

for service

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

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

MEMORANDUM OF APPEARANCE

Please enter **appearance** for **SAMSUNG ELECTRONICS WEST AFRICA LIMITED** sued as **1ST DEFENDANT** in this action.

DATED the 23rd Day of March 2018



[Handwritten signature]

UCHENNA NJOKU ESQ.
 (1st Defendant's Counsel)
 Kanu Agabi & Associates,
 44 Lasode Crescent
 Off Ozumba Mbadiwe Way
 Beside Mobil Filling Station
 Victoria Island, Lagos.
 08038728733
uchenjoku@hotmail.com

FOR SERVICE ON:

- 1. **The Plaintiffs**
 c/o Their Counsel
 Abimbola Akeredolu SAN
 Banwo & Ighodalo
 98 Awolowo Road
 South-West Ikoyi
 Lagos

- 2. **The 2nd Defendant**
 C/o Its Solicitors
 Punuka Attorneys & Solicitors
 Plot 45 Oyibo Adjarho Street
 Lekki Phase 1 – Lagos.



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

SUIT NO. FHC/L/CS/303/2018

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AND

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

1ST DEFENDANT'S STATEMENT OF DEFENCE

SAVE AND EXCEPT as hereinafter expressly admitted, the 1st Defendant denies each and every allegation of fact contained in the Statement of Claim as if same were herein specifically set out and traversed seriatim.

1. The 1st Defendant admits paragraphs 17, 18, and 22 of the Statement of Claim.
2. The 1st Defendant is not in a position to admit or deny the factual averments paragraphs 1, 2, 3, 8, 9, 10, and 11 of the Statement of Claim and hereby puts the Plaintiff to the strictest proof thereof.
3. The 1st Defendant admits paragraph 4 of the Statement of Claim only to the extent that the 1st Defendant is a company incorporated in Nigeria with office address at Plots 13/14 Ligali Ayorinde Street, Victoria Island, Lagos, Nigeria but denies every other averment in the said paragraph.
4. In further response to paragraph 4 of the Statement of Claim, the 1st Defendant states that the 1st Defendant is not engaged in the business of distribution and sale of Samsung products – whether electrical or electronics devices in Nigeria as wrongly alleged by the Plaintiffs
5. The 1st Defendant denies all the averments contained in paragraphs 5, 6, 7, 12, 13, 14, 15, 16, 19, 20, 21, 23 and 24 of the Statement of Claim.
6. In specific response to paragraphs 5, 6, 7, 12, 13, 14, 15, 16, 19, 20, 21, 23 and 24 of the Statement of Claim, the 1st states that:

- a. The 1st Defendant neither infringed nor did it procure the commission of any infringement of the Plaintiffs' copyright as wrongly alleged by the Plaintiffs.
- b. Sometime in March 2017, the 1st Defendant contracted the services of a company called Cheil Communications Nigeria Limited, as an independent contractor, to provide a number of services to the 1st Defendant including creation of advertisement materials for Samsung products.
- c. Towards this end, Cheil Communications Nigeria Limited produced and launched an advertisement captioned **"Night Life in Lagos with Galaxy Note 8"** ("the Advertisement").
- d. Unknown to the 1st Defendant at the material time, the Advertisement was not directly handled by Cheil Communications Nigeria Limited but was done through another 3rd party independent contractor, the 2nd Defendant herein.
- e. By letter dated 31 October 2017, the 1st Plaintiff, through its Solicitors, sent a rather strange letter to the 1st Defendant alleging ownership of the contents of the Advertisement and demanding the 1st Defendant to submit an unconditional written acknowledgement of the 1st Plaintiff's ownership of and exclusive right in a certain alleged original work, discontinue the use of the Advertisement, expunge the alleged original work from the Advertisement and pay the sum of N65,000,000 (Sixty Five Million Naira) as damages and cost of legal representation.
- f. The 1st Defendant, being shocked at this strange letter and its contents, investigated the matter and found that the allegations raised in the Plaintiffs' letter relate to works done by the 2nd Defendant, as an independent contractor to Cheil Communications Limited.
- g. At all material times, the 1st Defendant had no contractual or agency relationship with the 2nd Defendant. The 1st Defendant neither procured the 2nd Defendant to render any service to the 1st Defendant nor did the 1st Defendant direct the manner in which the 2nd Defendant carried out its assignment.

