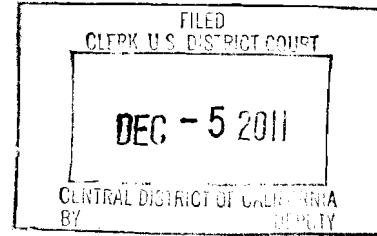


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9 **UNITED STATES DISTRICT COURT**
 10 **CENTRAL DISTRICT OF CALIFORNIA**

12 **GEORGE CLINTON,**
 13 **Plaintiff,**

14 **vs.**

15 **NENE MONTES, an individual and d/b/a**
 16 **TERCER MUNDO, INC., a suspended Cal.**
 17 **corp, CHARLY ACQUISITIONS, LTD, a**
 18 **Nevis private company,**
 19 **LICENSEMUSIC.COM, ApS, a Denmark**
 20 **private company, ARMEN BOLADIAN, an**
 21 **individual, WESTBOUND RECORDS,**
 22 **INC., a Mich. corp, ACE RECORDS, LTD,**
 23 **a United Kingdom private company,**
 24 **UNION SQUARE MUSIC, LTD, a United**
 25 **Kingdom private company, SNAPPER**
 26 **MUSIC, LTD, a United Kingdom private**
 27 **company, ATOM MUSIC, LTD, an Ireland**
 28 **private company, ARTISTRY MUSIC,**
LTD, a United Kingdom private company,
SYNC2PICTURE, LLC, a Mich. limited
liability company, X5 MUSIC GROUP, a
Sweden private company,
Defendants.

CV11-10062 JAK (JEM)

Case No: "

COMPLAINT FOR:

- I. DECLARATORY JUDGMENT (28 U.S.C. §2201)
- II. COPYRIGHT INFRINGEMENT (17 U.S.C. §501)
- III. UNAUTHORIZED USE OF PRE-1972 SOUND RECORDINGS (Cal Code § 980)
- IV. RESCISSION (Cal Code §1689)
- V. FRAUD (Common Law)
- VI. INJURIOUS FALSEHOOD (Common Law)
- VII. TRADEMARK COUNTERFEIT (15 U.S.C. §1114)
- VIII. TRADEMARK INFRINGEMENT (15 U.S.C. §1114)
- IX. UNFAIR COMPETITION (15 U.S.C. §1125(a))
- X. FALSE DESIGNATION OF ORIGIN (15 U.S.C. §1125(a))
- XI. UNFAIR TRADE PRACTICES (Cal Code §17200)
- XII. MISAPPROPRIATION OF LIKENESS (Cal Code §3344)

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XIII. MISAPPROPRIATION OF
LIKENESS (Common Law)
XIV. ACCOUNTING
XV. CONSTRUCTIVE TRUST

Jury Trial Demanded

Plaintiff, George Clinton, (“Plaintiff” or “Clinton”) by and through undersigned counsel, alleges upon personal knowledge, information, and belief, as follows:

Nature of Action

1. Clinton asks for damages, declaratory relief, permanent injunctive relief, and equitable relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201, the Copyright Act, 17 U.S.C. §§ 101 *et seq.*, the Lanham Act, 15 U.S.C. §§ 101 *et seq.*, and other common and statutory laws as set forth herein, for the unauthorized use, sale, and other commercial exploitation of the sound recordings owned by Clinton under the artist name Funkadelic originally released by Warner Brothers on the albums “Uncle Jam Wants You,” “One Nation Under a Groove,” “Hardcore Jollies,” and “Electric Spanking of War Babies.” (“Warner Brothers Sound Recordings”), as well as the unauthorized use of the Funkadelic trademark and Clinton’s name, likeness and image for the unauthorized use, sale and commercial exploitation of these infringing products.

1 2. As defined in 17 U.S.C. § 101, the United States of America, Ireland,
2 Denmark, Sweden, and the United Kingdom are World Trade Organization (WTO)
3 member countries, and signatories to the Geneva Phonograms Convention and the
4 World Intellectual Property Organization (WIPO) Performance and Phonograms
5 Treaty. Under the WIPO Performance and Phonograms Treaty and the WTO
6 Agreement, the minimum term of protection for sound recordings is 50 years from
7 the end of the calendar year in which the sound recordings were first fixed.
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11 3. On June 17, 2005, in *Montes v. Kaplan, et al*, Case No. 03 CV 8955
12 (C.D. Cal), the Honorable Manuel Real issued an Order and Judgment which
13 decreed that since 1993, Clinton is the owner of all rights, titles, and interests in the
14 sound recordings contained on the albums, “One Nation Under a Groove,” “Uncle
15 Jam Wants You,” “Hardcore Jollies,” and “Electric Spanking of War Babies,”
16 originally released on the Warner Brothers label, including the copyrights therein.
17 (“Warner Brothers Sound Recordings”)
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20 4. Clinton is also the original creator and has rights, titles and interests in
21 the Funkadelic sound recordings released by Westbound Records (“Westbound”),
22 more specifically identified as the single “Music for My Mother” and the albums
23 “Funkadelic,” “Maggot Brain,” “Free your Mind and your Ass will Follow,”
24 “America Eats Its Young,” “Cosmic Slop,” “Standing on the Verge of Getting it
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1 On,” “Let’s Take it to the Stage,” and “Tales of Kidd Funkadelic.” (“Westbound
2 Sound Recordings”)

3
4 5. In Clinton’s original 1969 agreement with Westbound, Clinton
5 granted Westbound rights to the Westbound Sound Recordings in exchange for
6 Westbound fulfilling its ongoing duty to account and pay 50% of monies collected
7 to Clinton for the sale and other commercial exploitation of those sound
8 recordings. Westbound has been selling, licensing, and otherwise exploiting the
9 Westbound Sound Recordings since original released and for over the last four
10 years, Westbound has not provided Clinton with an accounting or royalties for
11 those sound recordings. Clinton asks for enforcement of rescission, declaratory
12 relief, permanent injunctive relief, and equitable relief pursuant to common and
13 statutory law, for the sale and other commercial exploitation of the Westbound
14 Sound Recordings.
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19 6. Clinton owns the Funkadelic trademark, Registration No. 3,016,720,
20 as well as his personal and valuable rights of publicity to his name, likeness &
21 image.
22

