

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FREEPLAY MUSIC, LLC,

Plaintiff,

-against-

ST. FRANCIS UNIVERSITY,

Defendant.

Civil Action No.: 25-cv-06076

**SAINT FRANCIS UNIVERSITY’S ANSWER TO THE COMPLAINT AND  
AFFIRMATIVE DEFENSES**

Defendant St. Francis University (“SFU” or “Defendant”), through its undersigned attorneys, Freeman Mathis & Gary, LLP, hereby answers and responds, upon information and belief, to the allegations of the Complaint filed by Plaintiff Freeplay Music, LLC (“Freeplay” or “Plaintiff”) and asserts its affirmative defenses as follows:

**NATURE OF THE ACTION**

1. Admitted in part, denied in part. SFU admits that Freeplay purports to seek remedies against SFU. The remaining allegations in Paragraph 1 are denied. SFU specifically denies that Freeplay is entitled to any remedies.

**PARTIES**

2. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 2.

3. Admitted.

**JURISDICTION & VENUE**

4. Admitted in part, denied in part. SFU admits that the Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1338 because a federal question exists under the

Copyright Act, and the federal courts have exclusive jurisdiction . The remaining allegations in Paragraph 4 are denied.

5. Denied.

6. Denied.

7. Admitted in part, denied in part. SFU admits that the Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) and that Freeplay seeks to recover more than \$75,000, exclusive of interest and costs, and is between citizens of different states.

The remaining allegations in Paragraph 7 are denied.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied. Freeplay has not asserted any claims over which this Court could exercise supplemental jurisdiction.

17. Denied.

**FPM AND ITS BUSINESS**

18. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 18.

19. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 19.

20. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 20.

21. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 21.

**DEFENDANT ST. FRANCIS UNIVERSITY**

22. Admitted in part, denied in part. SFU admits that it is a private university and that its main campus is in Loretto, Pennsylvania. The remaining allegations in Paragraph 22 are denied.

23. Denied.

24. Denied.

25. Denied.

**THE FPM COPYRIGHTS AT ISSUE AND DEFENDANT'S ALLEGED  
UNAUTHORIZED EXPLOITATION**

26(a-dd). Admitted in part, denied in part. SFU admits that owns registered copyrights and that it purports to own the material listed in Paragraph a-dd. The remaining allegations are denied for lack of sufficient information to form a belief in the truth of them.

27. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 27.

28. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 27.

29. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 29.

30. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 30 and a-dd.

31. Denied.

32. Denied.

33. Denied.

34. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 34.

**COUNT 1**  
**DIRECT COPYRIGHT INFRINGEMENT**  
**(Against Defendant St. Francis University)**

35. This paragraph is an incorporation paragraph to which no response is required. To the extent a response is required, the same is denied.

36. Denied.

37. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 37.

38. Denied. SFU lacks sufficient information to justify a belief in the truth of the allegations in Paragraph 38.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

### **PRAYER FOR RELIEF**

**WHEREFORE**, SFU requests that Plaintiff be denied any and all relief requested in her Complaint. SFU respectfully requests that the claims alleged in the Complaint be dismissed in their entirety with prejudice, and that it be awarded costs of defense, including reasonable attorneys' fees. SFU denies the allegations seeking relief and specifically denies that Plaintiff is entitled to the relief requested, or any relief, whatsoever. By way of further answer, to the extent that SFU is deemed to have not answered each and every factual allegation in the foregoing paragraphs of Plaintiff's Complaint, Defendant SFU specifically denies any allegations that are deemed to be unanswered.

### **AFFIRMATIVE AND ADDITIONAL DEFENSES**

Without assuming the burden of proof on any such defenses which would otherwise rest on Plaintiff, and with the reservation of its rights to amend or supplement its responses, Defendant asserts the following as defenses to Plaintiff's Complaint:

**FIRST DEFENSE  
(Personal Jurisdiction)**

The Court lacks personal jurisdiction over SFU, which is not “at home” in New York, so the Court lacks general jurisdiction. SFU has not directed any activities specifically to New York that could be considered sufficient to exercise specific jurisdiction.