- h. The 1st Defendant forwarded the Plaintiffs' said letter of 31 October 2017 to Cheil Communications Nigeria Limited who in turn contacted the 2nd defendant.
- i. In response to the claim of the Plaintiffs, the 2nd Defendant caused its Solicitors to reply to the Plaintiffs' letter clarifying, in particular, that the 2nd Defendant produced the Advertisement and was the proper person to address and/or respond to any issues concerning the Advertisement.
- j. The 2nd Defendant's letter to the Plaintiffs' Solicitors dated 2 November 2017 reads in part thus:

Our Client spearheaded the production of the Samsung Advertisement "Night Life in Lagos with Galaxy Note 8" (Advertisement"), thus your letter under reference was forwarded to our Client by virtue of the fact that our client produced the advertisement. Our Client shall be responsible for responding to any issues concerning the said Advertisement.

- k. On its own, the 1st Defendant replied the Plaintiffs' letter by letter, the original copy of which was erroneously dated 7 October 2017 wherein the 1st Defendant denied the allegations and claims made by the Plaintiffs in the following words:

After a careful consideration of your claims, our company considers it expedient to intimate you that the content of the advertisement in issue was created and produced by one Ringier Nigeria Limited, who was an independent contractor engaged by Cheil communications limited for the creation and production of the advertisement content for valuable consideration.

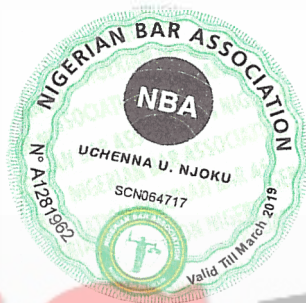
It is noteworthy to state that our company has not infringed on the copyright of your client and does not take responsible (sic) for the advertisement content created and produced by Ringier Nigeria limited. Therefore, company denies all your claims, and would advise that such claims and any issues thereof concerning the said advertisement be directed to Ringier Nigeria Limited.

- l. The 1st Defendant never admitted at any time whatsoever that the Advertisement constituted any infringement of the Plaintiffs' copyright.
 - m. The Plaintiffs responded to the 1st Defendant by letter dated 14 November 2017 wherein the Plaintiffs committed themselves to tutoring the 1st Defendant on the Plaintiffs' understanding of copyright law. In doing this, the Plaintiffs apparently ignored the representations made to it by the 2nd Defendant and the fact that the 2nd Defendant never functioned as an agent of the 1st Defendant but as an independent contractor to Cheil Communications Limited.
 - n. By letter dated 14 November 2017, the 2nd Defendant informed the 1st Defendant that the 2nd Defendant had on two occasions written the Plaintiffs and informed them that the 2nd Defendant produced the Advertisement as an independent contractor.
 - o. The 1st Defendant never infringed on the Plaintiffs' copyright and has not derived any benefit whatsoever from any alleged infringement, which is denied.
7. The 1st Defendant contends that it never published any video that utilized scenes from the Plaintiffs' "Lekki Ikoyi Link Bridge at Night" as wrongly alleged by the Plaintiffs.
 8. The 1st Defendant further contends that it is neither jointly nor severally liable for any alleged infringement of the Plaintiffs' copyright in the "**Lekki Ikoyi Link Bridge at Night**" video.
 9. Defendant relies on all defences available to the 3rd Defendant in law and equity against the Plaintiffs' claims.
 10. It is the case of the 1st Defendant that the Plaintiffs are not entitled to any of the reliefs sought against the 1st Defendant in this suit.
 11. The 1st Defendant shall, at the trial of this suit, contend that this action, in so far as the 1st Defendant is concerned, is baseless, frivolous, gold digging, spurious and downright unreasonable and should be dismissed with substantial costs against the Plaintiffs.
 12. At the hearing, the 1st Defendant shall found and rely upon all the documents pleaded in this Statement of defence as well as any

other document arising from or relating to the facts averred in this Statement of Defence.

13. **WHEREUPON** the 1st Defendant contends that this action is gold digging, malicious, unfounded and vexatious and urges the Court that this action be dismissed with substantial costs against the Plaintiffs.

Dated this 23rd Day of March 2018.




KANU AGABI (CON) SAN

✓ UCHENNA NJOKU ESQ.

(1st Defendant's Counsel)

Kanu Agabi & Associates,

44 Lasode Crescent

Off Ozumba Mbadiwe Way

Beside Mobil Filling Station

Victoria Island, Lagos.

08038728733

uchenjoku@hotmail.com

FOR SERVICE ON

1. The Plaintiffs

c/o Their Counsel
Abimbola Akeredolu SAN
Banwo & Ighodalo
98 Awolowo Road
South-West Ikoyi
Lagos

2. The 2nd Defendant

C/o Its Solicitors
Punuka Attorneys & Solicitors
Plot 45 Oyibo Adjarho Street
Lekki Phase 1 – Lagos.



