

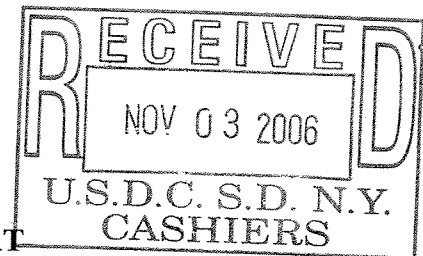
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INC. d/b/a AVENUE RECORDS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Bridgeport Music Inc., TMC Music, Inc.
d/b/a Milwaukee Music, Inc., and Audio
Visual Entertainment, Inc. d/b/a Avenue
Records,

Plaintiffs,

v.

The Island Def Jam Music Group, a division
of UMG Recordings, Inc., UMG Recordings,
Inc., Roc-A-Fella Records, LLC; Universal
Music Group Distribution, Corp., formerly
known as Universal Music and Video
Distribution; Shawn Carter, p/k/a Jay Z,
individually and doing business as Carter
Boys Publishing; EMI April Music, Inc.;
David Blake Hepburn p/k/a DJ Quik; David
Blake Hepburn doing business as Q Baby
Music; Damon Dash; and Kareem "Biggs"
Burke,

Defendants.

Judge Hellerstein
06 CV 12917

No. _____

JURY DEMAND

COMPLAINT

Plaintiffs Bridgeport Music Inc. ("Bridgeport"), TMC Music, Inc. d/b/a Milwaukee Music, Inc., ("Milwaukee") and Audio Visual Entertainment, Inc. d/b/a Avenue Records, ("Avenue") as successor in interest to L.A. International Records, Inc., by its attorneys, for its Complaint against The Island Def Jam Music Group, a division of UMG Recordings, Inc., UMG Recordings, Inc., Roc-A-Fella Records, LLC; Universal Music Distribution Group, Corp., formerly known as Universal Music and Video Distribution; Shawn Carter p/k/a Jay Z, individually and doing business as Carter Boys Publishing; EMI April Music, Inc.; David Blake Hepburn, p/k/a DJ Quik; David Blake Hepburn doing business as Q Baby Music; Damon Dash; and Kareem "Biggs" Burke, state as follows:

I. NATURE OF THE ACTION

1. This action for damages, declaratory relief, and permanent injunctive relief is brought by Plaintiffs pursuant to the Copyright Act and Copyright Revision Act, 17 U.S.C. §§101 *et seq.* (the "Copyright Act"), and other common and statutory law as set forth.

2. Plaintiffs Bridgeport and Milwaukee are the joint owners of the right, title, and interest in and to the musical composition known as "The Witch" a/k/a "The Witch: Shade I: The Proclafunktion/ Shade II: The Infunktation/ Shade III: The Celefunktion," (hereinafter "The Witch") including the copyright therein, together with the right to register the statutory copyright therein. Plaintiffs Bridgeport and Milwaukee have complied with all of the laws pertinent to this composition as a copyrighted work, and the subject copyright registrations for the musical composition "The Witch" have been appropriately deposited and/or registered with the U.S. Copyright office. At all times pertinent hereto, Plaintiffs Bridgeport and Milwaukee have complied with all applicable provisions of the copyright laws of the United States. Plaintiff Avenue is the owner of the sound recording "The Witch," including the copyright therein, together with the right to register the

statutory copyright therein. Avenue has complied with all of the laws pertinent to this sound recording as a copyrighted work, and the subject copyright registration for the sound recording "The Witch" has been appropriately deposited and/or registered with the U.S. Copyright office. At all times pertinent hereto, Avenue has complied with all applicable provisions of the copyright laws of the United States.

3. The musical composition and sound recording "The Witch" was created in 1980, and appeared on the album "Connection and Disconnections" released by Avenue's predecessor in interest, L.A. International Records, Inc. and re-released in or about 1992 on the album "Who's A Funkadelic" released by Avenue through Rhino Records.

