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9 RITTERSBACHER SUNSET, LLC

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

26 NEW TRADITION MEDIA, LLC, a
27 New York Limited liability company

28 Case No. 2:22-cv-08670-SVW-AS

1 Plaintiffs,

2 vs.

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1 DEFENDANT RITTERSBACHER
2 SUNSET, LLC'S ANSWER TO
3 COMPLAINT

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1 DEFENDANT RITTERSBACHER
2 SUNSET, LLC'S ANSWER TO
3 COMPLAINT

10 RITTERSBACHER SUNSET, LLC, a
11 California limited liability company; and
12 DOES 1 to 10, inclusive;

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15 Defendants.

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Defendant Rittersbacher Sunset LLC (hereinafter "Rittersbacher" or
"Defendant"), severing itself from the other defendants and for itself alone, in answer to
Complaint filed by New Tradition Media, LLC (hereinafter "New Tradition" or
"Plaintiff") answers, alleges and pleads as follows:

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1. In response to Paragraph 1, Defendant admits that Plaintiff has filed the
instant action and titled it as one for declaratory judgment and injunctive relief
confirming the scope of rights to a copyright, and with that exception denies each and
every allegation set forth therein.

ANSWER TO COMPLAINT

1 2. In response to Paragraph 2, Defendant admits that Plaintiff has requested a
2 declaratory judgment and with that exception denies each and every allegation set forth
3 therein.

4 3. In response to Paragraph 3, Defendant lacks sufficient information or belief
5 to respond to the allegations set forth therein and on that basis denies each and every
6 allegation set forth therein.,

7 4. In response to Paragraph 4, Defendant admits that it is a limited liability
8 company, registered in the State of California, with its principal place of business in
9 Springfield, Oregon; that it owns the Subject Real Property; and that it initiated an
10 unlawful detainer action (Los Angeles Superior Court Case No. 22SMUD00094). With
11 those exceptions, Defendant denies each and every allegation set forth therein.

12 5. In response to Paragraph 5, Defendant lacks sufficient information or belief
13 to respond to the allegations set forth therein and on that basis denies each and every
14 allegation set forth therein.

15 6. In response to Paragraph 6, Defendant lacks sufficient information or belief
16 to respond to the allegations set forth therein and on that basis denies each and every
17 allegation set forth therein.

18 7. In response to Paragraph 7, Defendant denies each and every allegation set
19 forth therein.

20 8. In response to Paragraph 8, on the basis that this court lacks subject matter
21 jurisdiction, Defendant denies each and every allegation set forth therein.

22 9. In response to Paragraph 9, on the basis that this court lacks subject matter
23 jurisdiction, Defendant denies each and every allegation set forth therein.

24 10. In response to Paragraph 10, Defendant lacks sufficient information or
25 belief to respond to the allegations set forth therein and on that basis denies each and
26 every allegation set forth therein.

1 11. In response to Paragraph 11, Defendant denies each and every allegation
2 set forth therein.

3 12. In response to Paragraph 12, Defendant lacks sufficient information or
4 belief to enable it to answer the allegations set forth therein and on that basis denies each
5 and every allegation set forth therein.

6 13. In response to Paragraph 13, Defendant denies each and every allegation
7 set forth therein.

8 14. In response to Paragraph 14, Defendant denies each and every allegation
9 set forth therein.

10 15. In response to Paragraph 15, to the extent that the allegations set forth
11 conclusions of law, no response is necessary. In all other respects, Defendant denies
12 each and every allegation set forth therein.

13 16. In response to Paragraph 16, Defendant denies each and every allegation
14 set forth therein.

15 17. In response to Paragraph 17, Defendant denies each and every allegation
16 set forth therein.

18 18. In response to Paragraph 18, Defendant denies each and every allegation
19 set forth therein.

20 19. In response to Paragraph 19, Defendant denies each and every allegation
21 set forth therein.

22 20. In response to Paragraph 20, without acknowledging the legitimacy of the
23 alleged copyright, Defendant denies each and every allegation set forth therein.

24 21. In response to Paragraph 21, Defendant does not have any understanding or
25 belief as to what Plaintiff refers to as “listing the Subject Real Property for sale” and is
26 unable to answer that allegation and denies it on that basis. With that exception,
27 Defendant denies each and every allegation set forth therein.

1 22. In response to Paragraph 22, Defendant denies each and every allegation
2 set forth therein.

3 23. In response to Paragraph 23, Defendant denies each and every allegation
4 set forth therein.

5 24. In response to Paragraph 24, without acknowledging the legitimacy of the
6 alleged copyright, Defendant denies each and every allegation set forth therein.

7 25. In response to Paragraph 25, without acknowledging the legitimacy of the
8 alleged copyright, Defendant denies each and every allegation set forth therein.

9 26. In response to Paragraph 26, without acknowledging the legitimacy of the
10 alleged copyright, Defendant denies each and every allegation set forth therein.

11 27. In response to Paragraph 27, without acknowledging the legitimacy of the
12 alleged copyright, Defendant denies each and every allegation set forth therein.

13 28. In response to Paragraph 28, without acknowledging the legitimacy of the
14 alleged copyright, Defendant admits that its counsel received a letter from counsel for
15 Plaintiff dated November 16, 2022, and with that exception denies each and every
16 allegation set forth therein.

17 29. In response to Paragraph 29, without acknowledging the legitimacy of the
18 alleged copyright, Defendant denies each and every allegation set forth therein.

20 30. In response to Paragraph 30, without acknowledging the legitimacy of the
21 alleged copyright, Defendant denies each and every allegation set forth therein.

22 31. In response to Paragraph 31, without acknowledging the legitimacy of the
23 alleged copyright, Defendant denies each and every allegation set forth therein.

24 32. In response to Paragraph 32, without acknowledging the legitimacy of the
25 alleged copyright, Defendant denies each and every allegation set forth therein.

26 33. In response to Paragraph 33, Defendant incorporates its responses to
27 paragraphs 1 though 32 herein as though set forth in full.

1 34. In response to Paragraph 34, without acknowledging the legitimacy of the
2 alleged copyright, Defendant denies each and every allegation set forth therein.

3 35. In response to Paragraph 35, without acknowledging the legitimacy of the
4 alleged copyright, Defendant denies each and every allegation set forth therein.

5 36. In response to Paragraph 36, to the extent that it asserts what Plaintiff
6 contends, no response is necessary and with that exception Defendant denies each and
7 every allegation set forth therein.

8 37. In response to Paragraph 37, to the extent that it asserts what Plaintiff
9 contends, no response is necessary and with that exception Defendant denies each and
10 every allegation set forth therein.

11 38. In response to Paragraph 38, to the extent that it asserts what Plaintiff
12 contends, no response is necessary and with that exception Defendant denies each and
13 every allegation set forth therein.

14 39. In response to Paragraph 39, without acknowledging the legitimacy of the
15 alleged copyright, Defendant denies each and every allegation set forth therein and
16 affirmatively denies that Plaintiff is entitled to the relief requested or any relief.

17 40. In response to Paragraph 40, Defendant incorporates its responses to
18 paragraphs 1 though 40 herein as though set forth in full.

19 41. In response to Paragraph 41, Defendant incorporates its responses to
20 paragraphs 1 though 40 herein as though set forth in full.