23 7. The defendants have unlawfully utilized the Westbound Sound
24 Recordings, Warner Brothers Sound Recordings, Funkadelic trademarks and
25 Clinton’s name, likeness and image, in new re-releases and compilations
26 (“Infringing Sound Recordings”), without the permission of Plaintiff and without
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1 accounting or paying royalties to Plaintiff. Accordingly, Plaintiff seeks 1) an order
2 enforcing the June 17, 2005 Order and Judgment issued by the Honorable Manuel
3 Real in *Montes v. Kaplan, et al.*, Case No. 03 CV 8955 (C.D. Cal); 2) an order
4 enforcing Plaintiff's rescission of contract as to the Westbound Sound Recordings;
5 3) recovery of money damages resulting from the wrongful acts of defendants
6 including all attorneys' fees and costs associated with bringing this action; and 4)
7 an order impounding for destruction the infringing materials and enjoining
8 defendants from the production, marketing, performing and/or sale of the
9 Infringing Sound Recordings.
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13 8. Clinton has complied with all of the laws pertinent to sound
14 recordings as copyrighted works, and the copyright registration on the sound
15 recordings have been registered with the Copyright Office. At all times pertinent
16 hereto, Clinton has complied with all applicable provisions of the copyright and
17 trademark laws of the United States of America.
18
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20

21 **Jurisdiction and Venue**

22 9. This action for declaratory judgment, copyright infringement,
23 trademark infringement, and unfair competition arises under the Declaratory
24 Judgment Act, 28 U.S.C. § 2201; the Copyright Act, 17 U.S.C. §§ 101 *et seq.* and
25 the Lanham Act, 15 U.S.C. §§ 101 *et seq.* The Court's subject matter jurisdiction is
26 founded in 28 U.S.C. §§ 1331 and 1338, which provides, in pertinent part, the
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1 district courts shall have original jurisdiction for any civil action arising under any
2 Act of Congress relating to copyrights. This court has supplemental jurisdiction
3 over state and common law claims under 28 U.S.C. § 1367.
4

5 10. Venue is proper under 28 U.S.C. §§ 1391(b) in that a substantial part
6 of the events of omissions giving rise to the claims occurred in this district, and the
7 2005 Order and Judgment by Honorable Manuel Real was issued in this district.
8

9 11. Plaintiff is informed and believes and thereon alleges this Court has
10 personal jurisdiction over defendants because they regularly solicit and conduct
11 business in the State of California and have committed tortious acts within the
12 State of California. Further, as of the date of the filing of this complaint, all of the
13 infringing albums are available for sale on www.amazon.com, and are further in-
14 stock and shipped directly from Los Angeles, California, through the Amazon
15 merchant, White Crow Media.
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19 **Parties**

20 12. George Clinton is a resident of the State of Florida, and a living
21 legend in the entertainment industry. He is a songwriter, artist, publisher, and
22 producer for the acts "Parliament," "Funkadelic," "The Pfunk Allstars" and the
23 solo act "George Clinton."
24
25

26 13. Armen Boladian is a resident of the State of Michigan and Clinton's
27 former business partner.
28

1 14. Westbound Records, Inc. is a Michigan corporation owned by Armen
2 Boladian.

3
4 15. Upon information and belief, Nene Montes is a resident of the State of
5 Florida and Clinton's former business manager.

6
7 16. Upon information and belief, Tercer Mundo is a suspended California
8 corporation owned by Nene Montes.

9
10 17. Upon information and belief, Charly Acquisitions, Ltd is a private
11 limited company, organized and existing under the laws of St. Kitts-Nevis and the
12 successor in interest to Charly Records, Ltd and other "Charly" related entities; and
13 claims to have rights to the Warner Brothers Sound Recordings pursuant to a
14 license from Nene Montes and/or Tercer Mundo.

15
16 18. Upon information and belief, licensemusic.com ApS is a private
17 company organized and existing under the laws of Denmark and licenses the
18 Warner Brothers Sound Recordings to third parties under a license from Charly
19 Acquisitions.

20
21 19. Upon information and belief, Ace Records, Ltd is a private limited
22 company, organized and existing under the laws of the United Kingdom and is a
23 record label, distributor and a licensee of both Westbound Records, Inc. and
24 licensmusic.com ApS.
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1 20. Upon information and belief, Artistry Music, Ltd is a private limited
2 company, organized and existing under the laws of the United Kingdom and is a
3 record label and licensee of licensemusic.com ApS.
4

5 21. Upon information and belief, Snapper Music, Ltd is a private limited
6 company, organized and existing under the laws of the United Kingdom and is a
7 distributor for Artistry Music.
8

9 22. Upon information and belief, Atom Records, Ltd is a private
10 company, organized and existing under the laws of Ireland and is a record label,
11 distributor, and licensee of licensemusic.com ApS.
12

13 23. Upon information and belief, Union Square Music, Ltd is a private
14 limited company, organized and existing under the laws of the United Kingdom. It
15 owns the record label Metro Select and is a licensee of licensemusic.com ApS.
16

17 24. Upon information and belief, X5 Music Group is a private company
18 headquartered in Stockholm, Sweden, with an office in New York City, New York
19 and is the business of selling, marketing and distributing digital music downloads
20 as "MP3 albums."
21

22 25. Upon information and belief, Sync2Picture, LLC is a limited liability
23 company, organized and existing under the laws of the State of Michigan and
24 administers the Westbound Sound Recordings in partnership with Westbound, and
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1 further markets sync licenses for Westbound Sound Recordings and imitation
2 Warner Brothers Sound Recordings.

