

**SANDERS LAW GROUP**

Craig B. Sanders Esq.  
100 Garden City Plaza, Suite 500  
Garden City, NY 11530  
Tel: (516) 203-7600  
Email: csanders@sanderslaw.group  
File No.: 124680  
*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

FNTV, LLC,

Plaintiff,

v.

Red Apple Media, Inc.,

Defendant.

Case No:

**COMPLAINT**

DEMAND FOR JURY TRIAL

Plaintiff FNTV, LLC (“*Plaintiff*”), by and through its undersigned counsel, for its Complaint against defendant Red Apple Media, Inc. (“*Defendant*”) states and alleges as follows:

**INTRODUCTION**

1. This action seeks to recover damages for copyright infringement.
2. Plaintiff herein creates videos and owns the rights to these videos which Plaintiff licenses for various uses including online publications and TV stations.
3. Defendant owns and operates a website known as wabcradio.com (the “*Website*”).
4. Defendant, without permission or authorization from Plaintiff actively copied, stored, and/or displayed Plaintiff's Video on the Website and engaged in this misconduct knowingly and in violation of the United States copyright laws.

**PARTIES**

1 5. FNTV, LLC is a New York limited liability company and maintains its principal  
2 place of business at 31- 64 21st Street, Astoria, Queens in New York City, New York.

3 6. Upon information and belief, Defendant Red Apple Media, Inc., is a New York  
4 Corporation with a principal place of business at 800 Third Avenue, Manhattan in New York City,  
5 New York and is liable and responsible to Plaintiff based on the facts herein alleged.  
6

7 **JURISDICTION AND VENUE**

8 7. This Court has subject matter jurisdiction over the federal copyright infringement  
9 claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

10 8. This Court has personal jurisdiction over Red Apple Media, Inc. because it  
11 maintains its principal place of business in New York.

12 9. Venue is proper under 28 U.S.C. §1391(a)(2) because Red Apple Media, Inc. does  
13 business in this Judicial District and/or because a substantial part of the events or omissions giving  
14 rise to the claim occurred in this Judicial District.  
15

16 **FACTS COMMON TO ALL CLAIMS**

17 10. Plaintiff is a professional videographer by trade who is the legal and rightful owners  
18 of videos which Plaintiff licenses to online publications and television stations.

19 11. Plaintiff has invested significant time and money in building Plaintiff's video  
20 portfolio.  
21

22 12. Plaintiff has obtained active and valid copyright registrations from the United States  
23 Copyright Office (the "USCO") which cover many of Plaintiff's videos while many others are the  
24 subject of pending copyright applications.

25 13. Plaintiff's videos are original, creative works in which Plaintiff owns protectable  
26 copyright interests.  
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1 14. The Website is a popular and lucrative commercial enterprise.

2 15. The Website is monetized in that it contains paid advertisements and, upon  
3 information and belief, Defendant profits from these activities.

4 16. The Website is monetized in that sells merchandise to the public and, upon  
5 information and belief, Defendant profits from these activities.

6 17. On September 20, 2021, Plaintiff authored a video of a group of protestors  
7 confronting a member of the New York City “Guardian Angels” (the “*Video*”). A copy of a still-  
8 image single frame screengrab from the Video is attached hereto as Exhibit 1.

9 18. Plaintiff applied to the USCO to register the Video on or about October 7, 2021  
10 under Application No. 1-10895301111.

11 19. The Video was registered by the USCO on October 7, 2021 under Registration No.  
12 PA 2-319-971.

13 20. On September 28, 2021, Plaintiff first observed the Video on the Website in a story  
14 dated September 21, 2021. A copy of the same single frame screengrab from the Video on the  
15 Website is attached hereto as Exhibit 2.

16 21. In addition, Plaintiff observed a single frame image (the “*Video Image*”) also  
17 sourced from the Video on the Website.

18 22. The Video as well as the Video Image were displayed at URL:  
19 [https://wabcradio.com/2021/09/21/blm-protestors-verbally-attack-guardian-angels-member-on-](https://wabcradio.com/2021/09/21/blm-protestors-verbally-attack-guardian-angels-member-on-upper-west-side/)  
20 [upper-west-side/](https://wabcradio.com/2021/09/21/blm-protestors-verbally-attack-guardian-angels-member-on-upper-west-side/) (*Exhibit 2-Infringement #1-2*).