21 42. In response to Paragraph 42, without acknowledging the legitimacy of the
22 alleged copyright, Defendant denies each and every allegation set forth therein and
23 affirmatively denies that Plaintiff is entitled to the relief requested or any relief.

24 43. In response to Paragraph 43, without acknowledging the legitimacy of the
25 alleged copyright, Defendant denies each and every allegation set forth therein and
26 affirmatively denies that Plaintiff is entitled to the relief requested or any relief.

1 44. In response to Paragraph 44, without acknowledging the legitimacy of the
2 alleged copyright, Defendant denies each and every allegation set forth therein and
3 affirmatively denies that Plaintiff is entitled to the relief requested or any relief.

4 45. In response to Paragraph 45, without acknowledging the legitimacy of the
5 alleged copyright, Defendant denies each and every allegation set forth therein and
6 affirmatively denies that Plaintiff is entitled to the relief requested or any relief.

7 DEFENSES

8 46. Defendant asserts the following affirmative defenses to the Complaint. By
9 designating the following defenses as affirmative, Defendant does not concede that it
10 bears the burden of proof with respect to any such defense and does not intend to alter
11 the burden of proof on such matters to the extent the burden rests on Plaintiff. Further,
12 Defendant does not concede that any of the claims asserted in the Complaint have merit.
13

14 47. Rittersbacher is the owner of the real property located at 8300 West Sunset
15 Boulevard, West Hollywood, California 90069 (“Subject Property”). The Subject
16 Property is located in the heart of the Sunset Strip and was the site of the Standard
17 Hollywood Hotel until its closure in January 2021.

18 48. Rittersbacher previously leased the Subject Property to Golden Crest, Inc.
19 (“GCI”) pursuant to a written ground lease, dated July 9, 1959 (“Ground Lease”), who
20 in-turn subleased the commercial structure thereon to Ferrado Hollywood, LLC
21 (“Ferrado”). Ferrado operated the Hotel at all relevant times through its affiliate,
22 HotelCrafters Hollywood, LLC.

23 49. The Ground Lease provided that any sublease of the Subject Property
24 required Rittersbacher’s consent. Despite this, GCI purportedly subleased a small pad
25 on the northwest corner of the Subject Property to Melven Genser Outdoor Advertising,
26 Inc. (“Genser”) pursuant to that certain Billboard Lease (without Rittersbacher’s
27 knowledge), where Genser operated an existing billboard structure until it sold its rights
28 in the Billboard Lease to Outdoor Specialists, LLC. Outdoor was later dissolved and

1 Osik Media, LLC (“Osik”) claims that it is its successor in interest. Defendant is
2 informed and believes and based upon such information and belief alleges that Osik
3 engaged the services of New Tradition Media to manage the placement of
4 advertisements upon the Billboard.

5 50. The Billboard Lease according to its terms was to expire in 2021.

6 51. On September 12, 2019, GCI and Osik entered into that certain Amendment
7 to Billboard Lease (“Amendment”) purporting to extend the term of to 2027, again
8 without the approval or consent of Defendant. However, the Amendment provided that:

9 *Lessee [Osik] acknowledges that Lessor's [GCI's] rights in the
10 Property are derived through a ground lease under which Lessor
11 is the ground lessee. Lessee acknowledges and agrees that if
12 for any reason the ground lease is terminated, neither Lessor
13 nor any of Lessor's officers, directors, shareholders, employees,
14 agents, contractors or representative shall have any liability to
15 Lessee and all rights of Lessee under the Lease shall
automatically terminate and be of no further force or effect
contemporaneous with termination of said ground lease.*

16 52. The Amendment is unequivocal that GCI does not own the Subject
17 Property. Osik’s principal understood that paragraph to mean that the Billboard Lease
18 would end at the same time as the Ground Lease.

19 53. In or around April 2019, the City of West Hollywood began a program to
20 facilitate the installation of digital signage on the Sunset Strip. As a prerequisite to
21 issuance of the permits that would be necessary to build and operate a digital sign, the
22 City required application for permission to do so. Such approval was referred to in the
23 program as a “Concept Award.” If an application received a Concept Award it would be
24 permitted to file an application for a permit to install and maintain a digital display sign
25 upon their property located on the Sunset Strip.

26 54. Osik and its now admitted partner, New Tradition Media, submitted an
27 application for a Concept Award, on or about November 4, 2019. Included in the
28 materials submitted to the City of West Hollywood was a 2-D depiction of a proposed

1 sign concept which Plaintiff now claims are subject to a copyright owned by Plaintiff,
2 Osik and their architect. In the materials submitted to the City of West Hollywood no
3 reference to any copyright protection was included or asserted. The application was
4 submitted without Rittersbacher's knowledge or consent. And, in doing so, the
5 application falsely stated in the owner of the Subject Property was: "The Standard Hotel:
6 8300 West Sunset Boulevard, Hollywood [sic] California [sic] 90069." And that it
7 had the owner's permission to file the application. This false statement was made under
8 penalty of perjury.

9 55. Awards and permits for use of real property in the City of West Hollywood
10 issued under the City's program are not issued to sign operators. Instead, they constitute
11 entitlements running with the land, and are issued to the real property where the use will
12 be exercised and its owners. In line with this, when a prospective operator does not own
13 the property upon which they intend to install a digital sign, the City of West Hollywood
14 requires that the application be signed by the property owner and an affirmation that
15 consent and approval has been given to the applicant to submit the application.

16 56. When the City of West Hollywood learned of the misrepresentation, they
17 ceased dealing with Osik and New Tradition Media and contacted Defendant
18 Rittersbacher and informed it that it and not Osik or New Tradition was recognized by
19 the City of West Hollywood as holder of all rights pertaining to the installation of a
20 digital display sign at the Subject Property.

21 57. On September 3, 2021, GCI and Ferrado surrendered the Subject Property
22 and terminated the Master Lease. Immediately thereafter, Defendant undertook efforts
23 to sell the Subject Property. Despite the language of the Amendment and despite
24 assurances that it would surrender the premises, Osik refused to do so. Defendant
25 Rittersbacher is informed and believes and thereupon alleges that Plaintiff New
26 Tradition orchestrated Osik's change in position. Instead of vacating the Subject
27 Property they sought to extract financial and legal concessions to which they were not

1 entitled. Ultimately an unlawful detainer action was required to obtain a judgment for
2 possession, which was granted on October 13, 2022 and entered on the court's docket
3 on November 18, 2022 in the Los Angeles Superior Court in case No. 22SMUD00094
4 ("Unlawful Detainer").

5 58. In April 2022, Defendant Rittersbacher entered into a purchase and sale
6 agreement for the sale of the Subject Property. After that time Plaintiff New Tradition
7 and Osik continued their efforts to extract a financial settlement, as well as an agreement
8 to enter into a new lease for a billboard at the Subject Property. As part of their coercive
9 efforts, New Tradition and Osik claimed that they have and had the right to a portion of
10 the sales price for the Subject Property that they attribute to the Concept Award. They
11 maintain their claims despite the fact that the Concept Award does not represent the right
12 to actually build or install anything. No approval has been given by the City to permit
13 a digital display sign and no building permits have been issued. New Tradition and Osik
14 have attempted to use these claims to interfere with the pending sale of the Subject
15 Property to third parties and have in fact interfered with the closing of the purchase and
16 sale transaction.