4 GENERAL ALLEGATIONS

5 **Westbound Sound Recordings**

6 26. In 1966, Clinton has his first top ten hit, "(I Just Wanna) Testify" with
7 his doo-wop band, The Parliaments, on Revilot Records, and at that time, Clinton
8 became associated with Armen Boladian, ("Boladian"), a record distributor in
9 Detroit, Michigan, who began distributing The Parliaments' records.
10

11
12 27. In 1968, recognizing a new heavy guitar influenced style of rock made
13 popular by fellow artist Jimi Hendrix, Clinton creates Funkadelic. In 1969, Clinton,
14 approaches Boladian to distribute his newly produced single "Music for My
15 Mother."
16

17
18 28. Boladian agreed to release the single "Music For My Mother," and
19 Clinton and Boladian entered into a business relationship where Boladian would
20 release Funkadelic albums on a newly created label Westbound Records. Clinton
21 and Boladian verbally agreed to split the masters and publishing equally.
22

23 29. In 1970, Funkadelic's self-entitled album, "Funkadelic," was released
24 on Westbound and contained the following tracks: Mommy, What's a Funkadelic?;
25 I Bet You; Music For My Mother; I Got a Thing, You Got a Thing, Everybody's
26 Got a Thing; Good Old Music; Qualify and Satisfy; and What is Soul.
27
28

1 30. In 1971, Funkadelic's second album, "Free Your Mind and Your Ass
2 Will Follow," was released on Westbound and contained the following tracks: Free
3 Your Mind and Your Ass Will Follow ; Friday Night, August 14th; Funky Dollar
4 Bill; I Wanna Know If It's Good to You; Some More; and Eulogy and Light.
5

6 31. On August 31, 1971, Clinton, on behalf of his publishing company,
7 Malbiz Music, Inc., and Boladian, on behalf of his publishing company, Bridgeport
8 Music, Inc., memorialized their agreement regarding split publishing, but did not
9 memorialize their agreement regarding the Westbound Sound Recordings.
10

11 32. In the end of 1971, Funkadelic's third album, "Maggot Brain," was
12 released on Westbound and contained the following tracks: Maggot Brain; Can
13 You Get To That; Hit It And Quit It; You And Your Folks, Me And My Folks;
14 Super Stupid; Back In Our Minds; and Wars Of Armageddon.
15

16 33. In 1972, Funkadelic's fourth album, "America Eats Its Young," was
17 released on Westbound and contained the following tracks: America Eats Its
18 Young; You Hit the Nail On the Head; If You Don't Like the Effects, Don't
19 Produce the Cause; Everybody Is Going To Make It This Time; A Joyful Process;
20 We Hurt Too; Loose Booty; Philmore; Pussy; America Eats Its Young; Biological
21 Speculation; That Was My Girl; Balance; Miss Lucifer's Love; and Wake Up.
22

23 34. In 1973, Funkadelic's fifth album, "Cosmic Slop," was released on
24 Westbound and contained the following tracks: Nappy Dugout; You Can't Miss
25
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1 What You Can't Measure; March to the Witch's Castle; Let's Make It Last; Cosmic
2 Slop; No Compute; This Broken Heart; Trash A-Go-Go; and Can't Stand the
3 Strain.
4

5 35. In 1974, Funkadelic's sixth album, "Standing on the Verge of Getting
6 it On," was released on Westbound and contained the following tracks: Red Hot
7 Mama; Alice In My Fantasies; I'll Stay; Sexy Ways; Standing On The Verge Of
8 Getting It On; Jimmy's Got A Little Bit Of Bitch In Him; and Good Thoughts, Bad
9 Thoughts.
10
11

12 36. In 1975, Funkadelic's seventh album, "Let's Take it to the Stage,"
13 was released on Westbound and contained the following tracks: Good To Your
14 Earhole; Better By The Pound; Be My Beach; No Head No Backstage Pass; Let's
15 Take It To The Stage; Get Off Your Ass And Jam; Baby I Owe You Something
16 Good; Stuffs And Things; The Song Is Familiar; and Atmosphere.
17
18

19 37. In summer, 1975, Clinton was extremely unhappy with Boladian's
20 lack of promotion of Funkadelic and further believed Boladian was improperly
21 accounting to him, so he left Westbound after delivery of "Tales of Kidd
22 Funkadelic."
23

24 38. In 1976, Funkadelic's eighth album, "Tales of Kidd Funkadelic," was
25 released on Westbound and contained the following tracks: Butt-to-Butt
26 Resuscitation; Let's Take It to the People; Undisco Kidd; Take Your Dead Ass
27
28

1 Home! (Say Som'n Nasty); I'm Never Gonna Tell It; Tales of Kidd Funkadelic
2 (Opusdelite Years); and How Do Yeaw View You?
3

4 39. In the past 40 years, the Westbound Sound Recordings have
5 consistently generated millions of dollars through direct sales and sampling by
6 other artists, yet Westbound has never properly accounted or paid Clinton
7 royalties.
8

9 **Westbound Later Claims Ownership of Westbound Sound Recordings**
10

11 40. In February, 1992, Westbound, through its attorney, Elizabeth
12 McNicoll, registers the 1972 Funkadelic album "America Eats Its Young" and the
13 1976 Funkadelic album "Tales of Kidd Funkadelic" SR copyrights with the
14 copyright office under a "work for hire" claim, although there is work for hire
15 agreement regarding these sound recordings.
16

17 41. In April, 1992, Westbound, through its agent, Jane Peterer, registers
18 the 1975 Funkadelic album "Funkadelic: Let's Take It to the Stage" SR copyright
19 with the copyright office under a "work for hire" claim, although there is no work
20 for hire agreement regarding these sound recordings.
21

22 42. In February, 2002, Westbound, through its agent, Jane Peterer,
23 registers Funkadelic 1973 album "Cosmic Slop" and the 1974 album "Standing on
24 the Verge of Getting It On" SR copyright with the copyright office under a "work
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1 for hire” claim, although there is no valid work for hire agreement regarding these
2 sound recordings.