4. The infringing musical composition and infringing sound recording that is the subject of this action is of a genre of music known as "rap." In rap music, the artist typically speaks along with one or more pre-recorded musical compositions. To record the rap song at issue, the defendants copied an original and important portion of Plaintiffs' musical composition and sound recording, "The Witch," into the new composition and sound recording, "Justify My Thug," and looped that portion of "The Witch" throughout "Justify My Thug." Artist Shawn Carter, professionally known as Jay-Z, is the performer of the new and infringing composition and sound recording "Justify My Thug" ("Infringing Composition") embodied in a new infringing sound recording ("Infringing Sound Recording") on the Records entitled *Jay-Z The Black Album*, *Jay-Z The Black Album (Clean)*, and *Jay-Z The Black Album Acappella* (collectively "Records"). The Defendants named herein are the Artist, Songwriters, Publishers, Administrators, Producers, Labels and Distributors, who were involved with the creation, release, and distribution of the Infringing Composition and Infringing Sound Recording. Upon information and belief, Jay Z also performed "Justify My Thug" at radio, live concerts, personal appearances, film, video, television and/or otherwise.

5. Defendants have unlawfully copied Plaintiffs' musical composition and sound recording "The Witch" in the new Infringing Composition and Infringing Sound Recording "Justify My Thug." Accordingly, Plaintiffs seek: (1) declaratory relief that it owns the copyrights in the Infringing Composition and Infringing Sound Recording; (2) recovery of money damages and the profits of Defendants resulting from the wrongful acts of Defendants, and all attorneys' fees and costs associated with the prosecution of this action; and (3) an Order impounding for destruction, the infringing materials and enjoining Defendants from the licensing, production, marketing, exploitation and/or sale of the Infringing Composition, and/or Infringing Sound Recording and/or Records.

II. PARTIES

6. Plaintiff Bridgeport is a corporation duly organized and existing under the laws of the State of Michigan and is located at 18500 West 10 Mile Road, Southfield, Michigan 48075. Bridgeport is, and at all times relevant was, and continues to be, engaged in, among other things, the business of music publishing and otherwise commercially exploiting musical composition copyrights. Bridgeport has entered into a performing rights agreement with the performing rights organization ("PRO") Broadcast Music, Inc. ("BMI") whereby BMI licenses the public performances of Bridgeport's musical compositions. As a result, Bridgeport is considered a BMI affiliate.

7. Plaintiff TMC Music, Inc. doing business as Milwaukee Music is a corporation duly organized and existing under the laws of the State of California with offices at 276 Fifth Avenue, Suite 507, New York, New York 10001. Milwaukee is, and at all time relevant was, and continues to be, engaged in, among other things, the business of music publishing and otherwise commercially exploiting musical composition copyrights. Milwaukee has entered into a performing rights agreement with the performing rights organization ("PRO") Broadcast Music, Inc. ("BMI") whereby BMI licenses the public performances of Milwaukee's musical compositions. As a result,

Milwaukee is considered a BMI affiliate.

8. Plaintiff Audio Visual Entertainment, Inc. doing business as Avenue Records is a corporation duly organized and existing under the laws of the State of New York and is located at 276 Fifth Avenue, Suite 507, New York, New York 10001. At all times relevant, Avenue was (and continues to be) engaged in, among other things, the business of recording and distributing sound recordings.

9. Plaintiffs are informed and believe and on that basis allege that Shawn Carter ("Jay Z") is an individual, Artist, Songwriter and Producer, and is doing business as Publisher and Administrator Carter Boys Publishing, ("Carter Boys") and may be served with process at 825 8th Avenue, 27th Floor, New York, New York 10019. Upon information and belief, Defendant Jay Z is a recording artist and performer who recorded and performed, and continues to perform "Justify My Thug" at radio, live concerts, personal appearances, and on film, video, television and/or otherwise.

10. Publisher and Administrator EMI April Music Publishing, Inc. ("EMI") is a Connecticut corporation authorized to do business in the State of New York, and may be served with process in care of its agent for service of process, Corporation Service Company, 80 State Street, Albany, New York, 12207-2543.