17 59. As a result of their interference, New Tradition and Osik have delayed the
18 closing of the transaction and caused financial harm to Defendant Rittersbacher.
19 Defendant Rittersbacher filed suit on June 3, 2022, in the Los Angeles Superior Court in
20 the action entitled Rittersbacher Sunset LLC vs. Osik Media, LLC, bearing Case Number
21 22SMCV ("State Action"). In response, Plaintiff's partner, Osik, filed a cross-complaint
22 asserting that it was entitled to compensation for the "regulatory jackpot" it hit with the
23 Concept Award and specifically referenced the Copyright Materials in its cross-
24 complaint and demanded compensation of \$20,000,000, thus continuing in the scheme
25 of New Tradition and Osik to obtain monies from Defendant Rittersbacher that they were
26 not entitled to. A true and correct copy of the Cross-complaint is attached hereto as
27 Exhibit A. During the pendency of that action, on October 19, 2022, Defendant's

1 intention of naming New Tradition as a defendant were disclosed. On December 15,
2 2022, Plaintiff New Tradition was named as a defendant in that action.

3 60. On November 16, 2022, counsel for Plaintiff submitted a letter advising
4 counsel for Defendant Rittersbacher that a copyright registration had been issued by the
5 United States Copyright Office. A true and correct copy of said letter is attached hereto
6 as Exhibit B, and incorporated herein by reference as though set forth in full. The letter
7 does not identify when the application was submitted to the Copyright Office and it does
8 not identify when the copyright registration was issued. A review of the registration
9 revealed that the application was first submitted to the Copyright Office on July 11,
10 2022, (which was one month after Defendant Rittersbacher filed an action for unlawful
11 detainer to remove Osik from the Subject Premises) and that the registration was issued
12 on November 2, 2022, just two weeks before sending the November 16, 2022, letter.
13

14 61. The registration was solely for a 2-D representation of a billboard that was
15 submitted to the City of West Hollywood as part of Plaintiff's and Osik's application for
16 a Concept Award. It did not purport to include any rights to construct or restrict the
17 construction of any billboard at the Subject Property.

18 62. In response to Exhibit B, counsel Plaintiff submitted a letter on November
19 28, 2022, setting forth that Defendant Rittersbacher never intended to make use of the
20 Copyright Material, regardless of any copyrights asserted by Plaintiff and that there was
21 no intent to do so in the future. A true and correct copy of said letter is attached hereto
22 as Exhibit C. That letter unequivocally states that Defendant Rittersbacher never stated
23 or represented that it could or would transfer any of the Copyright Material to any person
24 and that it did not intend to do so in the future. Counsel for Defendant Rittersbacher
25 went on to advise Plaintiff's counsel that the depictions in the Copyright Materials could
26 not be used and were useless. In particular, the contents of the Copyright Material
27 depicted a billboard that transgressed onto real property that was owned by the County
28 of Los Angeles and not within the jurisdiction of the City of West Hollywood.

ANSWER TO COMPLAINT

1 63. The references in Exhibit B to a copyright were the first time that any claim
2 to such protection was made by Plaintiff or Osik. At no time prior had any claim been
3 made that any application for a copyright for the Copyright Materials had been made or
4 registration issued.

5 64. Defendant Rittersbacher is informed and believes and thereon alleges that
6 the real purpose of submitting an application for copyright was justify an escalation of
7 its concerted strategy of doing anything and everything to interfere with the rights of
8 Defendant Rittersbacher to sell its property in furtherance of its scheme and to obtain
9 monies and consideration to which it is not entitled. As a result of such misuse of a
10 copyright, Plaintiff is entitled to recover nothing in this action.

11 **FIRST DEFENSE**

12 **(Failure to State a Claim)**

13 65. The Complaint and each of cause of action stated therein fails to state facts
14 sufficient to establish a claim upon which relief can be granted

15 **SECOND DEFENSE**

16 **(Lack of Article III Case or Controversy)**

17 66. This court lacks subject matter jurisdiction due to a failure to state a claim
18 for relief based upon acts proscribed by the Copyright Act.

19 **THIRD DEFENSE**

20 **(Pending Action)**

21 67. The State Action is pending before the Superior Court of the State of
22 California in and for the County of Los Angeles. The subject matter of that action
23 includes claims by Plaintiff herein that are intertwined with the claims asserted in this
24 action, including, but not limited to, claims that rights derived from the issuance of a
25 Concept Award inure to Plaintiff. Defendant Rittersbacher is informed and believes and
26 thereon alleges that Plaintiff filed the instant action for the purpose of circumventing the
27 adjudication of the issues in the state action. The Court should defer to the state court in
28

1 its adjudication of the issues prior to permitting this action to proceed.
2

3 **FOURTH DEFENSE**

4 **(Abstention)**

5 68. As a result of the pendency of the State Action, an adjudication in this
6 proceeding will be unnecessary and inappropriate. The Court should elect to abstain
7 from rendering a declaratory action and refrain from issuing any injunctive orders in this
8 action.

9 **FIFTH DEFENSE**

10 **(Lack of Need for Declaratory Relief)**

11 69. Plaintiffs' claims are barred in whole or in part because Plaintiffs have
12 failed to mitigate the, if any. Plaintiffs are, for example, well aware of the ability to
13 request the removal from YouTube of allegedly infringing content using the process set
14 forth in the DMCA. To the extent Plaintiffs failed to employ that process with respect to
15 specific allegedly infringing material on the YouTube service, Plaintiffs have failed to
16 mitigate their damages.

17 **SIXTH DEFENSE**

18 **(Failure to Attach Copyright Material)**

19 70. Plaintiff has failed to attach to the complaint a full and complete copy of
20 the asserted Copyright Registration, including its deposit material submission to the
21 United States Copyright office and therefore this Court is precluded from entering
22 judgment in favor of Plaintiff.

23 **SEVENTH DEFENSE**

24 **(Fair Use)**

25 71. Any alleged use of any copyright material, if there was any, does not
26 constitute an infringement of copyright and constitutes a fair use of the alleged Copyright
27 Material.

1 **EIGHTH DEFENSE**
2 **(Estoppel)**

3 72. Plaintiffs' claims are barred in whole or in part by the doctrine of estoppel.

4 **NINTH DEFENSE**
5 **(Unclean Hands)**

6 73. Plaintiffs' claims are barred in whole or in part by the doctrine of unclean
7 hands.

8 **TENTH DEFENSE**
9 **(Waiver)**

10 74. Plaintiff's claims are barred in whole or in part by the doctrine of waiver

11 **ELEVENTH DEFENSE**
12 **(Failure to Mitigate)**

13 75. Plaintiffs' claims are barred in whole or in part because Plaintiffs have
14 failed to mitigate their damages, if any. Plaintiffs are, for example, well aware of the
15 ability to request the removal from YouTube of allegedly infringing content using the
16 process set forth in the DMCA. To the extent Plaintiffs failed to employ that process
17 with respect to specific allegedly infringing material on the YouTube service, Plaintiffs
18 have failed to mitigate their damages.

