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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION**

BROADCAST MUSIC, INC.; HOUSE OF BRYANT)
PUBLICATIONS, LLC; UNIVERSAL - MILLHOUSE)
MUSIC, A DIVISION OF MAGNA SOUND CORP.;)
BOCEPHUS MUSIC, INC.; SONY/ATV SONGS LLC)
d/b/a SONY/ATV TREE PUBLISHING; SONY/ATV)
SONGS LLC; FOX-GIMBEL PRODUCTIONS, INC.;)
RODALI MUSIC; RONDOR MUSIC)
INTERNATIONAL, INC. d/b/a IRVING MUSIC;)
EMBASSY MUSIC CORPORATION; CYANIDE)
PUBLISHING; EMI VIRGIN SONGS, INC. d/b/a EMI)
LONGITUDE MUSIC; SONGS OF UNIVERSAL,)
INC.; GEORGIAN HILLS MUSIC; TREMONTI)
STAPP MUSIC; RESERVOIR MEDIA)
MANAGEMENT INC. d/b/a RESERVOIR 416 a/k/a)
RESERVOIR ONE AMERICA; EMI BLACKWOOD)
MUSIC INC.; WARNER-TAMERLANE PUBLISHING)
CORP.; LUCKY THUMB MUSIC; NOAH'S LITTLE)
BOAT MUSIC; SEA GAYLE MUSIC LLC d/b/a NEW)
SONGS OF SEA GAYLE; ELDEROTTO MUSIC)
PUBLISHING; BIG GASSED HITTIES; RED VINYL)
MUSIC LLC d/b/a RED VINYL MUSIC;)
DANNYMYRICK MUSIC; ROOT 49 MUSIC LLC)
d/b/a ROOT 49 MUSIC; FUTURE STARS)
PUBLISHING CO.,)

Plaintiffs)

v.)

Civil Action No. 4:15-CV-128

PHILKERR, LLC d/b/a HARDY'S CAFÉ)

Serve: Steven T. Phillips)
Registered Agent)
440 S. Gardner Street)
Scottsburg, IN 47170)

and)

STEVEN PHILLIPS, individually,)
Serve: 440 S. Gardner Street)
Scottsburg, IN 47170)

Defendants)

COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the “Copyright Act”). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. (“BMI”), is a corporation organized and existing under the laws of the State of New York. BMI’s principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 8.5 million copyrighted musical compositions (the “BMI Repertoire”), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to FED. R. CIV. P. 17(a) and 19(a).

5. Plaintiff House of Bryant Publications, LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Universal - Millhouse Music is a Division of Magna Sound Corp. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Bocephus Music, Inc. is a corporation. This Plaintiff is the copyright

owner of at least one of the songs in this matter.

8. Plaintiff Sony/ATV Songs LLC is a limited liability company doing business as Sony/ATV Tree Publishing. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Sony/ATV Songs LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Plaintiff Fox-Gimbel Productions, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff Rodali Music is a sole proprietorship owned by Charles Fox. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Plaintiff Rondor Music International, Inc. is a corporation doing business as Irving Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

13. Plaintiff Embassy Music Corporation is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

14. Plaintiff Cyanide Publishing is a partnership owned by Robert Kuykedall, Richard A. Ream, Bruce Johannesson and Bret M Sychak. This Plaintiff is the copyright owner of at least one of the songs in this matter.

15. Plaintiff EMI Virgin Songs, Inc. is a corporation doing business as EMI Longitude Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

16. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

17. Plaintiff Georgian Hills Music is a sole proprietorship owned by Gary Stefan Harrison. This Plaintiff is the copyright owner of at least one of the songs in this matter.

18. Plaintiff Tremonti Stapp Music is a partnership owned by Scott A. Stapp and Mark T. Tremonti. This Plaintiff is the copyright owner of at least one of the songs in this matter.

19. Plaintiff Reservoir Media Management Inc. is a corporation doing business as Reservoir 416 a/k/a Reservoir One America. This Plaintiff is the copyright owner of at least one of the songs in this matter.

20. Plaintiff EMI Blackwood Music Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

21. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

22. Plaintiff Lucky Thumb Music is a sole proprietorship owned by Cory J. Gierman. This Plaintiff is the copyright owner of at least one of the songs in this matter.

23. Plaintiff Noah's Little Boat Music is a sole proprietorship owned by Lee Thomas Miller. This Plaintiff is the copyright owner of at least one of the songs in this matter.

24. Plaintiff Sea Gayle Music LLC is a limited liability company doing business as New Songs of Sea Gayle. This Plaintiff is the copyright owner of at least one of the songs in this matter.

25. Plaintiff Elderotto Music Publishing is a sole proprietorship owned by James Allen Otto. This Plaintiff is the copyright owner of at least one of the songs in this matter.

26. Plaintiff Big Gassed Hitties is a sole proprietorship owned by Jamey Van Johnson. This Plaintiff is the copyright owner of at least one of the songs in this matter.

27. Plaintiff Red Vinyl Music LLC is a limited liability company doing business as Red Vinyl Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

28. Plaintiff Dannymyrick Music is a sole proprietorship owned by Daniel Wayne Myrick. This Plaintiff is the copyright owner of at least one of the songs in this matter.

29. Plaintiff Root 49 Music LLC is a limited liability company doing business as Root 49 Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

30. Plaintiff Future Stars Publishing Co. is a sole proprietorship owned by Clarence Carter. This Plaintiff is the copyright owner of at least one of the songs in this matter.

31. Defendant Philkerr, LLC is a limited liability company organized and existing under the laws of the state of Indiana, which operates, maintains and controls an establishment known as Hardy's Café, located at 48 Main Street, Scottsburg, Scott County, Indiana 47170, in this district (the "Establishment").

32. In connection with the operation of the Establishment, Defendant Philkerr, LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

33. Defendant Philkerr, LLC has a direct financial interest in the Establishment.

34. Defendant Steven Phillips is the owner and President of Defendant Philkerr, LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

35. Defendant Steven Phillips has the right and ability to supervise the activities of Defendant Philkerr, LLC and a direct financial interest in that limited liability company and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

36. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 35.

37. Plaintiffs allege fifteen (15) claims of copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire.

All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

38. Annexed to this Complaint as a schedule (the “Schedule”) and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. See Schedule, attached as Exhibit A. The Schedule contains information on the fifteen (15) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to “Lines” are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

39. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

40. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

41. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition

identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

42. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

43. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) Plaintiffs have such other and further relief as is just and equitable.

Respectfully submitted,

/s/ Reva D. Campbell

Reva D. Campbell

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