

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

GINA WEISBLAT,)	CASE NO. 1:22-CV-02064-JPC
)	
Plaintiff,)	Judge J. Philip Calabrese
)	
V.)	
)	ANSWER TO COMPLAINT
JOHN CARROLL UNIVERSITY,)	
)	(Jury Demand Endorsed Hereon)
Defendant.)	

Defendant John Carroll University (“JCU”) answers Plaintiff Gina Weisblat’s (“Weisblat”) Complaint for copyright infringement (ECF No. 2) as follows:

1. Paragraph 1 of the Complaint contains allegations for which no response is required. To the extent a response is required, JCU denies them as untrue.

2. JCU is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2 of the Complaint and therefore denies same.

3. JCU admits the allegation in Paragraph 3 of the Complaint that it is an Ohio non-profit corporation residing and conducting operations in Cuyahoga County, Ohio. JCU denies the remaining allegations contained in Paragraph 3 of the Complaint.

4. The allegations contained in Paragraph 4 of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, JCU denies the allegations contained in Paragraph 4 of the Complaint.

5. The allegations contained in Paragraph 5 of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, JCU states that it does not contest subject matter jurisdiction.

6. The allegations contained in Paragraph 6 of the Complaint set forth legal

conclusions for which no response is required. To the extent a response is required, JCU admits it has a physical presence in the State of Ohio and operates in the State of Ohio.

7. The allegations contained in Paragraph 7 of the Complaint set forth legal conclusions for which no response is required. To the extent a response is required, JCU admits that it resides in Cuyahoga County.

8. JCU incorporates each and every answer above as if fully re-written herein.

9. JCU is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint and therefore denies same.

10. JCU denies the allegation in Paragraph 10 of the Complaint that Weisblat has been a “faculty member” at JCU. JCU is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 10 of the Complaint and therefore denies same.

11. JCU is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint and therefore denies same.

12. JCU is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint and therefore denies same.

13. JCU is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint and therefore denies same.

14. JCU denies that Plaintiff was “employed” by JCU, and is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 14 of the Complaint and therefore denies same.

15. JCU admits that it has previously hosted an AmeriCorps program. JCU is without sufficient knowledge or information as to the truth of the remaining allegations contained in

Paragraph 15 of the Complaint and therefore denies same.

16. JCU admits the allegation in Paragraph 16 of the Complaint that Weisblat attaches what she purports to be a true and accurate copy of the copyright registration certificate for Reg. No. TXu002317331 as Exhibit A to the Complaint. JCU is without sufficient knowledge or information as to the truth of the remaining allegations contained in Paragraph 16 of the Complaint and therefore denies same.

17. JCU admits the allegation in Paragraph 17 of the Complaint that Exhibit A to the Complaint reflects a registration date of May 13, 2022. JCU is without sufficient knowledge or information as to the truth of the remaining allegations contained in Paragraph 17 of the Complaint and therefore denies same.

18. JCU is without sufficient knowledge or information as to the truth of the allegations contained in Paragraph 18 of the Complaint and therefore denies same.

19. All allegations in the Complaint are denied except for those expressly admitted above. To the extent that the headings or any other non-numbered statements contain any allegations, JCU denies each and every such allegation.

20. JCU incorporates each and every answer above as if fully re-written herein.

21. JCU denies the allegations set forth in Paragraph 20 of the Complaint.

22. JCU is without sufficient knowledge or information as to the truth of the allegations contained in Paragraph 21 of the Complaint and therefore denies same.

23. JCU denies the allegations set forth in Paragraph 22 of the Complaint.

24. JCU denies the allegations set forth in Paragraph 23 of the Complaint.

25. JCU admits the allegation in Paragraph 24 of the Complaint that Weisblat attaches what she purports to be an “Individualized Goal Plan” as Exhibit C to the Complaint. JCU denies

the remaining allegations set forth in Paragraph 24 of the Complaint.

26. JCU admits the allegation in Paragraph 25 of the Complaint that Weisblat has attached Exhibit D to the Complaint. JCU denies the remaining allegations set forth in Paragraph 25 of the Complaint.

27. JCU denies the allegations set forth in Paragraph 26 of the Complaint.

28. JCU denies the allegations set forth in Paragraph 27 of the Complaint.

29. JCU denies the allegations set forth in Paragraph 28 of the Complaint.

30. JCU denies the allegations set forth in Paragraph 29 of the Complaint.

31. JCU denies the allegations set forth in Paragraph 30 of the Complaint.

32. JCU denies the allegations set forth in Paragraph 31 of the Complaint.

33. JCU denies the allegations set forth in Paragraph 32 of the Complaint.

34. JCU denies that Weisblat is entitled to the relief sought in the Complaint.

AFFIRMATIVE DEFENSES

1. Weisblat fails to state a claim upon which relief may be granted.

2. Weisblat's claim is barred in whole or in part under the doctrines of estoppel, acquiescence, and/or waiver based upon Weisblat's submission of the Copyrighted Work as part of JCU's application for federal funding.

3. Weisblat's claim is barred in whole or in part on the grounds that JCU holds an express or implied license to the Copyrighted Work.

4. Weisblat's claim is barred in whole or in part because she is not the author of the Copyrighted Work and lacks standing. Weisblat is not the creator or owner of the Copyrighted Work.

5. Weisblat's claim is barred in whole or in part because the Copyrighted Work is not

an original creative work and therefore is not copyrightable.

6. Weisblat's claim of infringement fails under the doctrine of fair use.

7. Weisblat's claim of infringement fails under the work for hire doctrine.

8. Weisblat's damages, if any, are limited to actual damages, as she did not obtain a copyright registration until May 13, 2022, and JCU has not used the Copyrighted Work or any derivatives thereof since approximately May 2020. Further, Weisblat has not alleged infringement occurred after the date of registration.

9. Weisblat's claims are barred by applicable statutes of limitation.

WHEREFORE, Defendant John Carroll University respectfully requests that the Court enter a judgment in its favor:

- a. dismissing the Complaint with prejudice;
- b. awarding JCU its costs and attorney's fees under the Copyright Act or as may otherwise be allowed at law or in equity; and
- c. granting JCU such other relief as the Court deems appropriate.

JURY DEMAND

Pursuant to Rule 38(b) of the Fed. R. Civ. P., Defendant John Carroll University requests a trial by jury of all issues so triable in this action.

Dated: February 26, 2023

Respectfully submitted,

/s/ Philip R. Bautista

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CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2023, the foregoing 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/ Rachel A. Smoot

Rachel A. Smoot (0092296)

*Attorney for Defendant,
John Carroll University*

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