20 **TWELFTH DEFENSE**
21 **(License)**

22 76. Plaintiffs' claims are barred in whole or in part by the implied licenses,
23 consents, or permissions that Plaintiffs and their agents, have granted by voluntarily and
24 without authority, agreement or consent submitting an application for a land use permit
25 applicable to real property in the City of West Hollywood and in doing so by affirmative
26 representation that they had the permission of GCI who they represented was the owner
27 of the Subject Property.

28 //

ANSWER TO COMPLAINT

1 **THIRTEENTH DEFENSE**

2 **(Statute of Limitations)**

3 77. Plaintiffs' claims are barred in whole or in part by contractual and statutory
4 limitations which require Plaintiffs to have brought their claims within one year or three
5 years of their accrual respectively.

6 **FOURTEENTH DEFENSE**

7 **(Laches)**

8 78. Plaintiff's claims are barred in whole or in party by the doctrine of Laches
9 in that they unreasonably delayed in claiming any copyrights to the alleged Copyright
10 Material.

11 **FIFTEENTH DEFENSE**

12 **(Res Judicata/Collateral Estoppel)**

13 79. Central to its claims in this action is that they are entitled to benefits derived
14 from the City of West Hollywood's granting of permission for the owner of the Subject
15 Property to apply for a permit to install and maintain a digital display sign at that
16 Property. As the City of West Hollywood has recognized in its official records that
17 Defendant Rittersbacher is the sole party with lawful rights to pursue and obtain such
18 permission, this Court is precluded from adjudicating those rights. In addition, Plaintiff
19 has failed to challenge, appeal or seek reconsideration of the actions of the City of West
20 Hollywood. [the unlawful detainer action – they claimed rights re copyright material –
21 res judicata – plaintiff was aware and participated. And, to the extent that issues in the
22 Unlawful Detainer were substantially similar to those in this action, Plaintiff is barred
23 from litigating them in this court.

25 **SIXTEENTH DEFENSE**

26 **(Lack of Jurisdiction for Declaratory Judgement)**

27 80. Plaintiffs' declaratory judgment action does state an Article III Case and
28 Controversy and, as such, are barred in whole or in part.

SEVENTEENTH DEFENSE

(Mere Advisory Action Is Prohibited)

81. Plaintiffs' declaratory judgment action seeks nothing more than an advisory action, which is improper in the absence of an actual Article III Case and Controversy.

EIGHTEENTH DEFENSE

(No Copyright Infringement)

82. Plaintiffs' declaratory judgment action does state an actual act or omission that constitutes copyright infringement.

NINETEENTH DEFENSE

(Functional and Generic Design)

83. The alleged Copyright Material contains functional and generic depictions and are not enforceable in this action.

TWENTIETH DEFENSE

(Lack of Standing/Misjoinder)

84. The Complaint admits that others claim to own a portion of the rights to the alleged Copyright Material. As a result of their failure to name these other parties as plaintiffs or defendants, there is a misjoinder that precludes granting of relief in this action.

TWENTY-FIRST DEFENSE

(Substantial Non-Infringing Use)

85. Plaintiffs' claims are barred in whole or in part based on the doctrine of substantial non-infringing use, although Defendant submits Plaintiffs bear the burden of proving the doctrine's inapplicability.

TWENTY-SECOND DEFENSE

(*De Minimis* Use)

86. The allegations set forth in the Complaint fails to establish infringing activity and, at most, reflect a de minimis use of the alleged Copyright Material.

1 **TWENTY-THIRD DEFENSE**

2 **(Privilege)**

3 87. As the owner of the Subject Property, Defendant had the right to refer to
4 and attach copies of the alleged copyright material reflecting the entitlements granted by
5 the City of West Hollywood that were legally deemed to “run with the land.”

6 **TWENTY-FOURTH DEFENSE**

7 **(Waiver)**

8 88. The Complaint is barred, in whole or in part, by the equitable doctrines of
9 waiver.

10 **TWENTY-FIFTH DEFENSE**

11 **(Rule 11 Sanctions)**

12 89. Plaintiff's claims are not warranted by law as there are no justiciable
13 controversies, no actual act of copyright infringement and Plaintiff is attempting to use
14 its copyright to gain economic leverage in unrelated proceedings. As a result, Plaintiff
15 should be sanctioned for the improper use of the alleged copyright and in filing of this
16 action.

17 **TWENTY-SIXTH DEFENSE**

18 **(Reservation of Additional Defenses)**

19 90. Defendant reserves the right to assert additional defenses that may become
20 available throughout the course of this action.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Defendant respectfully requests the following relief:

23 1. A judgment in favor of Defendant denying Plaintiffs all relief requested in
24 its Complaint in this action, declaring its legal right to use the alleged copyright material
25 in conjunction with their use of the Subject Property and dismissing Plaintiff's
26 Complaint with prejudice;

27 2. That Defendants be awarded their costs of suit, including reasonable

1 attorney's fees;

2 3. That the Court award Defendant sanctions pursuant to FRCP 11; and

3 4. That the Court award Defendant such other and further relief as the Court

4 deems just and proper.

5
DEMAND FOR JURY TRIAL

6
7 Defendant demands a trial by jury on all issues so triable.
8

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10 DAPEER, ROSENBLIT & LITVAK, LLP

11 Dated: January 10, 2023

12 By: _____ /s/ William Litvak

13 William Litvak

14 Eric P. Markus

15 Attorneys for Defendant

16 RITTERSBACHER SUNSET, LLC

EXHIBIT A

1 MICHAEL F. WRIGHT (SBN 89910)
2 707 Wilshire Blvd.
3 Suite 4000
4 Los Angeles, California 90017
Telephone: (323) 610-1290
Email: mfwrightlaw@gmail.com

5 Attorney for Defendant and Cross-Complainant, OSIK MEDIA, LLC

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES - WEST DISTRICT

10

11 RITTERSBACHER SUNSET, LLC, a California
12 limited liability company;

13 Plaintiff,

14 vs.

15 OSIK MEDIA, LLC, a California limited liability
16 company; and DOES 1-10, inclusive,

17 Defendants.

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19 OSIK MEDIA, LLC, a California limited liability
company; and DOES 1-10, inclusive,

20 Cross-Complainant.

21 RITTERSBACHER SUNSET, LLC, a California
22 limited liability company;

23 Cross-Defendant,

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Case No.: 22SMCV00828

**DEFENDANT AND CROSS-
COMPLAINANT OSIK MEDIA,
LLC'S CROSS- COMPLAINT FOR
DECLARATORY RELIEF,
RESTITUTION, AND INTENTIONAL
INTERFERENCE WITH CONTRACT**

*Case Reassigned to the Hon. Edward B.
Moreton, Jr.
Dept.: 200
Action Filed: 06/03/2022*

1 Defendant/Cross-Complainant Osik Media, LLC (“Osik”) cross-complains against
2 Plaintiff/Cross-Defendant Rittersbacher Sunset, LLC (“RSL”) as follows:

3 **NATURE OF THIS CROSS-COMPLAINT**

4 1. RSL owns the property at 8300 W. Sunset Blvd. in West Hollywood, where Osik
5 operates a billboard under a sublease (the Billboard Lease). RSL leased the property to an entity
6 called Golden Crest, Inc. (GCI), which was Osik’s sublessor. In early 2019, the City established an
7 Arts and Advertising Program for the placement of electronic billboards on the Sunset Strip, where
8 the property is located. Osik and a partner entity applied for design approval for a 989-square foot
9 digital billboard and a new static sign on the property. RSL paid no attention to Osik’s activities, and
10 Osik was unaware of RSL’s existence until its application was nearly completed. On March 23,
11 2021, the City granted Osik’s application and issued a design excellence award for property. The
12 award doubled the value of the property from an appraised \$60-70 million in 2020 to an agreed sale
13 price of \$120 million in late 2021.