**SECOND DEFENSE  
(Venue and Forum Nonconveniens)**

This Court is an improper venue because SFU does not reside in the district for this Court and because the events alleged in the Complaint arising from SFU’s activities did not take place in the district for this Court. Alternatively, this Court is sufficiently inconvenient under the doctrine of forum nonconveniens so that it should be transferred to the U.S. District Court for the District of the Western Pennsylvania.

**THIRD DEFENSE  
(Failure to State a Claim)**

Plaintiff fails to state a claim against SFU upon which relief can be granted because Plaintiff cannot establish a violation of the statutes giving rise to Plaintiff’s alleged causes of action.

**FOURTH DEFENSE  
(Statute of Limitations)**

Plaintiff’s claims are barred by the statute of limitations under 17 U.S.C. § 507(b), as the alleged infringement occurred more than three years before the filing of the action, and Plaintiff has failed to timely pursue its claims that it knew or should have known existed.

**FIFTH DEFENSE  
(Laches and Abandonment)**

Plaintiff unreasonably delayed in asserting its copyright claims despite knowledge or constructive knowledge of the alleged infringement, thereby causing material prejudice to

Defendant through the loss of evidence, unavailability of witnesses or other detrimental reliance, as such the doctrine of laches should apply to limit Plaintiff's claim. The delay also constitutes abandonment.

**SIXTH DEFENSE  
(Fair Use)**

Defendant's use of the copyrighted material falls squarely within the provisions of 17 U.S.C. § 107, governing fair use, as the purpose of the use was not commercial, Defendant transformed the nature of the work, and Defendant's use does not affect the potential value of the work.

**SEVENTH DEFENSE  
(Lack Of Copyright Protection and Misuse)**

The alleged infringing material is not eligible for copyright protection because it lacks the requirements to be copyrightable, it was not registered for copyright protection at the time Plaintiff alleges infringement, at least some of the copyright registrations in ECF No. 1-1 do not extend to the material used, and the alleged material was placed in the public domain. Alternatively, Plaintiff misused the exclusivity of the copyright protection to control areas beyond the alleged copyright protection.

**EIGHTH DEFENSE  
(De minimis)**

Defendant's alleged use of the material was *de minimis*, involving an insubstantial portion of the work that does not constitute actionable infringement under copyright law.

**NINTH DEFENSE  
(Estoppel)**

Defendant asserts the defense of estoppel, as Plaintiff's conduct, representations, and/or acquiescence led Defendant to reasonably believe that the use of the copyrighted material was permitted, and Defendant detrimentally relied on such conduct.

**TENTH DEFENSE  
(Lack of Knowledge)**

Alternatively, and were the Court to find unlawful infringement—which is denied, Defendant lacked knowledge that the material it used was copyrighted or owned by anyone. Defendant qualifies as an innocent infringer.

Answering Defendant reserves the right to raise all other defenses that may become evident during discovery and during any other proceeding in this action. Answering Defendant further reserves the right to amend its Answer or otherwise plead in response to Plaintiff’s Complaint, and to file such other Motions as it may deem admissible in defense of the case or as warranted by information revealed during discovery.

**WHEREFORE** Answering Defendant request that Plaintiff be denied any and all relief requested in his Complaint. Answering Defendant respectfully requests that the claims alleged in the Complaint be dismissed in their entirety with prejudice, and that it be awarded costs of defense, including reasonable attorneys’ fees.

DATED: September 22, 2025

Respectfully submitted,

**FREEMAN MATHIS & GARY, LLP**

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*Attorneys for Defendant,  
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**CERTIFICATE OF SERVICE**

I, Justin J. Boron, hereby certify that on this 22<sup>nd</sup> day of September 2025, I caused the foregoing Answer to Plaintiff's Complaint And Affirmative Defenses to be served by electronic service through the Court's CM/ECF service and/or email, to the following:

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