3
4 **Westbound Funkadelic Releases since 2007**

5 43. Upon information and belief, since 2007, all of the Westbound Sound
6 Recordings, and additional bonus tracks, have been re-released, sold, licensed and
7 otherwise exploited for commercial gain, and Westbound has not once provided an
8 accounting to Clinton for the monies made on exploitation of these sound
9 recordings.
10

11
12 44. In November, 2008, Westbound released the album “Toys,”
13 containing previously unreleased Funkadelic sound recordings from the early
14 1970s produced by George Clinton and a 1973 video clip of the song “Cosmic
15 Slop,” and Westbound has not once provided an accounting to Clinton for the
16 monies made on exploitation of these sound recordings or video footage.
17
18

19 **Warner Brothers Sound Recordings**

20 **Chain of Title Ownership to Clinton**

21
22 45. On July 11, 1975, Clinton negotiates a recording agreement through
23 his production company, Thang, Inc., with Warner Brothers Records to release
24 Funkadelic albums. Pursuant to this agreement, Warner Brothers owns the Warner
25 Brother Sound Recordings.
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1 46. Between 1976-1981, Warner Brothers releases the albums “Hardcore
2 Jollies,” “One Nation Under a Groove,” “Uncle Jam Wants You,” and “Electric
3 Spanking of War Babies,” which albums contain the following valuable tracks:
4 “(Not Just) Knee Deep,” “One Nation Under a Groove,” and “Coming Round the
5 Mountain.”
6

7
8 47. In May, 1981, Warner Brothers tortiously interfered with economic
9 relationships with Clinton’s newly created company, Uncle Jam Records, and on
10 August 18, 1982, Warner Brothers enters into a Settlement Agreement with
11 Clinton that provides Warner Brothers will relinquish to Clinton its ownership and
12 control of the Warner Brother Sound Recordings upon completion of certain
13 conditions.
14

15
16 48. In 2003, Nene Montes (“Montes”) files *Montes v. Kaplan, et al.*, Case
17 No. 03 CV 8955, C.D. California, against individuals who, in truth, were in
18 collusion with him in an improper scheme to claim ownership of the Warner
19 Brothers Sound Recordings. The Defendants counter-claimed against Montes, and
20 cross-claimed Clinton and Charly Acquisitions’ predecessor, Charly Records, to
21 determine ownership of the Warner Brothers Sound Recordings. Clinton filed his
22 own independent claims against the Defendants asserting his ownership of the
23 Warner Brothers Sound Recordings. Clinton filed his
24 own independent claims against the Defendants asserting his ownership of the
25 Warner Brothers Sound Recordings.
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1 49. Montes thereafter defaulted from the *Montes v. Kaplan, et al* lawsuit,
2 and Charly Records was dismissed for failure to be properly served. Clinton
3 prosecuted his claim of ownership to a bench trial in June, 2005 before Honorable
4 Manuel L. Real.
5

6 50. On or about June 17, 2005, the Honorable Manuel L. Real, United
7 States District Court Judge for the Central District of California entered an Order
8 and Judgment (“2005 Order”) in *Montes v. Kaplan, et al.*, Case No, 03 CV 8955
9 (MCx), declaring Clinton to be the sole owner of the Warner Brothers Sound
10 Recordings, and further declared Clinton has been the sole owner of the Warner
11 Brothers Sound Recordings since 1993. The Order further decreed that any grants
12 of rights in the masters since 1993 by anyone other than George Clinton are invalid
13 and shall not be honored.
14
15

16
17 51. On June 20, 2005, Honorable Manuel Real entered the Conclusions of
18 Law, which specifically provided:
19

20 a. Tercer Mundo acquired no rights in the Warner Brothers Sound
21 Recordings pursuant to the alleged December 11, 1981 assignments, which Clinton
22 did not sign.
23

24 b. Clinton did not assign or license his rights in the Warner Brothers Sound
25 Recordings to Montes, Tercer Mundo or anyone else.
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1 c. As a result of compliance with the terms of the settlement agreement
2 between Clinton and Warner Brothers, Clinton acquired ownership of the Warner
3 Brothers Sound Recordings in 1993.
4

5 d. Neither Tercer Mundo nor Montes had any rights in the Warner Brothers
6 Sound Recordings to assign or license to anyone from 1981 to the present.
7

8 52. The 2005 Order was recorded in the United States Copyright Office on
9 May 15, 2006, document number V3539D214. That Order was again recorded to
10 the United States Copyright Office on September 13, 2006, document number
11 V3542D883.
12

13 53. Clinton has never licensed, nor authorized any other person or entity
14 to license the Warner Brothers Sound Recordings, or any tracks contained therein,
15 to any of the named defendants in this action.
16

17 **Charly Acquisitions willfully infringing the Warner Brothers Funkadelic**
18 **recordings since summer, 2007**
19

20 Direct Communications between Clinton and Charly

21 54. In February, 2007, Clinton discovered Charly Records (now Charly
22 Acquisitions) (“Charly”) was selling, licensing, and/or otherwise exploiting the
23 Warner Brothers Sound Recordings for commercial gain under a license by Montes
24 personally, and doing business as Tercer Mundo.
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1 55. In June, 2007, Clinton had his attorney send Charly actual notice of
2 the 2005 Order and requested an accounting and payment for exploitation of the
3 Warner Brothers Sound Recordings.
4

5 56. In July, 2007, Charly, through its attorney, Paul Lambeth, sent a reply
6 letter to Clinton's attorney, acknowledging it had provided Montes a \$400,000
7 advance to exploit the Warner Brothers Sound Recordings, and if Clinton will
8 waive everything in the past, grant Charly a license on Charly's terms, it will give
9 Clinton a \$200,000 advance.
10