14 2. RSL then sought to kick Osik off the property and take all the benefit of Osik’s
15 design approval. Litigation erupted in 2020 between RSL and GCI over the rent GCI was to pay. In
16 September 2021, RSL and GCI entered into a contractual termination of GCI’s lease. RSL then
17 demanded that Osik vacate the premises. RSL argued that under a 2019 Amendment, the Billboard
18 Lease terminated along with the GCI lease. Osik disputes RSL’s termination arguments, and RSL
19 has sought to pressure Osik to leave by filing this lawsuit for what is now about \$9 million in
20 damages.

21 3. By this Cross-Complaint Osik seeks three types of relief: (1) a declaratory judgment
22 that the Billboard Lease remains in full effect through the end of its term in 2027; alternatively, if it
23 must give up possession of its billboard, Osik seeks (2) part of the \$50-60 million Osik added to the
24 property; and (3) damages for RSL’s interference with the Billboard Lease.

25 **THE PARTIES**

26 4. At all relevant times, RSL was and is a limited liability company organized and
27 existing under the laws of the State of California with its principal place of business in Springfield,
28 Oregon. At all relevant times, RSL was the owner of the property at 8300 W. Sunset Blvd. in West

1 Hollywood. The property is the site of the Hollywood Standard Hotel (closed in January 2021) and a
2 billboard Osik operates under the Billboard Lease.

3 5. At all relevant times, Osik was and is a limited liability company organized and
4 existing under the laws of the State of California with its principal place of business in Altadena,
5 California, in Los Angeles County.

6 6. Osik does not know the true names of defendants DOES 1 through 10, and therefore
7 sues them by those fictitious names. Osik is informed and believes, and on that basis alleges, that
8 each of those defendants was in some manner legally responsible for the events and happenings
9 alleged in this complaint and for Osik's injury as alleged herein. The names, capacities, and
10 relationships of DOES 1 through 10 will be alleged by amendment to this complaint when they are
11 known.

12 7. Osik is informed and believes, and on that basis alleges, that at all times mentioned in
13 this complaint, defendants were the agents and employees of their codefendants, and in doing the
14 things alleged in this complaint were acting within the course and scope of that agency and
15 employment.

16 **FACTS COMMON TO ALL CAUSES OF ACTION**

17 8. In 1959, the predecessors-in-interest of RSL and GCI entered into a 99-year master
18 Ground Lease. At all times relevant to this Cross-Complaint, GCI was the master lessor. Paragraph
19 3 of the Ground Lease called for a rent adjustment every 20 years. The rent was to be 8% of the
20 value of the property.

21 9. Beginning on or about April 5, 2001, a billboard was operated on the property under
22 the Billboard Lease. The original billboard sublessee was Melven Genser Outdoor, Inc. ("Genser"),
23 which operated the billboard until about May 1, 2010. At that time, Osik's predecessor-in-interest,
24 Outdoor Specialists, LLC ("OSL"), bought the billboard structure and Genser's rights under the
25 Billboard Lease. Osik was formed in the expectation that a partner would join OSL's principal Nick
26 Petralia in a business that included OSL's. That did not happen, but having announced the formation
27 of Osik, Mr. Petralia conducted the business of OSL under the Osik name. OSL was dissolved in
28 2017.

1 10. By a September 12, 2019 Amendment between GCI and Osik, the term of the
2 Billboard Lease, which otherwise would have expired in 2021, was extended to December 31, 2027.
3 The Amendment further provided (¶ 4) that GCI's rights in the property derive from the Ground
4 Lease. And "if for any reason the ground lease is terminated. . . all rights of Lessee under the
5 [Billboard] Lease shall automatically terminate and be of no further force or effect contemporaneous
6 with termination" of the Ground Lease.

7 11. OSL began operating the billboard under a Purchase and Assignment Agreement
8 with Genser on or about May 1, 2010. On September 12, 2019, Osik and GCI entered into an
9 Amendment of the Billboard Lease. The billboard was an open and notorious use of the property. At
10 all relevant times, RSL therefore had imputed knowledge of the billboard and the Billboard Lease.
11 In 2016, RSL's principal Randy Garrity saw the billboard but made no effort to determine who was
12 operating it or to learn about the Billboard Lease. The property leased under the Billboard Lease was
13 only the billboard itself, which was an improvement to the property. Paragraph 18 of the Ground
14 Lease provided that the landlord's consent was not necessary for subleases of improvements. At no
15 time did RSL notify Osik that it was terminating the Billboard Lease for lack of consent.

16 12. In 2019, a dispute arose between RSL and GCI about how the property was to be
17 valued for adjustment of the Ground Lease rent. In the 60 years the Ground Lease had been in
18 effect, conditions had changed dramatically. The 8300 property was now worth more as raw land
19 than it was with the hotel and other improvements on it. Under RSL's valuation approach, which
20 excluded the improvements, an appraiser valued the property at \$61 million. Under GCI/F's
21 approach, which valued the property as a leased fee, the value was \$11 million. The resulting rent
22 disparity was about \$4.9 million under RSL's formula vs. \$880,000 under GCI's.

23 13. The parties were unable to resolve their dispute and filed suit against each other. On
24 May 28, 2020, RSL sued GCI, seeking a judicial determination that its adjustment formula was the
25 correct one. On July 9, 2020, CGI's hotel sublessee Ferrado Hollywood, LLC brought an action
26 challenging the RSL appraiser's method. On December 4, 2020, the court issued an interim adopting
27 RSL's valuation method.

28 ///

1 14. By February 2021, RSL claimed a total of over \$6 million in unpaid rent. But RSL
2 didn't take the obvious step to terminate the Ground Lease. To effect a forfeiture of a lease for
3 nonpayment of rent the landlord must serve the tenant with a notice to pay or quit. If the rent is due
4 and owing and remains unpaid at the end of the notice period, a cause of forfeiture arises. But no
5 cause of forfeiture arises without such a notice. The minimum such notice is three days. Paragraph
6 19 of the Ground Lease required 15 days' notice. Moreover, nonpayment of rent is a curable breach.
7 RSL thus was required to serve a pay-or-quit notice on Osik as well as GCI and Ferrado RSL never
8 served a pay-or-quit notice on GCI/F or Osik.

