

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

POST UNIVERSITY, INC., :  
 :  
 Plaintiff, : No. 3:21cv1242 (JBA)  
 :  
 v. :  
 :  
 COURSE HERO, INC., :  
 :  
 Defendant. : DECEMBER 22, 2021

**ANSWER, AFFIRMATIVE DEFENSES  
AND CLAIM FOR ATTORNEYS' FEES**

Defendant Course Hero, Inc. (“Course Hero”), by and through its counsel, responds to Plaintiff Post University, Inc.’s (“Post University”) Complaint for Copyright Infringement as follows:

**THE PARTIES<sup>1</sup>**

1. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.
2. Course Hero admits that it is a Delaware Corporation with its principal place of business at 2000 Seaport Blvd. Ste 400, Redwood City, CA, 94063-5584, United States. Course Hero admits that it pays taxes in Connecticut. Course Hero denies the remaining allegations of this paragraph.

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<sup>1</sup> Course Hero neither admits nor denies the contents of the various headings and subheadings in the Complaint, which are reproduced herein solely for convenience.

**JURISDICTION AND VENUE**

3. For purposes of this action, Course Hero does not contest subject matter jurisdiction. Course Hero denies any remaining allegations of this paragraph.

4. For purposes of this action, Course Hero does not contest personal jurisdiction. Course Hero denies any remaining allegations of this paragraph.

5. For purposes of this action, Course Hero does not contest venue. Course Hero denies any remaining allegations of this paragraph.

**POST UNIVERSITY**

6. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

7. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

8. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

9. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

10. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

11. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

12. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

**COURSE HERO**

13. Course Hero admits that it operates a website located at <http://www.coursehero.com> and that Course Hero is an online learning platform of course-specific study resources. Course Hero denies any remaining allegations of this paragraph.

14. Course Hero admits that, as of September 17, 2021, Course Hero had more than 27,510,922 users who had signed in to their account the full 12 months before September 17. Course Hero admits that its online learning platform includes both study resources and 24/7 Homework Help. Course Hero admits that its 24/7 Homework Help provides a platform for third-party tutors to connect with students, including on answers to homework questions. Course Hero admits that the Study Resources include tens of millions of documents uploaded by users. Course Hero admits that users can search for uploaded documents using the search function on Course Hero's website. Course Hero admits that users can find documents by school, textbook, literature title and subject. Course Hero denies any remaining allegations of this paragraph.

15. Course Hero admits that Study Resources uploaded by users affiliated with Post University can be found at <https://www.coursehero.com/sitemap/schools/456-Post-University/>. Course Hero admits that, as of September 2021, Course Hero users have uploaded documents from more than 24,275 colleges and grad schools, 26,820 high schools, and 3,069 trade schools. Course Hero denies any remaining allegations of this paragraph.

16. Denied.

17. Course Hero admits that only members can access Study Resources uploaded by its users. Course Hero admits that one way that a member can gain access to Study Resources is by paying for a subscription, and that access to those resources is limited. Course Hero denies any remaining allegations of this paragraph.

18. Course Hero admits that it offers both Student and Educator accounts. Course Hero admits that members cannot view certain types of documents in full until they unlock them. Course Hero admits that, prior to unlocking those types of documents, members can only see a preview. Course Hero denies any remaining allegations of this paragraph.

19. Denied.

20. Course Hero admits that Exhibit 1 appears to be a screenshot of a webpage from Course Hero's website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

21. Course Hero admits that Exhibit 2 appears to be a screenshot of a webpage from Course Hero's website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

22. Course Hero admits that Exhibit 3 appears to be a screenshot of a webpage from Course Hero's website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

23. Course Hero admits that Exhibit 4 appears to be a screenshot of a webpage from Course Hero's website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

24. Course Hero admits that Exhibit 5 appears to be a screenshot of a webpage from Course Hero's website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

25. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

26. Denied.

27. Course Hero admits that Exhibit 6 appears to be a screenshot of a webpage from Course Hero's website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

28. Course Hero admits that a user is limited to 4 previews if they access Course Hero's website through their desktop. Course Hero denies any remaining allegations of this paragraph.

29. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

30. Course Hero admits that Exhibit 7 appears to be a document shared via Course Hero's website. The document speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

31. Course Hero admits that Exhibit 8 appears to be a document shared via Course Hero's website. The document speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

32. Course Hero admits that Exhibit 9 appears to be a document shared via Course Hero's website. The document speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

33. Course Hero admits that Exhibit 10 appears to be a document shared via Course Hero's website. The document speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

34. Course Hero admits that Exhibit 11 appears to be a document shared via Course Hero's website. The document speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

35. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

36. Course Hero denies that documents posted to its website and available to site members are “hidden from public view.” Course Hero lacks knowledge or information sufficient to admit or deny the remaining allegations of this paragraph, and on that basis denies them.

37. Denied.

38. Course Hero admits that users can sign up for a Student or an Educator account through its website. Course Hero admits that it does not verify that people who sign up for a Student account are actually students. Course Hero admits that Educator accounts are available to professors, lecturers, and instructors at higher education institutions in the United States, Canada, and Australia. Course Hero admits that educators are verified by Course Hero to acquire an Educator account. Course Hero denies any remaining allegations of this paragraph.

39. Course Hero admits that Educator accounts are free. Course Hero denies any remaining allegations of this paragraph.

40. Course Hero admits that Student account holders can access certain documents uploaded by other users only after unlocking them, on a document-by-document basis. Course Hero admits that members can view previews of such documents before deciding whether to unlock them. Course Hero admits that, for every paid membership option, a user receives 30 Unlocks per month. Course Hero denies any remaining allegations of this paragraph.

41. Course Hero admits that Exhibit 12 appears to be a screenshot of a webpage from Course Hero’s website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

42. Course Hero admits that Exhibit 13 appears to be a screenshot of a webpage from Course Hero's website. The screenshot speaks for itself. Course Hero denies any remaining allegations of this paragraph.

43. Course Hero admits that, for every paid membership option, a user receives 30 Unlocks per month. Course Hero admits that users with certain accounts can purchase additional Unlocks. Course Hero admits that five additional "Unlocks" can be purchased for \$15.00, ten additional "Unlocks" can be purchased for \$25.00, or twenty additional "Unlocks" can be purchased for \$45.00. Course Hero admits that Exhibit 14 appears to be a screenshot from Course Hero's website. The screenshot speaks for itself. Course Hero denies any remaining allegations of this paragraph.

44. Course Hero admits that users can earn Course Hero Unlocks for free by uploading their original study materials and documents to help others learn. Course Hero admits that users receive five Unlocks for every ten successful uploads. Course Hero admits that Exhibit 15 appears to be a screenshot from Course Hero's website. The screenshot speaks for itself. Course Hero denies any remaining allegations of this paragraph.

45. Course Hero admits that Course Hero has an offering called Educator Exchange. Course Hero admits that, to be eligible, individuals must be a current instructor in the United States, Canada, or Australia. Course Hero admits that only users with verified educator accounts are eligible for Educator Exchange. Course Hero admits that Educator Exchange allows users to share materials and resources they have created for students and earn income when paying subscribers unlock them. Course Hero denies any remaining allegations of this paragraph.

46. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

**POST UNIVERSITY LETTERS TO COURSE HERO**

47. Course Hero admits that Exhibit 16 appears to be a letter sent by Post University to Course Hero on January 6, 2021. The letter speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

48. Course Hero admits that Exhibit 17 appears to be a an email sent by Course Hero on January 6, 2021. The email speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

49. Course Hero admits that all documents adequately identified in Exhibit 16 were removed expeditiously by Course Hero. Course Hero admits that Exhibit 18 appears to be an email sent by Course Hero on January 12, 2021. The email speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

50. Course Hero admits that Exhibit 19 appears to be a letter sent by Post University to Course Hero on February 24, 2021. The letter speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

51. Course Hero admits that Exhibit 20 appears to be a an email sent by Course Hero on February 24, 2021. The email speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

52. Course Hero admits that all documents adequately identified in Exhibit 19 were removed expeditiously by Course Hero. Course Hero admits that Exhibit 21 appears to be an email sent by Course Hero on March 3, 2021. The email speaks for itself. On that basis, Course Hero denies any remaining allegations of this paragraph.