11 57. Clinton rejected the proposal, insisting on an accounting for past
12 exploitation before being able to consider granting Charly a license for further
13 exploitation, and communications went silent.
14

15 58. In February, 2010, Clinton discovers Charly is still continuing to sell,
16 license or otherwise exploit the Warner Brothers Sound Recordings for
17 commercial gain and again sends a letter through his attorney to Charly to enforce
18 Clinton's rights under the 2005 Order; and in March, 2010, Charly, through its
19 attorney, Paul Lambeth, refused to recognize the 2005 Order or to account to
20 Clinton for past exploitation, but offered to negotiate a deal with Clinton going
21 forward.
22

23 59. Clinton rejected this proposal, insisting on an accounting for past
24 exploitation, and has continued to press Charly, as of the date of this Complaint,
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1 Charly has refused to account for past exploitation, refused to stop continuing its
2 current exploitation of the Warner Brother Sound Recordings, or offer Clinton a
3 satisfactory proposal concerning the exploitation of the Warner Brothers Sound
4 Recordings.
5

6 Infringing Albums based on Licenses by Montes/Charly
7

8 60. Upon information and belief, Charly licensed its purported rights to
9 the Warner Brothers Sound Recordings from Montes, and thereafter granted
10 licensemusic.com ApS an exclusive license, and licensemusic.com ApS has then
11 entered into license agreements with various third parties to exploit the recordings,
12 despite actual notice of the 2005 Order.
13

14 61. In September, 2008, Artistry Music, Ltd, re-released the Warner
15 Brothers Sound Recordings, which were distributed and marketed by Snapper
16 Music Ltd, under a license from licensemusic.com ApS. These albums bear the
17 original albums' artwork, which includes the Funkadelic trademark, and the name,
18 likeness and image of Clinton, despite actual notice of the 2005 Order.
19

20 62. In January, 2009, Artistry Music, Ltd re-released the compilation
21 album, "The Best of Funkadelic 1976-1971," which was distributed and marketed
22 by Snapper Music, containing Warner Brothers Sound Recordings under license
23 from licensemusic.com ApS, despite actual notice of the 2005 Order. This album
24 prominently bears the Funkadelic Trademark, the Charly Trademark, and the liner
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1 notes contain images of the artwork for the original four Funkadelic Warner
2 Brothers albums, which also includes the name, likeness and image of Clinton.

3
4 63. In November, 2009, Westbound, in conjunction with Ace Records,
5 released the Funkadelic compilation album "Standing on the Verge of Getting It
6 On: The Best of Funkadelic," which contains both Westbound Sound Recordings
7 and the Warner Brothers Sound Recordings "(Not Just) Knee Deep," "One Nation
8 Under and Groove," and "Coming Round the Mountain" under a license from
9 licensemusic.com ApS. This album includes in the liner notes the original artwork
10 from the album "One Nation Under a Groove" as well as the Funkadelic
11 trademark, despite actual notice of the 2005 Order. This album also includes the
12 name, likeness and image of Clinton in the liner notes.

13
14
15
16 64. Upon information and belief, Armen Boladian, Westbound, and Ace
17 Records also had full knowledge of the 2005 Order and Clinton's ownership of the
18 Warner Brothers Sound Recordings, at least by 2008 when Joel Martin approached
19 Clinton to obtain permission to administer the Warner Brothers Sound Recordings;
20 and that Charly Acquisitions, licensemusic.com ApS, and/or Nene Montes/Tercer
21 Mundo had no rights to license the Warner Brothers Sound Recordings for
22 exploitation on this Westbound trademarked album.

23
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26 65. In July, 2011, Union Square Music, under its label Metro Select
27 Records re-released the Funkadelic compilation album "You Got the Funk, We
28

1 Got the Funk” containing all Warner Brothers Sound Recordings, under a license
2 from licensemusic.com ApS, despite actual notice of the 2005 Order. This album
3 bears the name, likeness and image of Clinton and his act Funkadelic, as well as
4 the Funkadelic trademark. This album also includes a bonus poster of a picture of
5 Clinton and the Funkadelic members and prominently displays the Funkadelic
6 trademark on the poster.
7

8
9 66. In October, 2011, Atom Records re-released the Funkadelic
10 compilation album “Cosmic Funkers” containing all Warner Brothers Sound
11 Recordings, under license from licensemusic.com ApS, despite actual notice of the
12 2005 Order. This album bears the name, likeness and image of Clinton and his act
13 Funkadelic, as well as the Funkadelic trademark.
14

15
16 Essential Soul Anthems

17
18 67. In June, 2011, X5 Music Group released for sale as a permanent
19 download the compilation mp3 album entitled “Essential Soul Anthems” which
20 contains as Track 11 the Clinton owned Warner Brother Sound Recording “One
21 Nation Under a Groove.”
22

23 68. Since June, 2011, Amazon.com, iTunes and Rhapsody, online digital
24 download providers, have been selling this mp3 album as a permanent download,
25 and have also been selling the Warner Brothers Sound Recording “One Nation
26 Under a Groove” as a single track from that album.
27
28

1 69. Clinton did not license “One Nation Under a Groove” to be included
2 in this album, nor authorized anyone to license this recording to X5 Music Group.

3
4 **Sync2Picture unfair competition, deceptive trade practices & violation of Cal**
5 **Code §3344 with “imitation” recording of the original sound recording Knee**
6 **Deep**

7 70. In 2008, Joel Martin attempted to negotiate a business relationship
8 with Clinton to exploit the Warner Brothers Sound Recordings. Clinton refused to
9 consider any business venture with Joel Martin, due to among other things, the fact
10 that Martin is Boladian’s business partner.