9 15. RSL claims that GCI and Ferrado (collectively "GCI/F") could not pay the rent under
10 the court-ordered formula and refused to do so. But GCI/F asserted defenses to RSL's rent claim.
11 First, City and County rent moratoria prohibited eviction of commercial tenants for nonpayment of
12 rent that accrued after about March 2020. GCI/F also claimed a force majeure defense to their
13 obligations under the Ground Lease, including payment of rent, due to Covid and its severe effects
14 on hotels, restaurants, and bars, i.e., the types of business operated at the Standard Hotel. GCI/F had
15 other defenses as well, including modification of the Ground Lease due to radically changed
16 circumstances (the property now being more valuable without improvements) and possible
17 reorganization in bankruptcy. The prospect of a digital sign on the property provided a potential
18 income stream to pay the new rent. These defenses were never litigated or resolved. The litigation
19 did not produce a final judgment. Instead, the parties settled in June 2021 for the usual reasons, i.e.,
20 to avoid further litigation and the costs of legal proceedings to obtain possession of the Property.

21 16. Meanwhile, in 2019 Osik submitted a design-approval application for a digital sign
22 and a new static billboard to be placed on the property. Osik openly disclosed its application efforts,
23 which cost over \$125,000, to GCI, which Osik reasonably believed to own the property.

24 17. On March 26, 2021, Osik hit the regulatory jackpot by obtaining a design excellence
25 award for the signs from the City. Although further discretionary City approvals were required, the
26 award is the main hurdle in obtaining a permit for a digital sign. RSL says so itself in its marketing
27 material for the property. Osik has a two-year window, until March 26, 2023, to submit a completed
28 application. To do so, Osik needs owner approval, which RSL refuses to provide.

1 18. On September 3, 2021, RSL and GCI entered into an agreement (“the Termination
2 Agreement”) in which they agreed to dismiss the litigation and terminate the Ground Lease. The
3 litigation ended without a judicial finding that GCI had breached the Ground Lease or that RSL had
4 the right to terminate the Ground Lease or regain possession of the property. On or about September
5 13, 2021, RSL gave Osik notice of the Termination Agreement. RSL sent Osik a proposed short-
6 term sublease but did not demand that Osik surrender possession.

7 19. In about October 2021, having terminated the Ground Lease and – in its view –
8 disposed of the Billboard Lease, RSL put the property on the market. RSL’s broker CBRE issued a
9 sales flyer on the internet touting the design approval Osik obtained as a full permit: “Although the
10 site contains an existing income generating static billboard, the City of West Hollywood has
11 awarded 8300 Sunset with the ability to install digital billboard signage.” The market reaction to the
12 design approval was spectacular. In late 2021, RSL and a buyer agreed on a sale price of \$120
13 million, approximately double the property’s appraised value a year earlier.

14 20. After the Termination Agreement, Osik sought to reach a long-term lease with RSL
15 to operate the digital sign and a new static sign on the property. RSL asked for and Osik provided
16 information on the revenue produced by the existing billboard, which RSL used in its sale
17 negotiations. In December 2021, as RSL’s demands to vacate continued, it appeared that RSL would
18 not enter into a lease. Osik had never agreed that the Billboard Lease was terminated. In December
19 2021, Osik cited case law to RSL that in Osik’s view holds that the Termination Agreement left the
20 Billboard Lease intact.

21 21. On January 14, 2022, RSL filed an unlawful detainer (UD) action against Osik as a
22 limited case. The UD case is pending. On June 7, 2022, RSL filed this action for \$5 million in
23 damages, plus an additional \$1 million a month and punitive damages.

24 **FIRST CAUSE OF ACTION**

25 **(Declaratory Relief)**

26 22. Osik incorporates ¶¶ 1-22 by reference as thought fully set forth herein.
27 23. An actual controversy has arisen between the parties in relation to Osik’s rights under
28 the Billboard Lease. Osik contends that the Billboard Lease remains fully valid and in effect.

1 Osik further contends that even if the Billboard Lease were terminated, Osik retains ownership of
2 the sign structure and has the right to remove it. RSL contends that the Billboard Lease has
3 terminated has is of no further effect, and on information and belief contends that Osik has no
4 property rights in the sign structure.

5 24. A judicial determination of the parties' rights in the Billboard Lease and the
6 billboard is necessary and appropriate at this time so that the parties can conduct themselves in
7 conformity with law.

SECOND CAUSE OF ACTION

(Unjust Enrichment)

10 25. Osik incorporates ¶¶ 1-20 by reference as though fully set forth herein.⁵

11 26. Osik contends that it is entitled to remain in possession of the billboard through the
12 full term of the Billboard Lease at the end of 2027. In the alternative, if Osik must give up
13 possession, it seeks monetary compensation for the undeserved windfall benefit RSL has received
14 from the preliminary design approval Osik obtained. RSL marketed the property on the basis that a
15 digital sign could be operated on the property. The revenue potential of such a sign is \$5-7 million a
16 year and perhaps more. As a result of Osik's design approval, the value of the property went from an
17 appraised range of \$61-75 million in 2020-2021 to over \$120 million in late 2021. RSL claims that
18 in late 2021, it entered into a "binding contract" to sell the property for \$120 million.

19 27. RSL in justice should not be allowed to retain the full benefit Osik obtained for the
20 property. At all times, Osik acted in good faith, in the honest and reasonable belief that it had all
21 owner approvals necessary to proceed with the design approval application and subsequently a
22 development agreement with the City for a digital and new static sign on the property. Until near the
23 end of the design application process, Osik believed GCI was the property owner. Throughout the
24 design approval process in 2019-2021, RSL was charged with knowledge of Osik's efforts, which
25 were reflected in publicly available documents and discussed in open City hearings. But RSL chose
26 not to find out, or to ignore, Osik's efforts.

27 28. When RSL gained actual knowledge of Osik's design application, on March 18, 2021
28 – with all the work done and a decision by the City only a week away – RSL's lawyer wrote to Osik

1 saying that RSL did not authorize any permitting activity by Osik and Osik would proceed at its own
2 risk. Osik, however, had already proceeded. There was nothing left for Osik to do but await the
3 City's decision.

4 29. When the City's decision issued, RSL appropriated it as RSL's own and beginning
5 later in 2021 decided to get rid of Osik and sell the property as a site for a digital sign. As alleged
6 above, RSL emphasized in its sales material that the property had received a design excellence
7 award from the City. As a result, the value of the property skyrocketed due to Osik's efforts that
8 RSL now seeks to take for itself, leaving Osik with nothing.

9 30. The Court should order that RSL pay to Osik a reasonable share of the additional
10 value of the property Osik created, in an amount of \$20,000,000.

11 THIRD CAUSE OF ACTION

12 (Intentional Interference with Contract)

13 31. Osik incorporates ¶¶ 1-29 above as though fully set forth herein.

14 32. As of 2010, Osik had an existing, fully valid sublease, i.e., the Billboard Lease, with
15 GCI. RSL knew of the Billboard Lease. RSL had constructive notice since 2001 when the billboard
16 – which was certainly an open and notorious use – went up on the property. By its own admission,
17 RSL's principal Randy Garrity had actual notice of the billboard in 2016, which implied the
18 existence of the Billboard Lease. By RSL's further admission, it learned of the Billboard Lease via
19 an email from GCI/F's counsel in March 2021. RSL thus knew that Osik was a subtenant.