11. Plaintiffs are informed and believe and on that basis allege that David Blake Hepburn, professionally known as DJ Quik, ("Quik") is an individual and Producer, and is doing business as Publisher and Administrator Q Baby Music. ("Q Baby") Quik, individually and doing business a Q Baby may be served with process at Boulevard Management, 21650 Oxnard Street, Suite 1925, Woodland Hills, California 91367.

12. Plaintiffs are informed and believe and on that basis allege that Damon Dash ("Dash") is an individual and Producer and a resident of the State of New York, and may be served with process at Damon Dash Music Group, LLC, New York, New York.

13. Plaintiffs are informed and believe and on that basis alleged that Kareem "Biggs" Burke ("Burke") is an individual and Producer and resident of the State of New York, and may be served with process at Damon Dash Music Group, LLC, New York, New York.

14. Plaintiffs are informed and believe and on that basis allege that Label The Island Def Jam Music Group, a division of UMG Recordings, Inc. ("IDT") is a Delaware corporation authorized to do business in the State of New York, and may be served with process in care of its agent for service of process, CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

15. The Label UMG Recordings, Inc. ("UMG") is a New York corporation, and may be served with process in care of its agent for service of process, CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

16. Plaintiffs are informed and believe and on that basis allege that Label Roc-A-Fella Records, LLC ("Roc-A-Fella") may be served with process at its principal place of business 825 8th Avenue, 27th Floor, New York, New York 10019. In the alternative, Plaintiffs are informed and believe that Label Roc-A-Fella Records is a division of UMG Recordings, Inc., a Delaware corporation authorized to do business in the State of New York, and may be served with process in care of its agent for service of process, CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

17. The Distributor Universal Music Group Distribution, Corp., formerly known as Universal Music and Video Distribution, ("UMGD") is a Delaware corporation authorized to do business in the State of New York, and may be served with process in care of its agent for service of process, CT Corporation System, 111 Eighth Avenue, New York, New York 10011.

III. JURISDICTION AND VENUE

18. The jurisdiction of this Court is based upon 28 U.S.C. §§1331, 1338(a) and 1367 in

that the controversy arises under the Copyright Act and Copyright Revision Act of 1976 (17 U.S.C. 101 *et seq.*), which is within the exclusive jurisdiction of federal courts pursuant to 28 U.S.C. §1331. Venue is proper in this District pursuant to 28 U.S.C. §§1391 and 1400(a).

19. Personal jurisdiction over each of the Defendants is proper in this jurisdiction, among other reasons, on the grounds that Defendants, Defendants' agents, and/or Defendants' personal representatives either: (a) maintain a principal place of business in this District or have a substantial presence in this District; (b) regularly conduct business in New York either by marketing, distributing, selling, and/or licensing their works in New York, including conducting such business through performing rights organizations located in New York and by entering into contracts that are consummated and/or performed in New York, including contracts specifically related to this action; (c) maintain registered agents for service of process within the State of New York; and/or (d) acting directly or indirectly, have transacted business in this state or contracted to supply services or things in this state, caused tortious injury by an act or omission in this state, caused tortious injury in this state by an act or omission outside this state of a person who regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this state, has an interest in, uses, or possesses real property in this state; and/or has contracted to insure a person, property, or risk located within this state at that time of contracting. Service of process on any Defendant without an address in New York, or an agent for service of process in New York, is pursuant to the New York long arm statutes.

IV. THE WRONGFUL CONDUCT OF THE DEFENDANTS

20. From the date of the release of "Justify My Thug" on Records, Defendants have infringed Plaintiffs' copyrights in "The Witch" including: (a) by substantial copying and publicly performing, or authorizing the copying and public performances, including publicly performing "Justify My Thug" at radio, live concerts, personal appearances, and on film, video, television and

otherwise; (b) authorizing the making, distribution and sale of the Records through the execution of licenses, and/or actually selling, manufacturing, and/or distributing "Justify My Thug" through various sources; (c) by substantial copying and related marketing and promotion of the sale of the Records, videos, tickets to concerts and other performances, and other merchandise; and (d) by participating in and furthering the aforementioned infringing acts, and/or sharing in the proceeds therefrom, all through substantial use of "The Witch" in and as part of the Infringing Composition and Infringing Sound Recording "Justify My Thug" contained in Records packaged in a variety of configurations, mixes and versions, and performed in a variety of ways including radio, concerts, personal appearances, film, video, television and/or otherwise.

