

**IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**John Van Stry,**

Plaintiff,

vs.

**Travis Robert McCrea**

Defendant.

**CASE NUMBER: 2:19-cv-00104**

**DEFENDANT'S ANSWER TO SUIT**

Comes now the defendant Travis Robert McCrea represented pro per, providing an answer to the complaint made by the Plaintiff.

Answering paragraph 1 the Plaintiff state's their location to be in Texas, Defendant intends to prove this to be false.

Answering paragraph 4 regarding U.S. Code Title 17—Copyrights, §§ 502–05 the Defendant denies all allegations and asserts their Safe Harbour provided by the DMCA within 17 U.S. Code § 512 (c). The defendant was not given adequate notice, the defendant was not given adequate time to respond, and the Plaintiff did not follow the DMCA takedown procedure on the website that was provided in good faith to facilitate immediate removal of copyrighted material.

Answering paragraph 5-6 the defence agrees to the wording and applicability of 28 U.S.C. §§ 1331 and 1338(a) but maintains the assertion that the plaintiff is based in Northern California and has no grounds to raise a suit in Marshall Texas.

Answering paragraph 7-9 no evidence has been provided that Ebook Bike has ever advertised copyrighted material, nor imports copyrighted material, nor even distributes copyrighted material. The defendant denies these claims.

Answering paragraph 10 the defendant denies the prior knowledge of any copyright infringement, and any copyrighted material that had been submitted via a valid DMCA request has always been removed within a reasonable amount of time (usually instantly). The defendant has no ability to moderate what is and isn't copyrighted material being uploaded to the platform and requiring that right would create an undo (and extra-legal) burden not only on the defendant but on the Internet as a whole. Every photo uploaded to Facebook should not have to be pre-moderated to determine ownership. We have a system in place for handling copyright infringement which is the DMCA.

Answering paragraph 11-14 the defence denies that Texas is the proper venue for this trial.

Answering paragraph 15-19 while the Plaintiff has already removed the joinder, the Defence denies it was ever appropriate.

Answering paragraph 23-26 the Plaintiff shows that the Defendant is active politically but does not show a link between the political action and the Defendant's desire to engage in illegal activities. The Defence accepts that the Defendant has both religious and political beliefs that deal with the concept of intellectual property laws. However, the 1<sup>st</sup> Amendment of the constitution protects the Defence for having political and religious beliefs. It is no more appropriate to allow the belief in Kopimism and the Pirate Party to be evidence for actually infringing in copyright as it would be to assume Baptists and/or a Republican are going to bomb an abortion clinic.

Answering paragraph 27 the Plaintiff claims the Defendant a "poster boy" for piracy and uses a shirt they own as evidence of their "support for piracy", then enters a photo of the Defendant wearing a shirt saying "Support Piracy" on it. The absurdity shows the absurdity of the Plaintiff's entire pitch as this shirt is a freebie given away at the Penny Arcade Expo 13 years ago and is for the game "Pirates of the Burning Sea".

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### [Yar Har, Me and my Booty](#)

13 years ago

Well Yet another PAX Journal, but this one is of stuff I got at PAX.  
Because Im such A Pirate.



<https://screwattack.roosterteeth.com/forum/red-vs-blue/topic/members/index.php/post/1212240>

Answering paragraph 28 the Defence accepts that for a period of less than a month the Defendant had acquired Library Pirate, but in fact in evidence of the commitment the Defendant has to protecting Intellectual Property they had stopped supporting and shut down the website as there was no effective way to run the website without violating copyright law. The defence admits to a lackluster due process but also that no lawsuits were ever created around it.

Answering paragraph 29-30 the Defence denies having established the website, but did acquire the website. TUEBL.com was the initial domain name and tuebl.ca eventually replaced it. We have accepted donations that in total have amounted to less than \$500 during our entire time of operation, these went to supporting server bills.

Answering paragraph 31 the Defence agrees with the Plaintiff that he created a successful website that drove a lot of traffic. The defence agrees that books were rapidly being added to the website at a rate that would be impossible to pre-screen before upload (and there being no legal obligation to do, and there being no practical way of doing so).

Answering paragraph 32 the Defence isn't aware of a time when the Defendant claimed to "not be American" but also isn't obligated to tell the truth about their location on the Internet. The Defence accepts that previously the Defendant did not choose good ways in handling take down notices but also acted fully within the DMCA.

Answering paragraph 33 the Defence accepts that the Defendant has claimed to not care if the website was illegal and would do it either way. However, the Defence denies any wrong doing in this case and furthermore does not believe the actions of Ebook Bike to be illegal.

Answering paragraph 34 the Defence denies that explaining how both The Pirate Bay and Ebook Bike use the same technology is tantamount to expressing similar legality.

Answering paragraph 35 the Defendant has a right to their religion and ability to fundraise for it.

Answering paragraph 36 the Defence agrees on the pronunciation of Kopimism.

Answering paragraph 37-43 the Defence agrees with the tenants of Kopimism but denies they are relevant to the actions. Leviticus 21:17-24 essentially tells followers to shun ugly people but Catholic Priests do not do it. Jacob 2:24-30 basically outlines God's command of plural marriage but Mormon's largely no longer practice this because it is illegal. You can believe in something without practicing it. The defence denies wrongdoing and will make a subsequent motion to have religious references struck from the case.