20 33. The Billboard Lease contained implied covenants that required GCI to maintain the
21 Ground Lease through the full term of the Billboard Lease, which ran through December 31, 2027.
22 Beginning in early 2021, RSL intentionally interfered with the Billboard Lease by inducing GCI to
23 breach it by purporting to terminate the Ground Lease, thereby in RSL's view terminating the
24 Billboard Lease under ¶ 4 of the 2019 Amendment.

25 34. As a direct and proximate result of RSL's conduct, GCI entered into the Termination
26 Agreement, which allowed RSL to claim that the Billboard Lease was terminated.

27 35. As a direct and proximate result of RSL's wrongful conduct, Osik has been damaged
28 in an amount of over \$3 million in lost revenue on the existing static sign.

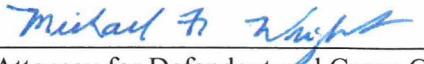
1 36. RSL's conduct was intentional and designed specifically to destroy Osik's Billboard
2 Lease and appropriate the Billboard Lease and the design approval for RSL. RSL further acted in
3 conscious disregard of Osik's right to notice of any claim that GCI/F had defaulted in payment of
4 rent or any other covenant of the Ground Lease. RSL deliberately deprived Osik of the opportunity
5 to save the Ground Lease by pursuing a development agreement for the digital sign or otherwise.
6 RSL thus acted maliciously and in conscious disregard for Osik's legal rights. Osik therefore is
7 entitled to an award of punitive damages according to proof.

8 WHEREFORE, Osik prays for judgment as follows:

- 9 1. For a declaratory judgment that the Billboard Lease remains intact and in full effect;
10 2. For compensatory damages according to proof;
11 3. For punitive damages according to proof;
12 4. For Osik's costs of suit herein; and
13 5. For such other and further relief as this Court deems just and proper.

14 Dated: October 10, 2022

MICHAEL F. WRIGHT

16 By: 
17 Attorney for Defendant and Cross-Complainant,
18 OSIK MEDIA, LLC

PROOF OF SERVICE

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 707 Wilshire Boulevard, Suite 4000, Los Angeles, California 90017.

On October 10, 2022, I served the foregoing document described as **DEFENDANT AND CROSS-COMPLAINANT OSIK MEDIA, LLC'S CROSS- COMPLAINT FOR DECLARATORY RELIEF, RESTITUTION, AND INTENTIONAL INTERFERENCE WITH CONTRACT** on the interested parties in this action as follows:

William Litvak, Esq.
Eric P. Markus, Esq.
DAPEER, ROSENBLIT & LITVAK, LLP
11500 W. Boulevard, Suite 550
Los Angeles, CA 90064
Telephone: (310) 477-5575
Facsimile: (310) 477-7090
E-mail: wlitvak@drllaw.com
emarkus@drllaw.com
ralvarado@drllaw.com (Ronal Alvarado – Assistant)

*Attorneys for Plaintiffs, RITTERSBACHER SUNSET,
LLC, a California limited liability company*

- BY MAIL (C.C.P. §§ 1013(a)). I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at Los Angeles, California.
- BY ELECTRONIC MAIL (C.C.P. § 1010.6(a)(6)(b); C.R.C. 2.251(a)(1). Based on a court order or an agreement of the parties to accept service by electronic transmission (or pursuant to Emergency Rule 12), I caused the documents to be sent to the persons at their electronic notification addresses. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. My electronic notification address is tonyalynhawley@yahoo.com.
- (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. (C.C.P. § 2015.5)
- (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 10, 2022, at Los Angeles, California.



TONYALYN HAWLEY

EXHIBIT B



Kanika Corley

Akerman LLP
601 West Fifth Street
Suite 300
Los Angeles, CA 90071

T: 213 688 9500
F: 213 627 6342

November 16, 2022

Via U.S. Mail and Email

William Litvak
Dapeer, Rosenblit & Litvak, LLP
11500 W. Olympic Blvd., Suite 550
Los Angeles, CA 90064
wlitvak@drllaw.com

Re: Copyright No. VA0002326025/2022-07-11

Dear Mr. Litvak:

This firm represents New Tradition Media ("New Tradition"). We write on behalf of New Tradition, and with the permission of Osik Media, LLC ("Osik") as well as Studio AR+D Architects, Inc. ("AR+D"). New Tradition, Osik and AR+D jointly own the above-referenced copyright, the title of which is "The Digital Billboard." (hereinafter, the "Copyright"). The Copyright encompasses the design for a digital billboard and a new static sign and other related elements to be constructed at 8300 W. Sunset Blvd. in West Hollywood, and adjacent property in Los Angeles. Hereinafter, the property at 8300 W. Sunset Blvd. is referred to as the "real property."

As described during the July 8, 2022 deposition taken in Los Angeles Superior Court, Case No. 22SMUD00094, for which Bret Richheimer provided testimony, Osik and New Tradition submitted certain design elements to the City of West Hollywood in 2019 as part of a design excellence screening application for new offsite signage. On March 26 2021, the City of West Hollywood issued a concept award based on the elements of the Copyright, including the "creative vertical format and interesting dimensionality of the sign face," the "elegant sign structure and associated sculptural connection to Hart Park," and the "proposed public benefit improvements to Hart Park, including the physical connection and landscape materials" (hereinafter the "Concept Award"). The Concept Award is based, in part, on the elements that constitute the Copyright. Regardless of any ownership rights in the Concept Award conferred by the City of West Hollywood, the Copyright is wholly and jointly owned by New Tradition, Osik and AR+D.

William Litvak
Dapeer, Rosenblit & Litvak, LLP
November 16, 2022
Page 2

The Copyright Act provides that Copyright owners have the exclusive right to reproduce copyrighted works, to prepare derivative works, to distribute copies, to display the work and, among others, to license and assign the Copyright to others. The Copyright owners have not granted a valid license or otherwise transferred any rights in or to the Copyright to Rittersbacher Sunset, LLC ("RSL") or any of RSL's agents, including but not limited to any right to reproduce, publish, provide, distribute, transmit, display, or otherwise make use of any portion of the Copyright.

We are informed and believe that RSL has wrongfully used the Copyright in an effort to sell its real property at an elevated price that necessarily incorporates the Copyright as part of the sale. We are further informed and believe that during October 2021, RSL directed or otherwise authorized its real estate broker to publish a sales brochure stating that "the City of West Hollywood has awarded 8300 Sunset with the ability to install digital billboard signage." (See, www.8300sunset.com) The statement is a misrepresentation. Any rights conferred by the City of West Hollywood's Concept Award do not include granting rights that encompass the Copyright.

If the allegation in RSL's Complaint in LASC Case No. 22SMCV00828, filed June 3, 2022 is to be believed, RSL has entered into an agreement for the sale of the real property at the value of "approximately \$120 million", which is almost double the valuation of the real property cited within RSL's May 28, 2020 Petition filed in LASC Case No. 20SMCP00165. By advertising the Copyrighted design, without a valid license, and falsely representing that RSL could transfer to a buyer of the real property certain intellectual property in addition thereto, it appears that RSL has and continues to engage in willful copyright infringement, which results in actual or statutory damages.