21. Plaintiffs are informed and believe and on that basis allege that Defendant Songwriter Jay Z, and Defendant Publishers and Administrators Carter Boys, EMI, and Q Baby, wrote, own, publish and/or administer, in whole or in part, the Infringing Composition "Justify My Thug," and exploit the Infringing Composition in various ways, including being licensed for digital distribution, including digital download.

22. Plaintiffs are informed and believe and on that basis allege that Defendant Producers Jay Z, Quik, Dash and Burke created, produced and exercised creative control over the Infringing Sound Recording of the Infringing Composition "Justify My Thug" performed and recorded by Artist Jay Z. Upon information and belief, Defendant Jay Z generated increased revenues from ticket sales to live concerts and/or other performances as well as increased merchandise revenue occasioned by the commercial success of the Records, which contain "Justify My Thug."

23. Plaintiffs are informed and believe and on that basis allege that Defendant Labels, IDJ, Roc-A-Fella and UMG reproduce, manufacture, and sell (and/or authorizes others to do so) the Infringing Sound Recording on the Records entitled "*Jay-Z The Black Album*," "*Jay-Z The Black*

Album (Clean)," and *"Jay-Z The Black Album Acappella."* The Infringing Composition and Infringing Sound Recording also have been licensed for digital distribution, including digital download.

24. Plaintiffs are informed and believe and on that basis allege that Defendant Distributor UMGD manufactures, distributes, markets and sells (and/or authorizes others to do so) domestically the Infringing Sound Recording on the Records entitled *Jay-Z The Black Album*, *Jay-Z The Black Album (Clean)*, and *Jay-Z The Black Album Acappella*. Plaintiffs are informed and believe and on that basis allege that Defendant Labels and/or Distributor have caused the Infringing Sound Recording on Records to be distributed internationally through their foreign subsidiaries and/or affiliates, including distributors and/or labels. Plaintiffs are further informed and believe and on that basis allege that Defendant Labels and Distributors exercise control over the marketing and operational policies with respect to the foreign distribution of the Records containing the Infringing Composition and Infringing Sound Recordings, and further that said Defendants act as the agent of such foreign subsidiaries or affiliates with respect to the Records. Plaintiffs will amend this Complaint to allege the names of the international distributors once they are ascertained.

V. LIABILITY OF EACH DEFENDANT AND DAMAGES TO PLAINTIFFS

25. Despite the absence of appropriate agreements from Plaintiffs, Defendant Songwriter, Publishers and Administrators and Producers copied, and/or authorized the use and copying of "The Witch" in the new Infringing Composition "Justify My Thug," and authorized others to use, copy and embody the Infringing Composition in the Infringing Sound Recording on Records, which then were produced, manufactured, distributed and sold by, and/or licensed for distribution (including digital distribution) and sale by, among others, Defendants herein. Said Defendants claimed ownership of the Infringing Composition and the Infringing Sound Recording on the Records released, and began paying royalties to the artists, Songwriters, Publishers,

Administrators and Producers and the new, alleged owners of the copyrights in the Infringing Composition and Infringing Sound Recording, but not to Plaintiffs. Defendants kept sales dollars for themselves as copyright owners of the new Infringing Composition and Infringing Sound Recording and Records. Such Defendants egregiously, and with knowledge of and/or reason to know of the infringing activity induced, caused and/or materially contributed to, and substantially participated in, the infringing activity when they authorized such releases and took such action. Further, such Defendants had the obligation, right, and ability to supervise such infringing activity, but allowed the infringement to occur, and they had an obvious and direct financial interest in exploiting the copyrighted materials. Accordingly, Defendants are liable for direct, contributory and vicarious infringement as set forth herein.

26. Plaintiffs are informed and believe and on that basis allege that each of the Defendants acted with knowledge and/or reason to know "Justify My Thug" infringed Plaintiffs' copyrights in "The Witch," and therefore are liable for willful copyright infringement.