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✓ *revised*
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f23/3/18

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

1ST DEFENDANT'S LIST OF WITNESS

1. Ruby Omokaro Okpor

Dated this 23rd Day of March 2018.


KANU AGABI (CON) SAN
✓ UCHENNA NJOKU ESQ.
(1st Defendant's Counsel)
Kanu Agabi & Associates,
44 Lasode Crescent
Off Ozumba Mbadiwe Way
Victoria Island, Lagos.
08038728733
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Abimbola Akeredolu SAN
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98 Awolowo Road
South-West Ikoyi
Lagos

2. **The 2nd Defendant**

C/o Its Solicitors
Punuka Attorneys & Solicitors
Plot 45 Oyibo Adjarho Street
Lekki Phase 1 – Lagos.



Amk
23/10/18
1:50pm

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



SUIT NO. FHC/L/CS/303/20

BETWEEN

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

AND

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

WITNESS STATEMENT ON OATH OF RUBY OMOKARO OKPOR

I, **Ruby Omokaro Okpor**, Adult, Male, Christian and Nigerian Citizen of Plot 13/14 Ligali Ayorinde Street, Victoria Island, Lagos, do hereby make oath and state that:

- 1. I am the Head of the Legal Department in the 1st Defendant by virtue of which I am conversant with the facts of this case.
- 2. I have the consent of the 1st Defendant to depose to this Witness Statement and I do so for and on behalf of the 1st Defendant.
- 3. The facts deposed to in this Witness Statement are within my personal knowledge by virtue of my position in the 1st Defendant. Where any fact in this Witness Statement is derived from any source other than my personal knowledge, I have expressly stated so.
- 4. I know that the 1st Defendant admits paragraphs 17, 18, and 22 of the Statement of Claim in so far as those paragraphs talk about written correspondence from the Plaintiffs to the 1st Defendant.
- 5. I also know that the 1st Defendant is not in a position to admit or deny the factual averments paragraphs 1, 2, 3, 8, 9, 10, and 11 of the Statement of Claim, as such, the Plaintiffs are put to the strictest proof of those averments in the named paragraphs.
- 6. It is correct that the 1st Defendant is a company incorporated in Nigeria with office address at Plots 13/14 Ligali Ayorinde Street, Victoria Island, Lagos, Nigeria but it is not true that the 1st Defendant is engaged in the business of distribution and sale of

Samsung products – whether electrical or electronics devices in Nigeria as wrongly alleged by the Plaintiffs

7. I deny all the averments contained in paragraphs 5, 6, 7, 12, 13, 14, 15, 16, 19, 20, 21, 23 and 24 of the Statement of Claim and I specifically respond to the said paragraphs 5, 6, 7, 12, 13, 14, 15, 16, 19, 20, 21, 23 and 24 of the Statement of Claim as follows:
- a. The 1st Defendant neither infringed nor did it procure the commission of any infringement of the Plaintiffs' copyright as wrongly alleged by the Plaintiffs.
 - b. Sometime in March 2017, the 1st Defendant contracted the services of a company called Cheil Communications Nigeria Limited, as an independent contractor, to provide a number of services to the 1st Defendant including creation of advertisement materials.
 - c. Towards this end, Cheil Communications Nigeria Limited produced and launched an advertisement captioned "**Night Life in Lagos with Galaxy Note 8**" ("**the Advertisement**").
 - d. Unknown to the 1st Defendant at the material time, the Advertisement was not directly handled by Cheil Communications Nigeria Limited but was done through another 3rd party independent contractor, the 2nd Defendant herein.
 - e. By letter dated 31 October 2017, the 1st Plaintiff, through its Solicitors, sent a rather strange letter to the 1st Defendant alleging ownership of the contents of the Advertisement and demanding the 1st Defendant to submit an unconditional written acknowledgement of the 1st Plaintiff's ownership of and exclusive right in a certain alleged original work.
 - f. The Plaintiffs' letter equally demanded that the 1st Defendant should discontinue the use of the Advertisement, expunge the alleged original work from the Advertisement and pay the sum of **₦65,000,000 (Sixty Five Million Naira)** as damages and cost of legal representation.
 - g. The 1st Defendant, being shocked at this strange letter and its contents, investigated the matter and found that the allegations raised in the Plaintiffs' letter relate to works done by

the 2nd Defendant, as an independent contractor to Cheil Communications Limited.