Unless RSL presents a valid license before November 22, 2022, the Copyright owners expect RSL will do the following:

1. Immediately cease representing that RSL owns and/or has sufficient right to any of the design elements encompassed within the Copyright, or any reproductions or works derived therefrom;
2. Immediately inform any buyer(s) (actual or proposed) of the real property that such acquisition excludes the Copyright;
3. Immediately remove any statements from the internet, any online data rooms, or other digital media all claims that RSL owns, holds or otherwise possesses the right to use, license or assign any element encompassed within the Copyright;
4. Provide the Copyright owners with a full accounting of any revenue RSL has realized by using any element of the Copyright.

We request that RSL expressly advise of its intent to comply with the above requests.

William Litvak
Dapeer, Rosenblit & Litvak, LLP
November 16, 2022
Page 3

Please note that the Copyright owners reserve all rights to take any and all steps necessary to protect their valuable intellectual property rights and will do so without further notice.

The above is not an exhaustive statement of all the relevant facts or law. We expressly reserve all rights and remedies, both in law and inequity, including without limitation to the right to seek injunctive relief and recover monetary damages.

Sincerely,



Kanika D. Corley
Partner

KDC/at

cc: Osik Media, LLC (mfwrightlaw@gmail.com)
Studio AR+D Architects, Inc. (sean@studio-ard.com)

EXHIBIT C

DAPEER ROSENBLIT LITVAK LLP
L A W Y E R S

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WRITER'S EMAIL
WLITVAK@DRLLAW.COM

November 28, 2022

Via Mail & Email: kanika.corley@akerman.com

Kanika Corley
Akerman LLP
601 West Fifth Street Suite 300
Los Angeles, CA 90071

Re: Copyright No. VA0002326025/2022-07-11

Dear Ms. Corley,

As you are aware, the undersigned represents Rittersbacher Sunset, LLC (“RSL”), the owner of the real property located at 8300 Sunset Boulevard in the City of West Hollywood (the “Property.” I am in receipt of your letter of November 16, 2022 and your email of November 19, 2022 enclosing a copy of the document you registered with the United States Copyright Office (the “Filing”), referenced above. After reviewing both, it appears that you have been misinformed as to the true facts and circumstances surrounding the City of West Hollywood’s digital sign program and our client’s, Rittersbacher Sunset, LLC., intentions in that regard. You also appear to misinterpret the legal rights related to issuance of discretionary municipal permits related to land use generally and with regard to digital billboards, specifically.

Preliminarily, neither your client, New Tradition Media, nor its partner Osik Media, LLC (“Osik”), were entitled to apply for, let alone receive, a Concept Award under the Sunset Arts & Advertising Program. A tenant (let alone a sub-tenant at sufferance) has no rights to a land use entitlement in the City of West Hollywood (the “City”). When issued, the rights derived from land use authorization “run with the land” and grant rights solely to the property owner. It is clear from the rules and regulations of the City of West Hollywood that an applicant for a Concept Award, land use entitlement or construction permit can only be issued to the property owner and the property owner must expressly authorize such an application.

The only reason that the application submitted by Osik was accepted by the City for consideration was the misrepresentation in the application that the property owner was Golden Crest, Inc. and that it had given consent to the filing of the application. Golden Crest is not and never was the owner of the property. RSL was never consulted or asked for its authorization to file such an application and did not do so. RSL was not even aware of your clients’ illicit actions until the City informed them that they could not proceed without the authorization of the property owner. Once the City discovered the misrepresentation, it is my understanding that staff declined to deal further with your clients. The fact that the City could have voided the

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Kanika Corley
Akerman LLP
November 28, 2022
Page 2 of 3

application and instead elected to allow the landowner to continue can conjure no rights to your clients.

The Concept Award does not constitute approval to do anything other than to apply for permission for a digital billboard. The Concept Award does not constitute approval of design and any design submitted would have to be approved by various elected and appointed officials of the City. And, the design as submitted with the application, in fact, cannot and never could be approved by the City. It is apparent that the designs proposed requires use of an adjacent park. That park, however, was not the property of West Hollywood and that the City could not issue any permits for the use of that property by your client. Once that element of the design is eliminated, all that is left is a rectangular sign similar to numerous other billboards on the Sunset Strip. I trust your client and its partner do not claim a propriety interest in a basic, rectangular geometric shape.

Your letter suggests that your clients are entitled to exclusive use of the submission to the City of West Hollywood as a result of the Filing the United States Copyright Office. The Filing offers no support for your clients claims. A registration, often colloquially referred to as a copyright, actually grants no unique rights. Rather, it represents receipt by the Copyright Office of a claim to a particular form of expression. The Copyright Office does not evaluate or validate any claim to copyright. It simply confirms receipt of the proffered material in accordance with its procedural requirements.

In this case, the Registration itself confirms that it has no relevance to this matter. It reflects on its face that the application was submitted on July 11, 2022. The events to which you refer in your letter all preceded that date. As such, the Filing has no bearing to our discussion.

It is also notable that the timing of the registration coincides with events in the unlawful detainer and civil litigation between Osik and RSL. In particular, RSL's complaint against Osik for damages was filed on June 3, 2022. Your registration was submitted the following month. It would appear that your client only decided to assert a copyright claim for tactical reasons and to further interfere with our clients pending sale of the Property and in furtherance of its efforts to illicitly extricate substantial sums from RSL.

Even if a copyright to the materials existed, which is disputed by my client, there are exemptions in the law, too numerous to discuss here, that precludes its application under the circumstances presented. However, it is unnecessary to discuss them further at this time due to my clients response below to the questions posed in your letter.

Without any legal obligation to do so, RSL, in order to avoid the waste of time and resources by all parties, responds to your questions, as follow:

1. RSL has not and does not intend to represent that it owns the subject of the registration with the Copyright Office.

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Kanika Corley
Akerman LLP
November 28, 2022
Page 3 of 3

2. RSL has not and does not intend to represent to any person that it has the right to grant permission to build a billboard as depicted in the material submitted to the Copyright Office.
3. No representations have been made that a sale of the Property would include the rights to copyrighted materials
4. To our knowledge there are no statements on the internet, any online data rooms, or other digital media that RSL claims to own, hold or possess the right to use, license or assign the materials submitted to the Copyright Office.
5. RSL has not and does not intend to construct a billboard based upon the materials submitted to the Copyright Office.

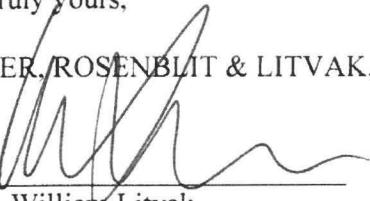
Nothing herein shall be deemed an acknowledgment that your clients or those acting in concert with them, have any rights under the copyright laws of the United States or the State of California with respect to Materials. This contents of this letter are not an exhaustive or comprehensive list of my client's rights with regard to with respect to the alleged copyright material, its use of the Property, its legal rights or the remedies has with respect to your clients and its partners' conduct, including but not limited to their interference with the sale of the Property or the lawful processes of the City of West Hollywood. All rights and remedies are expressly reserved.

I trust that the foregoing sufficiently addresses your client's unfounded belief that the Materials will be used without consent of its owners and resolved the questions raised in your letter. Should you have any questions, please feel free to contact me.

Very truly yours,

DAPEER, ROSENBLIT & LITVAK, LLP

By:


William Litvak