11
12 71. Upon information and belief, in March, 2010, Joel Martin organized
13 Sync2Picture as a Michigan limited liability company, for the primary purpose of
14 exploiting sound recordings Clinton and his act Funkadelic, and for a limited
15 number of other artists, without Clinton’s knowledge or authorization.

16
17 72. Upon information and belief, in June, 2011, Sync2Picture registered
18 the SRu copyright for “(Not Just) Knee Deep,” the most sampled and sync licensed
19 song in the Warner Brothers Sound Recording catalogue, which is not just a “cover
20 song” of the original, but an “imitation” of the original.

21
22 73. Upon information and belief, Sync2Picture is attempting to market
23 this imitation version of “(Not Just) Knee Deep” as the original Warner Brothers
24 Sound Recording, and further misrepresents that it owns the original sound
25 recording to potential licensees.
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1 74. Sync2Picture's website, www.sync2picture.com further misleads the
2 general public in that it has the rights to license Funkadelic recordings owned by
3 Clinton and uses Clinton's name, likeness and/or image to promote the false and
4 misleading imitation sound recording.
5

6 75. Sync2Picture's false and misleading representations and use of the
7 imitation recording confuses the public and dilutes the value of Clinton's rights of
8 publicity and "(Not Just) Knee Deep's" marketability for licensing from Clinton.
9

10 **Liability of Each Defendant and Damages to Plaintiff**
11

12 76. Despite the absence of an agreement from Plaintiff for use of the
13 Westbound Sound Recordings and the Warner Brothers Sound Recordings, all of
14 the named defendants utilized these masters, authorized others to use the sound
15 recordings, or created and utilized imitation sound recordings. Despite the absence
16 of an agreement from Plaintiff, the defendants produced, manufactured, distributed
17 and sold (or authorized others to do so) sound recordings containing the
18 Westbound Sound Recordings and the Warner Brothers Sound Recordings,
19 without accounting to or paying any royalties to Plaintiff. The defendants kept
20 sales proceeds for themselves as the putative copyright owners of the new
21 Infringing Sound Recordings. The defendants egregiously, and with the
22 knowledge of, and/or had reason to know of, the infringing activity, induced,
23 caused and/or materially contributed to, and substantially participated in, the
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1 infringing activity when they made such releases and took such action. Further,
2 the defendants had the obligation, right and ability to supervise such infringing
3 activity but allowed the infringement to occur, and they had an obvious and direct
4 financial interest in exploiting the copyrighted materials as set forth herein.
5

6
7 77. Despite non-stop exploitation and sales of the Westbound Sound
8 Recordings for over forty years, Plaintiff has not received proper compensation in
9 the form of royalties, or any accounting whatsoever from Westbound.
10

11 78. Defendants' conduct, including infringement, has been and continues
12 to be willful and knowing and, where applicable, grossly negligent. Defendants
13 acted with utter disregard for the rights of Plaintiff, and acted with such a want of
14 care as would raise a presumption of conscious indifference to consequences. In
15 the alternative, defendants' conduct, even if not willful and knowing, constitutes
16 infringement of Plaintiff's copyright.
17

18
19 79. As a direct and proximate result of defendants' conduct, Plaintiff has
20 suffered actual damages including lost profits, lost opportunities, loss of goodwill,
21 attorneys' fees and interest, and in the alternative, is entitled to statutory damages
22 as allowed by law.
23

24
25 80. On information and belief, the Infringing Sound Recordings have
26 been released or re-released on different records and/or made available for
27 download. Although not all such re-releases are identified in this Complaint, each
28

1 time an Infringing Sound Recording has been re-released, the defendants are liable
2 for separate acts of infringement, which were and are willful, and therefore, entitle
3 Plaintiff to statutory damages of One Hundred Fifty Thousand Dollars (\$150,000)
4 per infringement to the extent that the profits from each infringement are less than
5 \$150,000. In the event the defendants' profits exceed \$150,000 per infringement,
6 Plaintiff is entitled to those profits.
7
8

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10 **COUNT I**
11 **Declaratory and Injunctive Relief**
12 **28 U.S.C. § 2201**
13 **(Against All Defendants)**

14 81. Plaintiff repeats and realleges the allegations set forth in the preceding
15 paragraphs as if fully set forth herein.

16 82. This is a claim for declaratory and injunctive relief under the
17 Declaratory Judgment Act, 28 U.S.C. § 2201.

18 83. An actual controversy has arisen as between Plaintiff and Defendants.
19 Plaintiff asserts that he, and *not* Defendants, is the owner of all rights relating to
20 the copyright interests and/or renewal term copyrights in and to musical works and
21 sound recordings comprising the Westbound Sound Recordings and the Warner
22 Brothers Sound Recordings, and that Plaintiff, and *not* Defendants, has the
23 exclusive rights conferred upon copyright owners under both the applicable 1909
24 and 1978 versions of the U.S. Copyright Act, 17 U.S.C. §§ 101 *et seq.* as to the
25 musical works and sound recordings prepared, created, and incorporating the
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1 performances of Plaintiff, such that Defendants have no past and/or present right(s)
2 to exploit the musical works and sound recordings embodied in the Westbound
3 Sound Recordings and the Warner Brothers Sound Recordings.
4

5 84. Alternatively, Defendants, by their actions and representations made
6 in interstate and/or international commerce effecting the United States, contend or
7 otherwise assert that they have some interest or other color of authority to make,
8 produce, and sell copies of, or have some rights to the copyrights in and to the
9 musical works and sound recordings in the Westbound Sound Recordings and the
10 Warner Brothers Sound Recordings and/or have not otherwise responded to
11 Plaintiff's multiple requests for information and an accounting.
12
13

14 85. A judicial declaration is necessary to determine the rights and
15 obligations of the parties.
16