**POST UNIVERSITY COPYRIGHTS**

53. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.



54. Course Hero denies that Exhibit 1 is a derivative work of Exhibit 22. Course Hero lacks knowledge or information sufficient to admit or deny the remaining allegations of this paragraph, and on that basis denies them.

55. Course Hero denies that Exhibit 2 is a derivative work of Exhibit 24. Course Hero lacks knowledge or information sufficient to admit or deny the remaining allegations of this paragraph, and on that basis denies them.

56. Course Hero denies that Exhibit 3 is a derivative work of Exhibit 26. Course Hero lacks knowledge or information sufficient to admit or deny the remaining allegations of this paragraph, and on that basis denies them.

57. Course Hero denies that Exhibit 4 is a derivative work of Exhibit 28. Course Hero lacks knowledge or information sufficient to admit or deny the remaining allegations of this paragraph, and on that basis denies them.

58. Course Hero denies that Exhibits 5 and 12 are derivative works of Exhibit 30. Course Hero lacks knowledge or information sufficient to admit or deny the remaining allegations of this paragraph, and on that basis denies them.

**POST UNIVERSITY TRADEMARKS**

59. Denied.

60. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

61. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

62. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

63. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

64. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

65. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

**POST UNIVERSITY IS UNABLE TO POLICE ITS COPYRIGHTED WORKS UNDER THE DIGITAL MILLENNIUM COPYRIGHT ACT (“DMCA”) (17 U.S.C. §512(f))**

66. Denied.

67. Course Hero lacks knowledge or information sufficient to admit or deny the allegation that Post University has attempted to identify all materials which are infringing, and on that basis denies it. Course Hero denies the remaining allegations of this paragraph.

68. Denied.

**COURSE HERO IS NOT ELIGIBLE FOR LIMITATION OF LIABILITY UNDER THE DMCA (17 U.S.C. §512)**

69. Course Hero admits that the DMCA, in 17 U.S.C. § 512(c)(1) states: “A service provider shall not be liable for monetary relief, or, except as provided in subsection (j), for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider . . . .” Course Hero denies any remaining allegations of this paragraph.

70. Denied.

71. Course Hero admits that the DMCA, in 17 U.S.C. § 512(c)(1)(A)(ii) states: “in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or . . . .” Course Hero denies the remaining allegations of this paragraph.

72. Denied.

73. Course Hero admits that Exhibit 38 appears to be a screenshot from Course Hero’s website. The screenshot speaks for itself. On that basis, Course Hero denies any remaining allegations regarding Exhibit 38. Course Hero denies the remaining allegations of this paragraph.

74. Denied.

75. Exhibits 1, 5, 7 and 11 speak for themselves. On that basis, Course Hero denies any allegations regarding Exhibits 1, 5, 7, and 11. Course Hero denies the remaining allegations of this paragraph.

76. Denied.

77. Course Hero admits that the DMCA, in 17 U.S.C. § 512(c)(1)(B) states: “does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and . . .” Course Hero denies the remaining allegations of this paragraph.

78. Course Hero admits that the quoted language appears in The Senate Report of the 105th Congress, 2d Session on the Digital Millennium Copyright Act of 1998 (available at <https://www.congress.gov/105/crpt/srpt190/CRPT-105srpt190.pdf>). Course Hero denies any remaining allegations of this paragraph.

79. Denied.

**COUNT I**  
**DIRECT COPYRIGHT INFRINGEMENT**

80. Course Hero incorporates by references its responses to all allegations set forth in ¶¶ 1-79 as if fully set forth herein.

81. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

87. Course Hero admits that the documents shown in Exhibits 7-11 were uploaded to Course Hero's website by users. Course Hero admits that certain users could not view the entirety of the documents shown in Exhibits 7-11 until the user unlocked the document. Course Hero denies the remaining allegations of this paragraph.