27. Plaintiffs are informed and believe and on that basis allege that the Songwriters and Publishers and Administrators have received royalties, and other payments, for the sale of Records containing the Infringing Composition and Infringing Sound Recording, and/or have received royalties for inclusion of the Infringing Composition in print editions of sheet music, and/or have received synchronization royalties for the use of the Infringing Composition in audio-visual works and have received performance royalties from the PROs from performances of the Infringing Composition without accounting for, or remitting the appropriate amount of such royalties to Plaintiffs Bridgeport and Milwaukee. Upon information and belief, Defendant Publishers and Administrators have received royalties for the licensing of the Infringing Composition and Infringing Sound Recording for digital distribution, including digital download.

28. Plaintiffs are informed and believe and on that basis allege that the Publishers

and/or Administrators have improperly paid their associated Songwriters a portion of those royalties received, and have not remitted the appropriate share of such royalties to Plaintiffs Bridgeport and Milwaukee.

29. Upon information and belief, the PROs paid performance royalties only to the incorrectly listed Songwriters, Publishers and Administrators of the Infringing Composition, and not to Plaintiffs Bridgeport and Milwaukee.

30. Plaintiffs are informed and believe and on that basis allege that Labels IDJ, Roc-A-Fella, and UMG, and the Distributor UMGD knew or should have known that the Infringing Composition and Infringing Sound Recording contained The Witch, but failed to take corrective action. These Defendants have earned and/or collected revenues, monies and other fees from the sale of said Records containing the Infringing Composition and Infringing Sound Recording, have retained a portion of those revenues, monies and/or fees without remitting the appropriate amounts to Plaintiffs and have improperly paid and/or credited some of those revenues, monies and/or fees to the Artist, Producers, Publishers and Administrators including some, or all, of the Defendants named herein. Plaintiffs are further informed and believe and on that basis allege that the Artist and Producers have earned, and/or received royalties and/or other payments from the Labels, and further that Artist has earned and/or received other compensation from the live performances, concerts and merchandising associated with, and arising from, the Infringing Composition and Infringing Sound Recording contained on Records. These Defendants have greatly profited from the infringement, and, along with the other Defendants, should be disgorged of those profits and required to pay them over to Plaintiffs.

31. Upon information and belief, Defendant Jay Z has earned and/or collected revenues from live concerts and other performances, including at radio, personal appearances, film, video, television and/or otherwise, and has earned and/or collected revenues from related merchandise sales

occasioned by the commercial success of the Records containing "Justify My Thug," without submitting the appropriate amounts to Plaintiffs.

32. Plaintiffs have not received proper compensation in the form of royalties and/or copyright ownership interests in and to each of the infringing works for the improper uses of their musical composition and sound recording in the Infringing Composition, Infringing Sound Recording and Records.

33. The foregoing conduct of Defendants constitutes, among other things, (a) improper creation of derivative works, such that the subject Infringing Composition and Infringing Sound Recording and the Records are owned by Plaintiffs, (b) direct, vicarious and contributory copyright infringement, such that Defendants are jointly and severally liable therefore.

34. Defendants' conduct, including infringement, has been, and continues to be, willful and knowing and, where applicable, grossly negligent. Defendants acted with utter disregard for the business and financial safety of Plaintiffs and with reckless disregard for Plaintiffs' rights, acted with a conscious neglect of duty, callous indifference, and such an entire want of care as would raise a presumption of a conscious indifference to consequences. Indeed, despite being put on notice of Plaintiffs' claims, defendants have not remedied the infringement, and the infringing Records containing the Infringing Composition and Infringing Sound Recording continue to be sold.

35. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered actual damages, including lost profits, lost licensing opportunities, loss of goodwill, lost publicity, interest and have incurred attorney's fees and costs, and in the alternative, are entitled to statutory damages as allowed by law.