- h. At all material times, the 1st Defendant had no contractual or agency relationship with the 2nd Defendant. The 1st Defendant neither procured the 2nd Defendant to render any service to the 1st Defendant nor did the 1st Defendant direct the manner in which the 2nd Defendant carried out its assignment.
- i. The 1st Defendant forwarded the Plaintiffs' said letter of 31 October 2017 to Cheil Communications Nigeria Limited who in turn contacted the 2nd defendant.
- j. The 2nd Defendant's letter to the Plaintiffs' Solicitors dated 2 November 2017 reads in part thus:

Our Client spearheaded the production of the Samsung Advertisement "Night Life in Lagos with Galaxy Note 8" (Advertisement"), thus your letter under reference was forwarded to our Client by virtue of the fact that our client produced the advertisement. Our Client shall be responsible for responding to any issues concerning the said Advertisement.

- k. On its own, the 1st Defendant replied the Plaintiffs' letter by letter, the original copy of which was erroneously dated 7 October 2017 wherein the 1st Defendant denied the allegations and claims made by the Plaintiffs in the following words:


After a careful consideration of your claims, our company considers it expedient to intimate you that the content of the advertisement in issue was created and produced by one Ringier Nigeria Limited, who was an independent contractor engaged by Cheil communications limited for the creation and production of the advertisement content for valuable consideration.

It is noteworthy to state that our company has not infringed on the copyright of your client and does not take responsible (sic) for the advertisement content created and produced by Ringier Nigeria limited. Therefore, company denies all your claims, and would advise that such claims and any issues

thereof concerning the said advertisement be directed to Ringier Nigeria Limited.

- l. The 1st Defendant never admitted at any time whatsoever that the Advertisement constituted any infringement of the Plaintiffs' copyright.
 - m. The Plaintiffs responded to the 1st Defendant by letter dated 14 November 2017 wherein the Plaintiffs committed themselves to tutoring the 1st Defendant on the Plaintiffs' understanding of copyright law. In doing this, the Plaintiffs apparently ignored the representations made to it by the 2nd Defendant and the fact that the 2nd Defendant never functioned as an agent of the 1st Defendant but as an independent contractor to Cheil Communications Limited.
 - n. By letter dated 14 November 2017, the 2nd Defendant informed the 1st Defendant that the 2nd Defendant had on two occasions written the Plaintiffs and informed them that the 2nd Defendant produced the Advertisement as an independent contractor.
 - o. The 1st Defendant never infringed on the Plaintiffs' copyright and has not derived any benefit whatsoever from any alleged infringement, which is denied.
8. I know that the 1st Defendant never published any video that utilized scenes from the Plaintiffs' "**Lekki Ikoyi Link Bridge at Night**" as wrongly alleged by the Plaintiffs.
 9. I know that the 1st Defendant has not in any way infringed on the Plaintiffs' copyright in the manner as alleged by the Plaintiffs or in any other manner howsoever.
 10. I state that the 1st Defendant further is neither jointly nor severally liable for any alleged infringement of the Plaintiffs' copyright in the "**Lekki Ikoyi Link Bridge at Night**" video.
 11. I state that the Plaintiffs are not entitled to any relief whatsoever against the 1st Defendant.
 12. I know for a fact that the 1st Defendant has nothing to do with the action filed by the Plaintiffs as the 1st Defendant has not done any wrongful act against the Plaintiffs in any way.

13. I depose to this Witness Statement in good faith, consciously and conscientiously, believing its contents to be true and correct and in accordance with the Oaths Act.



DEPONENT

SWORN TO AT THE FEDERAL HIGH COURT REGISTRY, IKOYI

THIS ... 23rd ... DAY OF MARCH 2018

BEFORE ME

COMMISSIONER FOR OATHS

Original
A.M. 0504-0510-474-0118 (MRS)
A.M. 1011-1012-474-0118 (MRS)

ewsroom



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

1ST DEFENDANT'S LIST OF DOCUMENTS

1. 1st Defendant's letter to the Plaintiffs' Solicitors dated 7 Oct 2017.
2. 2nd Defendant Solicitors' letter to the 1st Defendant dated 14 November 2017.

Dated this 23rd Day of March 2018.