88. Denied.

89. Denied.

90. Denied.

91. Denied.

**COUNT II**  
**CONTRIBUTORY COPYRIGHT INFRINGEMENT**

92. Course Hero incorporates by references its responses to all allegations set forth in ¶¶ 1-91 as if fully set forth herein.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

100. Denied.

101. Denied.

102. Denied.

103. Denied.

**COUNT III**  
**VICARIOUS COPYRIGHT INFRINGEMENT**

104. Course Hero incorporates by references its responses to all allegations set forth in ¶¶ 1-103 as if fully set forth herein.

105. Denied.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Course Hero admits that certain users cannot view certain types of the documents uploaded by other users until the user unlocks the document. Course Hero denies the remaining allegations of this paragraph.

111. Denied.

112. Denied.

113. Denied.

114. Denied.

115. Denied.

**COUNT IV**  
**VIOLATION OF THE DMCA – 17 USC § 1202(b)**

116. Course Hero incorporates by references its responses to all allegations set forth in ¶¶ 1-115 as if fully set forth herein.

117. Course Hero admits that the DMCA, in 17 U.S.C. § 1202(b), states: “No person shall, without the authority of the copyright owner or the law—(1) intentionally remove or alter any copyright management information, (2) distribute or import for distribution copyright management information knowing that the copyright management information has been removed or altered without authority of the copyright owner or the law, or (3) distribute, import for distribution, or publicly perform works, copies of works, or phonorecords, knowing that copyright management information has been removed or altered without authority of the copyright owner or the law, knowing, or, with respect to civil remedies under section 1203, having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right under this title.” Course Hero denies any remaining allegations of this paragraph.

118. Course Hero admits that copyright management includes the information listed in 17 U.S.C. § 1202(c). Course Hero denies any remaining allegations of this paragraph.

119. Denied.

120. Course Hero admits that the quoted language appears in Exhibit 24. Course Hero lacks information or knowledge sufficient to admit or deny the allegation that Post University routinely places a Copyright Statement on certain content, and on that basis denies the allegation. Course Hero denies any remaining allegations of this paragraph.

121. Course Hero admits that the screenshot appears to be a portion of Exhibit 2. Exhibit 2 speaks for itself. On that basis, Course Hero denies the remaining allegations of this paragraph.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

**COUNT V**  
**TRADEMARK INFRINGEMENT**

126. Course Hero incorporates by references its responses to all allegations set forth in ¶¶ 1-125 as if fully set forth herein.

127. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

128. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

129. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

130. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of the first sentence of this paragraph, and on that basis denies them. Course Hero denies the allegations of the second sentence of this paragraph.

131. Denied.

132. Denied.

133. Denied.

134. Denied.

**COUNT VI**

**FALSE DESIGNATION OF ORIGIN - 15 U.S.C. § 1125**

135. Course Hero incorporates by references its responses to all allegations set forth in

¶¶ 1-134 as if fully set forth herein.

136. Denied.

137. Denied.

138. Denied.

139. Denied.

140. Denied.

**COUNT VII**

**VIOLATION OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT**

141. Course Hero incorporates by references its responses to all allegations set forth in

¶¶ 1-140 as if fully set forth herein.

142. Course Hero admits that CUTPA, Conn. Gen. State. § 41-110b states, “No person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.” Course Hero denies any remaining allegations of this paragraph.

143. Denied.

144. Denied.

145. Denied.

146. Course Hero admits that its website states: “We rely on copyright holders and our users to flag any alleged copyright infringement so that we may promptly investigate the incident, protect copyrighted work, and ensure compliance with the DMCA.” Course Hero denies the remaining allegations of this paragraph.



147. Course Hero admits that users who access Course Hero’s website from their desktops are limited to four previews. Course Hero denies any remaining allegations of this paragraph.