21 23. The Video Image was stored at URL: [https://dehayf5mhw1h7.cloudfront.net/wp-](https://dehayf5mhw1h7.cloudfront.net/wp-content/uploads/sites/1494/2021/09/21001218/GUARDIAN-ANGELS-MEMBER-ATTACKED.png)  
22 [content/uploads/sites/1494/2021/09/21001218/GUARDIAN-ANGELS-MEMBER-](https://dehayf5mhw1h7.cloudfront.net/wp-content/uploads/sites/1494/2021/09/21001218/GUARDIAN-ANGELS-MEMBER-ATTACKED.png)  
23 [ATTACKED.png](https://dehayf5mhw1h7.cloudfront.net/wp-content/uploads/sites/1494/2021/09/21001218/GUARDIAN-ANGELS-MEMBER-ATTACKED.png).

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1 24. Without permission or authorization from Plaintiff, Defendant volitionally selected,  
2 copied, stored and/or displayed the Video as well as the Video image as is set forth in Exhibit “1”  
3 on the Website.

4 25. Upon information and belief, the Video and Video Image were copied, stored and  
5 displayed without license or permission, thereby infringing on Plaintiff's copyrights (hereinafter  
6 singularly the “*Infringement*” and collectively the “*Infringements*”).

7 26. The Infringements include a URL (“*Uniform Resource Locator*”) for a fixed  
8 tangible medium of expression that was sufficiently permanent or stable to permit it to be  
9 communicated for a period of more than transitory duration and therefore constitutes a specific  
10 infringement. *17 U.S.C. §106(5); Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146, 1160 (9th  
11 Cir. 2007).

12 27. The Infringements are exact copy of the entirety and/or select segments of  
13 Plaintiff's original Video that were directly copied and/or stored by Defendant on the Website.

14 28. Upon information and belief, Defendant takes an active and pervasive role in the  
15 content posted on its Website, including, but not limited to copying, posting, selecting,  
16 commenting on and/or displaying videos including but not limited to Plaintiff's Video and Video  
17 Image.

18 29. Upon information and belief, Defendant directly contributes to the content posted  
19 on the Website by, inter alia, directly employing reporters, authors and editors as its agents,  
20 including but not limited to Chad Lopez whose LinkedIn page lists him as “President”  
21 (“*Employees*”).

22 30. Upon information and belief, at all material times the Employees were acting within  
23 the course and scope of their employment when they posted the Infringement.  
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1           31.    Upon information and belief, at all material times the Employees were acting within  
2 the course and scope of their agency when they posted the Infringement.

3           32.    Upon information and belief, the Video and Video Image were willfully and  
4 volitionally posted to the Website by Defendant.

5           33.    Upon information and belief, the Infringements were not posted at the direction of  
6 a “user” as that term is defined in 17 U.S.C. §512(c).

7           34.    Upon information and belief, Defendant engaged in the Infringements knowingly  
8 and in violation of applicable United States Copyright Laws.

9           35.    Upon information and belief, Defendant has the legal right and ability to control  
10 and limit the infringing activities on its Website and exercised and/or had the right and ability to  
11 exercise such right.

12           36.    Upon information and belief, Defendant monitors the content on its Website.

13           37.    Upon information and belief, Defendant has received a financial benefit directly  
14 attributable to the Infringements.

15           38.    Upon information and belief, the Infringements increased traffic to the Website and,  
16 in turn, caused Defendant to realize an increase in its advertising revenues and/or merchandise  
17 sales.

18           39.    Upon information and belief, a large number of people have viewed the unlawful  
19 copies and/or display of the Video and Video Image on the Website.

20           40.    Upon information and belief, Defendant at all times had the ability to stop the  
21 reproduction and display of Plaintiff's copyrighted material.

22           41.    Defendant's use of the Video, if widespread, would harm Plaintiff's potential market  
23 for the Video.

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