36. Plaintiffs identified separately herein each Record that infringes Plaintiffs' musical composition and sound recording "The Witch." Plaintiffs are informed and believe and on that basis allege that the alleged infringement is continuing insofar as each Record identified in this Complaint

continues to be reproduced and distributed, and/or licensed for distribution and sale, and each Record still in print and/or sales continue to occur, they have been, and continue to be, digitally distributed, and/or they have been, and continue to be, licensed and made available for digital download. Moreover, the Infringing Composition and/or Infringing Sound Recording have been re-released on different records, and in different mixes (e.g. dance mix, mega mix, album mix, etc.). Although not all such mixes and/or re-releases are identified herein, each time the Infringing Composition and Infringing Sound Recording have been reprinted, licensed, re-released and/or re-mixed, Defendants, and each of them, are liable for separate acts of infringement, which were and are willful, and therefore, entitle Plaintiff to statutory damages of One Hundred Fifty Thousand Dollars (\$150,000.00) per infringement to the extent that profits from each infringement are less than One Hundred Fifty Thousand Dollars (\$150,000.00). In the event Defendants' profits exceed One Hundred Fifty Thousand Dollars (\$150,000.00) per infringement, Plaintiff is entitled to those profits.

COUNT 1
COPYRIGHT INFRINGEMENT

37. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 36 hereof as if fully set forth herein.

38. Rap artist Shawn Carter, professionally known as "Jay-Z," wrote, performed, co-produced with the other producers named herein, and recorded the Infringing Composition and Infringing Sound Recording on the Records *Jay-Z The Black Album* released on or about November 14, 2003, *Jay-Z The Black Album (Clean)* released on or about November 14, 2003, and *Jay-Z The Black Album Acappella* released on or about November 14, 2003. On information and belief, "The Witch" was copied into the Infringing Composition and Infringing Sound Recording by Defendant Songwriters Jay Z, and Producers Quik, Dash and Burke with the knowledge of the other Defendants herein. Upon information and belief, "Justify My Thug" has been performed at radio, live concerts, personal appearances, and on film, video, television, and/or otherwise, and has generated related

merchandise revenue and income for Defendants, including Jay Z as a result of the commercial success of the Records containing "Justify My Thug." In addition, Defendants and/or their authorized agents have licensed the Infringing Composition and Infringing Sound Recording for digital distribution by licenses issued to Napster, iTunes, Musicmatch, and BuyMusic, among others. Each of these releases of "Justify My Thug" contains a sampled portion of the musical composition and sound recording "The Witch," which was included without license or agreement from Plaintiffs, the inclusion of which greatly enhanced the musical and financial value of "Justify My Thug."

39. Defendant Songwriter, Publishers and Administrators engaged in improper conduct and infringement described herein, including incorporating a quantitatively and qualitatively important elements of original music from "The Witch" into the Infringing Composition, thereby creating an unauthorized derivative work of Plaintiff Bridgeport and Milwaukee's musical composition, licensing to, and authorizing others to, reproduce and distribute the Infringing Composition in the Infringing Sound Recording and Records, and improperly receiving and paying fees and royalties generated by Plaintiffs' copyrights in "The Witch" resulting from the commercial exploitation of the Infringing Composition and Infringing Sound Recording, including income derived from Record sales, print editions of sheet music, synchronization fees for audio-visual works, other licensing fees, performance royalties, digital distribution, among other sources known only to Defendants herein. Such commercial exploitation of the Infringing Composition and Infringing Sound Recording occurred without compensation to Plaintiffs in the form of royalties and/or copyright interests in the new and infringing works for the improper use of Plaintiffs' musical composition "The Witch," and the infringement has not been remedied.

40. Defendant Artist, Producers, Labels and Distributors engaged in the improper conduct and infringement described herein, including assisting in the copying a quantitatively and qualitatively important sample of original music from "The Witch" in the Infringing Sound

Recording, purportedly owning the Infringing Sound Recording, receiving and paying fees and royalties generated by Plaintiffs' copyrights resulting from the commercial exploitation of the Infringing Composition and Infringing Sound Recording, including income from the sale of Records manufactured, distributed, sold, licensed for sale or distribution, and/or marketed by said Defendants, synchronization fees for audio-visual works, royalties and fees for the digital download of the Infringing Sound Recording of the Infringing Composition, and/or other licensing fees for the use of the Infringing Composition and Infringing Sound Recording. Plaintiffs have received no compensation in the form of royalties and/or copyright interests for the improper use of Plaintiffs' musical composition and sound recording "The Witch," and the infringement has not been remedied.