17 86. As a result, Plaintiff seeks a declaratory judgment (a) that he has an
18 ownership interest of the copyright interests and/or renewal term copyrights in and
19 to the musical works in the Westbound Sound Recordings and the Warner Brothers
20 Sound Recordings, exclusive of the Defendants; (b) that Plaintiff has the rights
21 conferred upon copyright owners under the U.S. Copyright Act in and to the
22 musical works and sound recordings embodied in the Westbound Sound
23 Recordings and the Warner Brothers Sound Recordings, including, without
24 limitation, the right to exploit the musical works and sound recordings in the
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1 Westbound Sound Recordings and the Warner Brothers Sound Recordings; (c) that
2 Defendants have no interest in the copyrights and/or renewal term copyrights in
3 and to the musical works and sound recordings in the Westbound Sound
4 Recordings and the Warner Brothers Sound Recordings, or any right to exploit the
5 musical works and sound recordings in the Westbound Sound Recordings and the
6 Warner Brothers Sound Recordings; and (d) that any further action by Defendants
7 in derogation of the rights of Plaintiff constitutes willful copyright infringement.
8
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10
11 87. Plaintiff further seeks injunctive relief requiring (a) that Defendants
12 disgorge all benefits, monetary and non-monetary, collected by Defendants as the
13 purported copyright owner(s), licensee(s), and/or user(s) of the musical works and
14 sound recordings in the Westbound Sound Recordings and the Warner Brothers
15 Sound Recordings; (b) that Defendants re-convey any copyright interests and/or
16 renewal term copyrights in and to the musical works and sound recordings in the
17 Westbound Sound Recordings and the Warner Brothers Sound Recordings to
18 Plaintiff to the extent necessary to effectuate Plaintiffs' rights; and (c) that
19 Defendants prepare, file, and record any and all necessary FORM CA correction
20 filings with the U.S. Copyright Office as required to correct and clarify all prior
21 copyright filings, if any, submitted by any of the Defendants before the U.S.
22 Copyright Office.
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COUNT II
Federal Copyright Infringement Under 17 U.S.C. §501
(Against All Defendants)

88. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if fully set forth herein.

89. This is a claim for federal copyright infringement under the United States Copyright Act, 17 U.S.C. § 101 *et seq.*

90. Plaintiff is the owner of all right, title, and interest in and to the copyright interests and/or renewal term copyrights for the musical works and sound recordings in the Westbound Sound Recordings and the Warner Brothers Sound Recordings and has been the owner of such rights since the applicable and corresponding dates for musical work and sound recording previously identified in preceding paragraphs.

91. Without consent, authorization, approval, or license from the Plaintiff, Defendants knowingly, willingly, and unlawfully exploited, and continue to exploit, the copyright interests and/or renewal term copyrights in and to the musical works and sound recordings in the Westbound Sound Recordings and the Warner Brothers Sound Recordings, including by (a) administering and/or selling the musical works and sound recordings comprising the Westbound Sound Recordings and the Warner Brothers Sound Recordings either themselves and/or with third parties, (b) licensing and/or utilizing the musical works and sound

1 recordings comprising the Westbound Sound Recordings and the Warner Brothers
2 Sound Recordings for use by third parties such as record companies and/or
3 releasing new musical works and compilations encompassing one or more of the
4 musical works and sound recordings comprising the Westbound Sound Recordings
5 and the Warner Brothers Sound Recordings, and (c) collecting royalties and other
6 revenues from such activities recited above.
7
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9 92. By virtue of Defendants' actions in involving the musical works and
10 sound recordings comprising the Westbound Sound Recordings and the Warner
11 Brothers Sound Recordings described above, Defendants have directly infringed
12 and/or induced, caused, and materially contributed to the infringing acts of others
13 by encouraging, inducing, allowing, and assisting others to use, copy, distribute,
14 publicly perform, prepare derivative works based upon, and otherwise
15 commercially exploit the musical works and sound recordings comprising the
16 Westbound Sound Recordings and the Warner Brothers Sound Recordings.
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20 93. Defendants' acts of direct and/or inducement of infringement are and
21 have been knowing and willful.
22

23 94. Defendants' direct, contributory and/or induced infringement have
24 interfered with the Plaintiff's ability to (a) administer and/or utilize the musical
25 works and sound recordings comprising the Westbound Sound Recordings and the
26 Warner Brothers Sound Recordings, (b) license and/or commercially exploit the
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1 musical works and sound recordings comprising the Westbound Sound Recordings
2 and the Warner Brothers Sound Recordings with third parties, and (c) collect
3 royalties and other revenues from such activities and endeavors and/or otherwise
4 fully enjoy the rights afforded to the Plaintiff under the U.S. Copyright Act.
5

6 95. By this unlawful exploitation of the copyright interests and/or renewal
7 term copyrights in and to the musical works and sound recordings comprising the
8 Westbound Sound Recordings and the Warner Brothers Sound Recordings,
9 Defendants have violated one or more of the Plaintiff's exclusive rights under 17
10 U.S.C. § 106.
11

12 96. Defendants have realized unjust profits, gains, and advantages as a
13 proximate result of their infringing and/or unauthorized acts.
14

15 97. Defendants will continue to realize unjust profits, gains, and
16 advantages as a proximate result of their infringement as long as such infringement
17 is permitted to continue.
18

19 98. Plaintiff is entitled to seek, at his election, either actual damages or
20 statutory damages as set forth in the U.S. Copyright Act, 17 U.S.C. § 101 *et seq.*
21

22 99. Plaintiff is also entitled to an injunction restraining Defendants from
23 engaging any further such acts in violations of the United States copyright laws.
24 Unless Defendants are enjoined and prohibited from infringing Plaintiff's
25 copyright interests in and to the musical works and sound recordings comprising
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1 the Westbound Sound Recordings and the Warner Brothers Sound Recordings, and
2 unless all infringing products and advertising materials are seized, Defendants will
3 continue to intentionally infringe, induce, and/or contributory infringe the
4 Plaintiffs' copyright interests and/or renewal term copyrights.
5