148. Denied.

149. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

150. Denied.

151. Denied.

152. Denied.

153. Denied.

154. Denied.

155. Denied.

156. Denied.

157. Denied.

158. Course Hero lacks knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

**COUNT VIII**  
**UNJUST ENRICHMENT**

159. Course Hero incorporates by references its responses to all allegations set forth in ¶¶ 1-158 as if fully set forth herein.

160. Denied.

161. Course Hero denies that it is disseminating Post University’s course information, course materials, tests and answers. Course Hero lacks knowledge or information sufficient to admit or deny the remaining allegations of this paragraph, and on that basis denies them.

162. Course Hero admits that it has not paid Post. Course Hero denies the remaining allegations of this paragraph.

163. Denied.

164. Denied.

165. Denied.

**COUNT IX**  
**UNJUST ENRICHMENT**

166. Course Hero incorporates by references its responses to all allegations set forth in ¶¶ 1-165 as if fully set forth herein.

167. Denied.

168. Denied.

169. Denied.

170. Denied.

**Jury Demand**

With respect to the jury demand contained in Plaintiff's Complaint, Course Hero states that no response is required. To the extent a response is deemed required, Course Hero denies that all of Post's claims are properly triable to a jury.

**Prayer for Relief**

With respect to the prayer for relief contained in Plaintiff's Complaint, Course Hero states that no response is required. To the extent a response is deemed required, Course Hero denies that Plaintiff is entitled to any of the relief requested and denies any factual allegations therein.

**AFFIRMATIVE DEFENSES**

**First Affirmative Defense**

***(Failure to State a Cause of Action)***

The Complaint fails to state a claim on which relief can be granted.

**Second Affirmative Defense**

***(Safe Harbor)***

Plaintiff's claims are barred in whole or in part by one or more of the DMCA's safe harbor provisions as embodied in 17 U.S.C. § 512. Course Hero has no actual knowledge that material or activity on its system or network is infringing, and is not aware of facts or circumstances from which infringing activity is apparent. Course Hero complies with the DMCA by expeditiously removing and/or disabling access to content identified by a DMCA-compliant notice and re-enabling that content, if at all, only after receiving a valid DMCA-compliant counter-notification, as required by federal law. Course Hero also reasonably implements a policy that provides for the termination in appropriate circumstances of repeat infringers.

**Third Affirmative Defense**

***(First Amendment and/or Fair Use)***

To the extent there was any use of Plaintiff's copyrighted or trademarked materials, such use is protected by the First Amendment of the United States Constitution and/or the Fair Use Doctrine.

**Fourth Affirmative Defense**

***(License)***

Plaintiff's claims fail in whole or in part because the complained-of use was validly licensed by express or implied license.

**Fifth Affirmative Defense**

***(Waiver, Abandonment, and/or Forfeiture)***

Plaintiff's claims are barred in whole or in part by the doctrines of waiver, abandonment, and/or forfeiture.

**Sixth Affirmative Defense**

***(Laches)***

Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

**Seventh Affirmative Defense**

***(Estoppel)***

Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.

**Eighth Affirmative Defense**

***(No Willfulness)***

Plaintiff's claims fail in whole or in part because Course Hero's conduct was innocent, not willful.

**Ninth Affirmative Defense**

***(Statutes of Limitations)***

Plaintiff's remedies are barred at least in part by the applicable statutes of limitations.

**Tenth Affirmative Defense**

***(Failure to Mitigate)***

Plaintiff is barred from recovery of damages because of and to the extent of its failure to mitigate its alleged damages (to which, in any event, it is not entitled).

**Eleventh Affirmative Defense**

***(Preemption)***

Plaintiff's claims, in whole or in part, are preempted by federal copyright law.

**PRAYER FOR RELIEF**

WHEREFORE, Course Hero respectfully prays that the Court:

1. Deny Plaintiff's prayer for relief in its entirety;
2. Dismiss the Complaint with prejudice and enter judgment in favor of Course Hero;
3. Award Course Hero its attorneys' fees and costs incurred in this action, and any other amounts recoverable under law; and
4. Award Course Hero such other and further relief as the Court deems just and equitable.

DEFENDANT,  
COURSE HERO, INC.,

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