Answering paragraph 44 the Defence denies using any donations for "luxury" expenses. The Defendant is a successful web developer, a trade known for above average incomes.

Answering paragraph 45-54 the Defence agrees that Ebook Bike is just an evolution of "TUEBL" and continues to operate just as legally. There is a brief time when the text "You must only upload content you have the rights to" were not on the website but there has been no submitted evidence that shows the Plaintiff's works were uploaded during that window.

Answering paragraph 55 the Defence asserts automated technology does any scraping for book information but with the assumption that the copyright holder was already the one to upload the content.

Answering paragraph 56 the defence does not disagree they show people how to use content downloaded from the website.

Answering paragraph 57 the Defence agrees to exploring monetary incentives to help pay for operation of the website but that they were never put into place.

Answering paragraph 58-59 the Defence agrees that there may be book pages that are up for the Plaintiff's books but has not seen verified evidence that any ebook was actually downloaded from the website. Furthermore, if the Plaintiff's books were improperly on the website the Defence did not upload them themselves nor were properly made aware of this by a valid DMCA request.

Answering paragraph 60 the defence does not agree to the term "copy" nor does it accept the premise the book was ever available for actual download.

Answering paragraph 61 the Defence neither agrees nor denies that the books are available for the listed "Fair Use" reasons.

Answering paragraph 62-63 there are complaints and all complaints are encouraged to submit proper takedown notifications. A tweet is not a valid DMCA request, any one could be making those. The books that are displayed on the homepage are automatically there and the Defendant doesn't actually use the website as they are not an avid reader. In fact, the Defendant has a library membership and uses Overdrive to listen to audiobooks on occasion and that's it.

Answering paragraph 64 Mz Harris had yet to file a valid DMCA request and publicly admitted to refusing to do so.

Answering paragraph 65-67 the Defence does also respond to email complaints but discourages its use because emails can get spam filtered, lost, or improperly acted upon. The Defence, in fact, uses

automated tools to ensure DMCA emails are properly handled but it failed to work correctly due to the Plaintiff's improper procedure. The Defence claims safe harbour.

Answering paragraph 68-71 the Defence agrees that Ebook Bike uses a reverse proxy system to save money and also avoid wrongful DMCA requests from getting their server shut down without the ability to respond first.

Answering paragraph 72 the Defence cannot comment on Cloudflare internal policies

Answering paragraph 73-92 the Defence cannot comment on Frantech Solutions or it's owner / employees internal workings.

Answering paragraph 93-94 the Defence agrees to using torrents over Frantech servers but not to knowingly engage in illegal activity but rather the Defendant is an active user of Ubuntu and likes to support Linux through "seeding" those files. I did endorse the product because it is the best on the Internet and I encourage people to use it.

Answering paragraph 95-97 the Defence cannot comment on the Internal operation of Frantech

Answering paragraph 98 the Defence denies wrongdoing under the DMCA. Also the Defence takes exception to the term "theft" as there is no stated desire to pursue any action on federal theft laws. If this is a complaint it would need to be filed properly. Per the image the defence disagrees to all instances of the word "illegal", "wilful", "ignoring", or other factors that would imply guilt while agreeing to the basic premise that users use the website, cloudflare is a reverse proxy, frantech hosted some servers, and ebook bike was a website.

Answering Count 1 – Copyright Infringement

The defendant denies all allegations regarding the said "Copyright Infringement", the Defence has found no reasonable evidence to support any claim of wilful infringement. No files have been submitted for evidence, nothing that proves that infringement actually happened at all, nothing that even shows the files were in fact on the servers. The Defendant did not violate copyright infringement

as they did not upload any content. The Defendant did not violate Contributory copyright infringement as they were operating on Good Faith within the DMCA.

**DEFENCE 1 – Failure To State A Claim**

The Plaintiff has brought forward no valid claim of copyright infringement or proof of said infringement. The Plaintiff has brought conjecture and possibly violates the Defendant's human rights in their ability to practice religion without being persecuted for it with no evidence otherwise.

**DEFENCE 2 – Religious Exemption**

The Defendant has created no harm to the Plaintiff, and as such leeway must be given for the Defendant's religion. While the Defence argues that at no time did the Plaintiff wilfully violate copyright law nor did it do anything other than uphold the DMCA. An argument will be made that in a worst case scenario where the Defendant had failed to adequately address the copyright infringement per the DMCA it was only acting in a way to balance their religious beliefs against the societal laws that also bound them. When a religion is acting without harm to those around them, leeway must be given to allow them to exercise their right to free expression as per the First Amendment.

**DEFENCE 3 – DMCA Safe Harbour**

The defendant has operated fully within the text of the DMCA and is ready to defend the Safe Harbour provisions of the DMCA.

WHEREFOR, the Defendant prays that the Plaintiff take nothing and the Defendant have judgment against the Plaintiff to recover all costs related to the suit and additional relief the court may deem appropriate.

Respectfully Submitted,

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09/23/2019