQuest)

17 19. At pains and expense Plaintiff has spent his career gathering and reporting
18 news for the purpose of lucrative publication, including but not limited to through
19 the reporting of the stories identified herein.

20 20. Associated Press is an organization that gathers and distributes news to its
21 members, and as such is a rival of Plaintiff, notwithstanding the fact that Plaintiff
22 may sometimes distribute stories to the Associated Press.

23 21. Associated Press has appropriated the results of Plaintiff's efforts for its
24 profit and at the expense of and to the damage of Plaintiff, and has thereby engaged
25 in unfair competition against Plaintiff.

1 22. As a direct and proximate result of the unfair competition of Associated
2 Press, it has earned profits and cost Plaintiff revenues in an amount to be established
3 at trial.

4 **PRAYER FOR RELIEF**

5 Wherefore, Plaintiff prays for judgment as follows:


- 6 a. That Defendants, their agents and employees be enjoined from
7 infringing Plaintiff's copyrights in the Copyrighted Works;
8 b. That Defendants, their agents and employees be enjoined from further
9 use of news stories gathered and reported by Plaintiff;
10 c. That Plaintiff be awarded all profits of Defendants plus all losses of
11 Plaintiff, plus any other monetary advantage gained by the Defendants
12 through their infringement, the exact sum to be proven at the time of
13 trial, or, if elected before final judgment, statutory damages as available
14 under the Copyright Act, 17 U.S.C. § 101 et seq.;
- 15 d. That Plaintiff be awarded its attorneys' fees as available under the
16 Copyright Act U.S.C. § 101 et seq.;
- 17 e. That Plaintiff be awarded costs of suit, pre-judgment interest as allowed
18 by law, and such further legal and equitable relief as the Court deems
19 proper.

20 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
21 38 and the 7th Amendment to the United States Constitution.

22
23 DONIGER / BURROUGHS

24 Dated: May 30, 2014

By:


25 Stephen M. Doniger, Esq.
26 Scott A. Burroughs, Esq.
27 Annie Aboulian, Esq.
28 Attorneys for Plaintiff