KANU AGABI (CON) SAN
UCHENNA NJOKU ESQ.
(1st Defendant's Counsel)
Kanu Agabi & Associates,
44 Lasode Crescent
Off Ozumba Mbadiwe Way
Beside Mobil Filling Station
Victoria Island, Lagos.
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uchenjoku@hotmail.com

FOR SERVICE ON

1. **The Plaintiffs**

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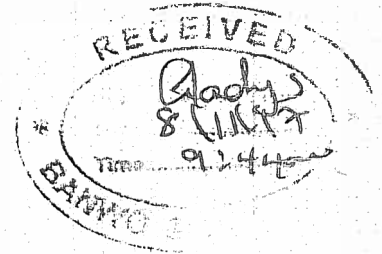
SAMSUNG



WORLDWIDE PARTNER

7th October 2017

The Managing Partner
Banwo & Ighodalo
98 Awolowo Road
South-West Ikoyi
Lagos



Dear Sir,

RE: CEASE AND DESIST LETTER

The above subject matter refers, particularly, your letters dated October 31, 2017 and November 8, 2017 respectively.

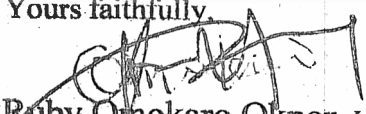
After a careful consideration of your claims, our company considers it expedient to intimate you that the content of the advertisement in issue was created and produced by one Ringier Nigeria limited, who was an independent contractor engaged by Cheil communications limited for the creation and production of the advertisement content for valuable consideration.

It is noteworthy to state that our company has not infringed on the copyright of your client and does not take responsible for the advertisement content created and produced by Ringier Nigeria limited. Therefore, company denies all your claims, and would advise that such claims and any issues thereof concerning the said advertisement be directed to Ringier Nigeria Limited.

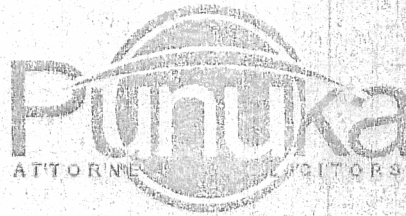
However, our company is currently investigating your claims and would communicate to you of its findings.

Thank you for your co-operation.

Yours faithfully,


Ruby Omokaro Okpor, LL.M (UK), ACIS, (UK)
Head of Legal and Compliance

November 14, 2017



The Managing Director
Samsung Electronics West Africa Limited
13/14 Ligali Ayorinde Street
Victoria Island
Lagos

Dear Sir,

RE: UPDATE ON CEASE AND DESIST LETTER

We refer to the letters from Banwo & Ighodalo dated October 31, 2017; November 6, 2017; and November 13, 2017, with respect to the copyright infringement claim on the advertisement titled "Night Life in Lagos with Galaxy Note 8" (the "Advertisement") referred to us by our client Ringier Nigeria Limited on whose behalf and instruction we write you this letter.

Please be informed that we have written two letters (November 2, 2017 and November 8, 2017) in response (enclosed herein) emphasising that our Client produced the Advertisement as an independent contractor, and thus is authorised to handle any issues with respect to the said Advertisement. We also attended a settlement meeting on the 13th of November 2017 wherein we proposed a settlement in order to avoid the inconvenience of litigation.


Unfortunately, despite our several efforts, the firm of Banwo & Ighodalo have continued to direct letters to you, presumably to influence the settlement discussions. We were also surprised when we read some of the issues mentioned in these letters, particularly their letter of 13th November 2017.


Please be assured that we are handling the issue and we are available to address any concerns you may have. In this regard, please confirm a date and time that would be convenient for us to meet with you with a representative of our client.

Please accept the assurance of our professional regards.

Yours faithfully,

PUNUKA Attorneys & Solicitors


Onyinye Odogwu
Associate


Elizabeth Idigbe
Managing Partner

Partners: Anthony Idigbe, SAN, Elizabeth Idigbe, Nnamdi Oragwu, Okorie Kalu, Ebelechukwu Eneidah
Senior Associates: Obianuju Otudor, Iheanacho Dike-Udensi, Olapeju Anozie, Eric Odojah
Associates: Gloria Ogwu, Damola Adewale, Onyeka Ehiwuogwu, Altuagie Omokhodion, Emuobonuvie Majemite, Onyinye Odogwu, Oluwahunmi Apoba, Peter Edokpavi, Tobenna Nriamadi, Adekola Olawoye, Betty Blayeibo, Omotayo Ogunbadewa, Ebuka Ekeanyanwu, Boma Gwunabo, Uche Ocranwu, Adetutu Olowu, Isidma Idigbe, Ifeyinwa Anyadiegwu, Rukevwe Ekpobedefe, Chimezie Onuzulike, Adeyinka Abdulsalam
General Manager, Practice: Angela Ezenweani, **Consultants:** Richard Obiamliwe, Judith Makwe-Faneqan, Afamefuna Nnagwu

International Law Centre
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LAGOS ABUJA ASABA