

**IN THE FEDERAL HIGH COURT  
IN THE LAGOS JUDICIAL DIVISION  
HOLDEN AT LAGOS**

**SUIT NO: FHC/L/CS/303/2018**

**BETWEEN:**

1. AKOJI AGENI - YUSUF  
2. EAGLE EYE PRODUCTION LIMITED } **PLAINTIFFS**

**AND**

1. SAMSUNG ELECTRONICS WEST AFRICA LIMITED }  
2. RINGIER NIGERIA LIMITED } **DEFENDANTS**

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**PLAINTIFFS' REPLY TO THE 1<sup>ST</sup> DEFENDANT'S STATEMENT OF DEFENCE**

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1. **FOR THE AVOIDANCE OF DOUBT**, unless expressly admitted by the Plaintiffs, all contentions and allegations contained in the 1<sup>st</sup> Defendant's Statement of Defence are categorically denied, and if an allegation or contention is not specifically addressed by the 1<sup>st</sup> Defendant, it does not imply that it is admitted.
2. **FOR GOOD ORDER** and ease of reference, terms and definitions used in the Plaintiffs' Statement of Claim are adopted in this Reply.
3. The Plaintiffs joins issue with the 1<sup>st</sup> Defendant on paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of the 1<sup>st</sup> Defendant's Statement of Defence save in so far as it consists of admissions.
4. The Plaintiffs deny all material allegations of fact contained in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13 of the 1<sup>st</sup> Defendant's Statement of Defence, and state that same are untrue and have been contrived by the 1<sup>st</sup> Defendant with a view to mislead this Honourable Court. The Plaintiffs shall at the trial of this suit require very strict proof of the aforesaid averments.
5. The Plaintiffs are not in a position to admit or deny the averments contained in paragraphs 6(b), (c), (d), (f) (g) and (h) of the the 1<sup>st</sup> Defendant's Statement of Defence. The Plaintiffs shall at the trial of this suit require very strict proof of the aforesaid averments.
6. In response to paragraphs 2 of the 1<sup>st</sup> Defendant's Statement of Defence, the Plaintiffs aver that the 1<sup>st</sup> Defendant expended a lot of time and resources in creating the "*Lekki Ikoyi Link Bridge at Night*" video.

7. In response to **paragraphs 3 and 4** of the 1<sup>st</sup> Defendant's Statement of Defence, the Plaintiffs state that a search of the 1<sup>st</sup> Defendant's records at the Corporate Affairs Commission reveals that the 1<sup>st</sup> Defendant is engaged the distribution and the marketing of all electronic, electric, telecommunication and household electronic appliances, device, equipment and spare parts. **The Plaintiffs hereby pleads and shall rely on the Certified True Copy of the Memorandum of Association of the 1<sup>st</sup> Defendant.**
8. In response to paragraphs **5 and 6 (a) - (o)**, the Plaintiffs aver that 1<sup>st</sup> Defendant published the infringing video on its YouTube Channel thereby infringing the Plaintiffs copyright to the *Lekki Ikoyi Link Bridge at Night*" video.
9. Furthermore, it is immaterial that the 1<sup>st</sup> Defendant procured the infringing *"Nightlife in Lagos with Galaxy Note8"*, through Cheil Communications Nigeria Limited (*"Cheil"*) or the 2<sup>nd</sup> Defendant. The 1<sup>st</sup> Defendant having procured the production of the infringing video and proceeded to publish same on its YouTube channel for its financial benefit, without obtaining authorization from the Plaintiffs- the rightful copyright owners has infringed on the Plaintiffs copyright to the *"Lekki Ikoyi Link Bridge at Night"* video.
10. The 1<sup>st</sup> Defendant, as a responsible corporate organization, ought to have verified the authenticity of the Scenes reproduced in its *"Nightlife in Lagos with Galaxy Note8"* video before proceeding to utilize same for the promotion of its Samsung Galaxy Note 8 mobile telephone. The 1<sup>st</sup> Defendant cannot escape liability by failing to take steps that a responsible business entity in its shoes ought to have taken, i.e. ensure that contents of a video purportedly produced by another entity is an original work before proceeding to utilize same for financial benefits.
11. In further response to paragraph 6(b), (c) and (d) of the 1<sup>st</sup> Defendant's Statement of Defence, the so-called Cheil is a subsidiary of the 1<sup>st</sup> Defendant.
12. In further response to paragraph 6(o) and 7, the Plaintiffs aver that the 1<sup>st</sup> Defendant derived substantial benefits from using the Scenes in the Plaintiffs *"Lekki Ikoyi Link Bridge at Night Video"* as same was used to promote the sale of its Samsung Galaxy Note 8 mobile telephone.
13. In fact the alleged instructions to Cheil to create advertisement materials for promotion of Samsung products and subsequent publication of the infringing *"Nightlife in Lagos with Galaxy Note8"* by the 1<sup>st</sup> Defendant, is telling of the substantial benefits of the infringing video to the 1<sup>st</sup> Defendant.



14. Specifically, the said video was published by the 1<sup>st</sup> Defendant on its YouTube Channel on October 16, 2017 and was widely viewed .
15. In further response to paragraphs 8, 9, 10, 11, 12 and 13, the Plaintiffs reiterate that the 1<sup>st</sup> Defendant infringed on Plaintiff's copyright to the Scenes in the Plaintiffs' "*Lekki Ikoyi Link Bridge at Night*" video.
16. Whereof, the Plaintiffs aver that the Statement of Defence of the 1<sup>st</sup> Defendant is without merit and the 1<sup>st</sup> Defendant has no defence to this suit.

**DATED THIS \_\_\_\_\_ DAY OF APRIL 2018**

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**FOR SERVICE ON:**

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