41. Defendants' foregoing conduct constitutes direct, contributory and vicarious copyright infringement, and Plaintiffs have incurred damages thereby; therefore, Plaintiffs requests that it be awarded actual damages and Defendants' profits as allowed by law, or in the alternative, statutory damages for each infringement as proven, plus costs, interest, and attorneys' fees in an amount to be determined at the time of trial.

COUNT 2
ACTION FOR DECLARATORY JUDGMENT OF
PLAINTIFFS' OWNERSHIP OF CLAIMED COPYRIGHTS

42. Plaintiffs repeat and reallege each and *every* allegation set forth in paragraphs 1 through 41 hereof as if fully set forth herein.

43. Pursuant to 17 U.S.C. §101 *et seq.*, and 28 U.S.C. §2201, this Court may declare the rights and other legal relations of any interested party seeking such declaration whether or not further relief is, or could be, sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

44. Plaintiffs seek a declaratory judgment that Plaintiffs are the owner of the Infringing Composition and the Infringing Sound Recording on the grounds that such works are derivative of

Plaintiffs' copyrights in "The Witch," and a further declaration that Plaintiffs are the parties with exclusive rights to create such derivative works. In the alternative, Plaintiffs seeks a declaratory judgment as to their respective percentages of ownership in the new Infringing Composition and Infringing Sound Recording as derivative works of Plaintiffs' copyrighted works.

45. Plaintiffs further seek a declaratory judgment that, as a result of its ownership referenced above, any and all assignments, transfers and licenses of the infringing copyrights in and to the new Infringing Composition and Infringing Sound Recording are declared null and void.

COUNT 3 ACTION FOR PERMANENT INJUNCTION

46. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 45 hereof as if fully set forth herein.

47. *As* described more fully above, the wrongful conduct of each of the Defendants entitles Plaintiffs to compensatory, statutory and other damages in an amount to be determined.

48. The Infringing Composition and Infringing Sound Recording were released illegally and without right or justification in violation of Plaintiffs' ownership interests in and to their copyrighted works, and ownership interests in such Infringing Composition and Infringing Sound Recording.

49. Accordingly, Plaintiffs request that a permanent injunction issue, ordering that the Infringing Composition, and/or Infringing Sound Recording and/or Records, in whatever form, be prohibited from being further released, reprinted, performed or sold, without the consent of Plaintiffs, and that the Infringing Composition and/or Infringing Sound Recording and/or Records, in whatever form already released, be immediately retrieved, impounded and returned to Plaintiffs for destruction, unless otherwise consented to by Plaintiffs.

COUNT 4 ACCOUNTING

50. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1

through 49 as if fully set forth herein.

51. Due to the infringement and wrongful acts of Defendants, Plaintiffs are entitled to an accounting by *each* Defendant of amounts relating to Plaintiffs' copyrights whereby Plaintiffs may determine the revenues and profits rightfully belonging to Plaintiffs, and wrongfully gained by Defendants.

NATURE OF LIABILITY

52. As co-infringers, Defendants are jointly and severally liable for all amounts owed. Furthermore, as practical partners, and/or because of the willful nature of the infringement, each Defendant is responsible for the profits of its practical partners in the infringement, including that of its foreign affiliates and foreign subsidiaries which participated in the commercial exploitation of the Infringing Composition, Infringing Sound Recordings and Records.

