

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|---------------------------------------|---|-------------------------------|
| ELLORA’S CAVE PUBLISHING, INC., et al |) | CASE NO.: 5:14CV2331 |
| |) | |
| Plaintiffs, |) | JUDGE JOHN R. ADAMS |
| |) | |
| vs. |) | |
| |) | |
| DEAR AUTHOR MEDIA NETWORK, LLC et al. |) | <u>PLAINTIFFS’S ANSWER TO</u> |
| |) | <u>DEFENDANT’S</u> |
| Defendants. |) | <u>COUNTERCLAIM</u> |
| |) | |

NOW COME Plaintiffs, by and through undersigned counsel, and hereby replies to Defendant Dear Author Media Network, LLC’s Counterclaim as follows:

1. Plaintiffs deny the allegation in paragraph 1 of the Counterclaim and further state a motion for remand is pending before the Court.
2. Plaintiffs deny the allegation in paragraph 2 of the Counterclaim and further state a motion for remand is pending before the Court.
3. Based upon information and belief, Plaintiffs admit the allegation in paragraph 3 of the Counterclaim.
4. Plaintiffs admit the allegation in paragraph 4 of the Counterclaim.
5. Plaintiffs admit the allegation in paragraph 5 of the Counterclaim.
6. Plaintiffs admit the allegation in paragraph 6 of the Counterclaim.
7. Plaintiffs admit the allegation in paragraph 7 of the Counterclaim

8. Plaintiffs admit the allegation in paragraph 8 of the Counterclaim but further state that the allegations of the Complaint are not limited to Defendants' false statements concerning authors not receiving payment.

9. Plaintiffs deny the allegation in paragraph 9 of the Counterclaim and further state that 47 U.S.C. 230 is not applicable to this case.

10. Plaintiffs deny the allegation in paragraph 10 of the Counterclaim.

11. Plaintiffs deny the allegation in paragraph 11 of the Counterclaim.

12. Plaintiffs deny the allegation in paragraph 12 of the Counterclaim.

13. Plaintiffs deny the allegation in paragraph 13 of the Counterclaim.

14. Plaintiffs deny the allegation in paragraph 14 of the Counterclaim.

15. Plaintiffs deny the allegation in paragraph 15 of the Counterclaim.

DEFENSES

1. Defendant has failed to state a claim upon which relief can be granted.

2. Jurisdiction and venue are improper in this court.

3. Defendant's counterclaims are barred by the doctrines of "unclean hands" and waiver and estoppel.

4. Defendant's counterclaim is frivolous and without merit and is made for the improper purposes of (a) promoting vexatious litigation and (b) bolstering the jurisdiction of this court, thereby entitling Plaintiffs to attorney fees.

5. Plaintiffs reserve the right to raise additional defenses as discovery progresses.

WHEREFORE, Plaintiffs request that the Counterclaim be dismissed at Defendant's cost and that attorney fees in the defense of the counterclaim be awarded to Plaintiffs.

Respectfully submitted,

NIEKAMP, WEISENSELL, MUTERSBAUGH, &
MASTRANTONIO, LLP

/s/ Steven W. Mastrantonio

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of November, 2014 a copy of the foregoing Plaintiffs' Answer to Defendant's Counterclaim was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Steven W. Mastrantonio

Steven W. Mastrantonio

Attorney for Plaintiffs