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FEB 23 2009

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JAMES N. HOFFMAN, Clerk  
By: [Signature] Deputy Clerk

SONY BMG MUSIC )  
ENTERTAINMENT, a Delaware )  
General partnership; UMG )  
RECORDINGS, INC., a Delaware )  
Corporation; VIRGIN RECORDS )  
AMERICA, INC.; a California )  
Corporation; LAFACE RECORDS LLC, )  
A Delaware limited liability company; )  
And WARNER BROS. RECORDS )  
INC.; a Delaware corporation, )

Civil Action File  
1:08 -CV-03728 -CC

MOTION FOR LEAVE TO FILE  
AMENDED ANSWER,  
AFFIRMATIVE DEFENSES AND  
AMENDED COUNTERCLAIMS

Plaintiffs,

v.

LINDSEY SIMMS,

Defendant

MOTION FOR LEAVE TO FILE AMENDED ANSWER, AFFIRMATIVE  
DEFENSES, AND  
COUNTERCLAIMS OF LINDSEY SIMMS

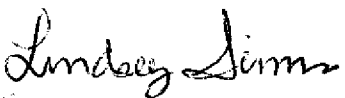
Defendant moves this Court for entry of an Order granting leave to file an Amended Answer, to file Amended Counterclaims, and to file Amended Counterclaims. The reason for this motion are more fully described below

1. Defendant Lindsey Simms ("Simms") filed an answer, *pro se*, to Plaintiffs' copyright infringement complaint.
2. During the investigation of this claim, Simms has become aware of additional information relevant to her answer.

3. During the investigation of this claim, Simms has become aware of additional information relevant to her Affirmative Defenses.
4. During the investigation of this claim, Simms has become aware of additional information relevant to her Counterclaim.
5. Fed R. Civ. P. 15(a) provides that "a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so appears." The Ninth Circuit has set forth several justifications for denying a motion to amend: undue delay, dilatory motive on the part of the movant, repeated failure to cure previous deficiencies, and futility of the amendment and undue prejudice to the opposing party. *Mayer v. Leipziger*, 729 F.2d 605, 608 (9 Cir 1984). None of the aforementioned conditions are at issue in this case, and therefore leave to file an Amended Answer, and to file Counterclaims, should be granted.

WHEREFORE, Defendant respectfully requests that this Court enter an Order granting leave to file and Amended Answer, file Counterclaims, and accept for filing the proposed First Amended Answer and Counterclaims that are being lodged contemporaneously herewith.

Dated February 23, 2009

  
Lindsey Simms  
Pro Se Defendant  
2610 Sumpter Trail  
Conyers, GA 30012  
Tel. 678-325-9848

**UNITED STATES DISTRICT COURT  
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v. )

**LINDSEY SIMMS,** )

**Defendant** )

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 23, 2009, I have this day served the foregoing Defendant's Motion For Leave To File Amended Answer, Affirmative Defenses, And Counterclaims with the Clerk of Court upon counsel for all parties by depositing a copy of same in the United States mail in an envelope with sufficient postage thereon addressed as follows:

Robert F. Glass  
Balch & Bingham, LLP  
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**Lindsey Simms**  
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