TRIAL BY JURY

53. Plaintiffs hereby request trial by jury on all issues wherein trial by jury is permissible.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment as follows:

(1) That Defendants be found liable for direct, contributory and/or vicarious copyright infringement as proven at trial;

(2) That Defendants be ordered to submit to an accounting so that all gains, sales, profits and advantages derived by Defendants from each of their acts, may be determined;

(3) That Defendants be found liable for willful copyright infringement for each separate act of infringement;

(4) That for such copyright infringement, and each separate act thereof, Defendants be ordered to pay Plaintiffs:

(a) Such damages as Plaintiffs have sustained in consequence of Defendants'

infringement of said copyrights, and to account for and pay to Plaintiffs all gains, profits and advantage derived by Defendants from their infringement of Plaintiffs' copyrights, the total amount to be determined at a trial of this action, or such damages as shall appear proper within the provisions of the Copyright statutes; or in the alternative,

(b) In the event that Plaintiffs' actual damages, including Defendants' profits are less than One Hundred Fifty Thousand Dollars (\$150,000.00) for each infringement and Defendants are found to have willfully infringed, that Plaintiffs be awarded statutory damages in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) for each infringement pursuant to the provision of 17 U.S.C. §504(c)(2); or in the alternative,

(c) In the event that Defendants are not found to have willfully infringed and Plaintiffs' actual damages, including Defendants' profits are less than Thirty Thousand Dollars (\$30,000.00) per infringement, that Plaintiffs be awarded statutory damages in the amount of Thirty Thousand Dollars (\$30,000.00) for each infringement pursuant to the provision of 17 U.S.C. § 504(c)(1);

(5) That pursuant to 17 U.S.C. §502, Defendants, their agents and servants be permanently enjoined from infringing said copyrights of Plaintiffs in any mariner, including from distributing copies and making Records of the Infringing Composition and/or Infringing Sound Recording and from publishing, selling, marketing or otherwise disposing of any copies of the Records or any other devices upon which Plaintiffs' unlicensed musical composition and sound recording "The Witch" is embodied, and from licensing and contributing to or participating in and furthering any infringing acts;

(6) That pursuant to 17 U.S.C. §503, and unless otherwise consented to by Plaintiffs, Defendants be required to deliver up on oath, to be impounded and for destruction all infringing Records, copies, recordings and all plates, molds, matrices and other means of any kind for making infringing copies, recordings and/or sound recordings and other infringing materials in their

possession and/or under their control and that the Infringing Composition, Infringing Sound Recording, and Records in whatever form, be prohibited from being further released, reprinted, performed or sold, without the consent of Plaintiff;

(7) That pursuant to 17 U.S.C. §505, Defendants pay to Plaintiffs the costs of this action and reasonable attorneys' fees to be allowed to Plaintiffs by this Court;

(8) That the Court enter Declaratory Judgment that Plaintiffs are the owners of the copyright in the Infringing Composition, the Infringing Sound Recording, and the master of the Infringing Sound Recording of "Justify My Thug," and is entitled to full royalties, including royalties from digital distribution, based on such percentages, or in the alternative, that the Court declare Plaintiffs' ownership interests in such works and order appropriate payment based on such ownership interest;

(9) That Plaintiffs be awarded prejudgment interest, post judgment interest, attorneys' fees and costs;

(10) That Plaintiffs be awarded trial by jury on all issues triable by jury;

(11) That Plaintiffs be awarded all relief to which justly entitled.

DATED: October 30, 2006

Respectfully submitted,

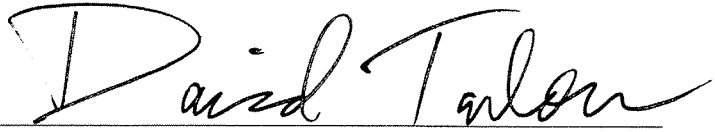
KING & BALLOW

A handwritten signature in cursive script, appearing to read 'R. Busch', written over a horizontal line.

Richard S. Busch, (SB-5613)
1100 Union Street Plaza 315
Union Street
Nashville, TN 37201
(615) 259-3456

Attorneys for Plaintiff Bridgeport Music Inc.

JAY M. COGGAN & ASSOCIATES

A handwritten signature in black ink, reading "David Tarlow". The signature is written in a cursive, flowing style. The first letter "D" is large and loops around the first part of the name. The signature is positioned above a horizontal line.

Jay M. Coggan
David Tarlow (DT0129)
10 East 53rd St., 36th Floor
New York, NY 10022
(212) 478-8500

Attorneys For Plaintiffs TMC Music, Inc. d/b/a
Milwaukee Music, and Audio Visual Entertainment,
Inc. d/b/a Avenue Records