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DAVID A. BERKOVITZ

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 DAVID A. BERKOVITZ

11 Plaintiff,

12 v.

13 DOES 1-5

14 Defendants.

Case No. 2:22-CV-01628

**VERIFIED COMPLAINT FOR
COPYRIGHT INFRINGEMENT (17
U.S.C. § 501)**

DEMAND FOR JURY TRIAL

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16 Plaintiff David A. Berkovitz (“Berkovitz”), by his attorneys, and for his
17 Verified Complaint against Defendants Does 1-5 (“Defendants”) (collectively
18 “Defendants”), alleges as follows:

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20 **JURISDICTION AND VENUE**

21 1. This is a civil action against Defendants for Copyright Infringement in
22 violation of the United States Copyright Act, 17 U.S.C. §§ 101 et seq. This Court
23 has subject matter jurisdiction over the Copyright Infringement under 17 U.S.C. §
24 501(a).

25 2. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 28
26 U.S.C. § 1400(a) in that the claims arise in this judicial district, Defendants are
27 believed to be residents in this judicial district, and the injury Berkovitz suffered
28 took place in this judicial district.

1 **PARTIES**

2 3. Berkovitz is a California resident, and an Assistant Professor at The
3 George L. Argyros School of Business and Economics of Chapman University.
4 Berkovitz has an address at 20251 Hawthorne Boulevard, Suite 500, Torrance, CA,
5 90503. His principal place of business at Chapman University is 1 University Drive,
6 Orange, CA, 92866.

7 4. Berkovitz is unaware of the true names and capacities of Defendants
8 sued herein as DOES 1-5, inclusive, and therefore sues these Defendants by such
9 fictitious names. Berkovitz will amend this complaint to allege their true names and
10 capacities when ascertained. Berkovitz is informed and believes and thereon alleges
11 that each of the fictitiously named Doe Defendants is responsible in some manner
12 for the wrongs alleged herein, that Berkovitz's injuries were proximately caused by
13 such Doe Defendants, and that at all relevant times each was the agent and servant
14 of the other Defendants and was acting within the course and scope of said agency
15 and employment. The fictitiously named Doe Defendants are referred to collectively
16 herein as "Defendants."

17 **STATEMENT OF RELEVANT FACTS**

18 5. Berkovitz is an Assistant Professor, Clinical Faculty, at The George L.
19 Argyros School of Business and Economics at Chapman University in Orange, CA.

20 6. In his capacity as an Assistant Professor, Berkovitz creates and
21 administers various assignments and exams.

22 7. During the 2021 Spring Semester at Chapman University, Berkovitz
23 taught the course Business 215.

24 8. Upon information and belief, Defendants were students in the Business
25 215 course taught by Berkovitz.

26 9. During the 2021 Spring Semester Chapman University, Berkovitz
27 administered several exams in his capacity as Assistant Professor.

28 10. In 2021, Berkovitz created several exams, two of which were entitled:

1 “BERKOVITZ BUSINESS 215 SECTION 05 SPRING 2021 SECOND
2 MIDTERM,” (“the Midterm Exam”) and “BERKOVITZ BUSINESS 215
3 SECTION 05 SPRING 2021 FINAL EXAM” (“the Final Exam”).

4 11. The Midterm Exam and Final Exam comprise subject matter protected
5 by copyright.

6 12. On April 21, 2021, Berkovitz distributed the Midterm Exam to his
7 students for testing purposes.

8 13. On May 21, 2021, Berkovitz distributed the Final Exam to his students
9 for testing purposes.

10 14. In or about January 2022, Berkovitz first discovered that parts of the
11 Midterm Exam and Final Exam had been posted on the website
12 <https://www.coursehero.com/> (“the Course Hero Website”), an education focused
13 document sharing website.

14 15. On February 24, 2022, Berkovitz filed Copyright Applications with the
15 United States Copyright Office for the Midterm Exam and Final Exam, on an
16 expedited basis.

17 16. On February 25, 2022, Berkovitz received confirmation that the
18 Copyright Applications were accepted by the United States Copyright Office, and
19 that the Midterm Exam and Final Exam were granted Copyright Registrations.

20 17. The Midterm Exam was granted Copyright Registration No. TX9-084-
21 908. A true and correct copy of the Copyright Registration Certificate for the
22 Midterm Exam Copyright Registration is attached hereto as Exhibit A.

23 18. The Final Exam was granted Copyright Registration No. TX9-084-343.
24 A true and correct copy of the Copyright Registration Certificate for the Final Exam
25 Copyright Registration is attached hereto as Exhibit B.

26 19. On or before February 23, 2022, Defendants published the Midterm
27 Exam and Final Exam on the Course Hero Website.

28 20. Defendants published the Midterm Exam and Final Exam on the Course

1 Hero Website without any license or authorization from Berkovitz to do so.

2 21. Defendants had access to the Midterm Exam and Final Exam because
3 they obtained access to the Copyrighted Works for testing purposes in their role as
4 students in Berkovitz's class, and the Midterm Exam and Final Exam were
5 accessible only to students who were then enrolled in Berkovitz's Business 215
6 Class in the Spring Semester at Chapman University.

7 **CLAIM FOR RELIEF FOR COPYRIGHT INFRINGEMENT PURSUANT**
8 **TO 17 U.S.C. § 501 BY BERKOVITZ AGAINST ALL DEFENDANTS**

9 22. Berkovitz incorporates by reference paragraphs 1 through 21 of this
10 complaint as though fully set forth herein.

11 23. At all relevant times, Berkovitz owned the Copyrights in the Midterm
12 Exam and Final Exam.

13 24. None of the Defendants ever had any individual ownership interest in
14 the Copyrights in the Midterm Exam and Final Exam.

15 25. Attached hereto as Exhibits A and B are the Copyright Registration
16 Certificates for the Midterm Exam and Final Exam, respectively. These Copyright
17 Registration Certificates are *prima facie* evidence of the validity of the Copyrights
18 in the Midterm Exam and Final Exam and the facts stated in the Copyright
19 Registration Certificates.

20 26. Defendants infringed Berkovitz's exclusive right to reproduce, make
21 copies, distribute, or create derivative works by publishing the Midterm Exam and
22 Final Exam on the Course Hero Website without Berkovitz's permission.

23 27. Defendants made the Midterm Exam and Final Exam available to the
24 public by posting them on the Course Hero Website.

25 28. Defendants knew or should have known that their acts constituted
26 Copyright Infringement.

27 29. Defendants' infringing conduct was willful within the meaning of the
28 Copyright Act of 1976.

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Respectfully submitted,
HANKIN PATENT LAW, APC
By: /Marc E. Hankin/

Dated: March 10, 2022

Marc E. Hankin, Esq.
Attorneys for Plaintiff,
David A. Berkovitz

DEMAND FOR JURY TRIAL

Berkovitz hereby demands a trial by jury of all issues so triable in this action.

HANKIN PATENT LAW, APC
By: /Marc E. Hankin/

Dated: March 11, 2022

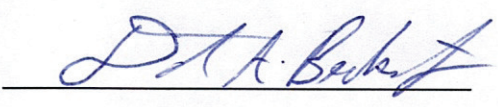
Marc E. Hankin, Esq.
Attorneys for Plaintiff,
David A. Berkovitz

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VERIFICATION

I, David A. Berkovitz, verify, subject to the penalties of perjury of the United States of America, that all of the allegations set forth in Plaintiff's foregoing **VERIFIED COMPLAINT FOR COPYRIGHT INFRINGEMENT (17 U.S.C. § 501)** are true and correct based on a reasonable inquiry and to the best of my personal knowledge and belief.

Executed in Torrance, CA
March 10, 2022



David A. Berkovitz
Plaintiff