6 100. As a direct and proximate result of Defendants' direct and indirect
7 willful copyright infringement, Plaintiff has suffered, and will continue to suffer,
8 monetary loss, damage, and diminution of his rights under the U.S. Copyright Act
9 and under the statutory and common law of the State of California. Plaintiff is
10 entitled to recover from Defendants, in amounts to be determined at trial, the
11 damages sustained and will sustain, and any gains, profits, and advantages
12 obtained by Defendants as a result of Defendants' acts of infringement and
13 Defendants' exploitation of the copyright interests and/or renewal term copyrights
14 in and the musical works and sound recordings comprising the Westbound Sound
15 Recordings and the Warner Brothers Sound Recordings, which may include an
16 election of statutory damages as set forth in the U.S. Copyright Act, 17 U.S.C.
17 §101 *et seq.*
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COUNT III
Unauthorized Use and Exploitation Of
Pre-February 15, 1972 Sound Recordings
(Cal. Civil Code § 980 *et seq.*)
(Against Boladian, Westbound Records, Ace Records, and Sync2Picture)

101. Plaintiff repeats and realleges the allegations set forth in the preceding paragraphs as if fully set forth herein.

102. This is a claim for copyright infringement under state common law and Cal Civil Code § 980 *et seq.* which comprise non-preempted state law claims under 17 U.S.C. § 301(c).

103. Each of the musical works and sound recordings comprising the Westbound Sound Recordings also comprise and embody fixed sound recordings of the musical performances of Clinton, for the corresponding musical work and certain of the musical works and sound records comprising the Westbound Sound Recordings also comprise pre-February 15, 1972 sound recordings of fixed performances prior to February 15, 1972 within the meaning of 17 U.S.C. § 301(c).

104. Without consent, authorization, approval, or license from Plaintiff, Defendants knowingly, willingly, and unlawfully exploited the sound recordings pertaining to the pre-February 15, 1972 musical works and sound recordings comprising the Westbound Sound Recordings.

1 105. Defendants have acted directly or otherwise induced, caused, and/or
2 materially contributed to the infringing acts of others by encouraging, inducing,
3 allowing, and assisting others to use, copy, distribute, publicly perform, prepare
4 derivative works based upon, and otherwise commercially exploit the pre-1972
5 sound recordings pertaining to the musical works and sound recordings comprising
6 the Westbound Sound Recordings.
7

8
9 106. Defendants have realized unjust profits, gains, and advantages as a
10 proximate result of their infringements and takings.
11

12 107. Defendants will continue to realize unjust profits, gains, and
13 advantages as a proximate result of their infringements and takings as long as such
14 acts are permitted to continue.
15

16 108. The acts of the Defendants are causing irreparable injury to the
17 Plaintiff. Plaintiff has no adequate remedy at law and said acts will continue
18 unless restrained by this Court.
19

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21 **COUNT IV**
22 **Rescission of 1969 Agreement**
23 **(Cal. Civil Code § 1689)**
24 **(Against Boladian and Westbound Records, Inc.)**

25 109. Plaintiff repeats and realleges the allegations set forth in the preceding
26 paragraphs as if fully set forth herein.

27 110. This is a claim for rescission of contract under Cal. Civil Code § 1689
28 and state common law.

1 111. In 1969, Clinton and Boladian entered into an oral agreement whereby
2 Clinton agreed to provide Funkadelic masters to Boladian to be released on a
3 newly created label called Westbound Records in exchange for 50% revenue from
4 the exploitation of those sound recordings.
5

6 112. In 1969, Boladian, with intent to deceive Clinton and to induce
7 Clinton to enter into this agreement, misrepresented that he would account and
8 compensate Clinton for his contribution to Westbound. Clinton reasonably relied
9 on Boladian's misrepresentations.
10

11 113. Under the terms of the agreement, Clinton has fully performed,
12 providing Boladian with eight studio albums and additional previously unreleased
13 tracks.
14

15 114. In over the past four years, Boladian and his company, Westbound,
16 has re-released, licensed, and otherwise exploited the Westbound Sound
17 Recordings, but has not provided Clinton with a single accounting statement or
18 payment.
19

20 115. As a proximate result of the breach of the 1969 Agreement by
21 Defendants Boladian and Westbound, as herein alleged, Plaintiff has been
22 damaged in an amount to be proven at time of trial.
23

24 116. Clinton intends service of summons of this complaint to serve as
25 notice of rescission of the aforementioned contract, and hereby offers to restore all
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1 consideration furnished by Boladian and Westbound under said contract, on
2 condition that Boladian and Westbound restore to Clinton the consideration
3
4 furnished by Clinton.

5 **COUNT V**
6 **Fraud**
7 **(Against All Defendants)**

8
9 117. Plaintiff repeats and realleges the allegations set forth in preceding
10 paragraphs as if fully set forth herein.

11 118. This is a claim for fraud under state common law.

12
13 119. Defendants made material representations to various third parties,
14 including the U.S. Copyright Office, Broadcast Music, Inc. ("BMI"), The Harry
15 Fox Agency ("HFA"), as well as the public on product markings and literature, that
16 Defendants were the owner, licensee, and/or had other legal rights to disseminate
17 copies or utilize the musical works and sound recordings comprising the
18 Westbound Sound Recordings and the Warner Brothers Sound Recordings.
19
20

21 120. Defendants' actions and representations in commerce and on goods
22 and services relating to the musical works and sound recordings comprising the
23 Westbound Sound Recordings and the Warner Brothers Sound Recordings
24 constituted a publication of false statements knowing the statements are false or
25 acting in reckless disregard for its truth or falsity.
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1 221. Defendants made the representations and took the foregoing actions
2 with the intention that it would be relied upon by the public, the Plaintiff as well as
3 various third parties, including the U.S. Copyright Office, BMI, HFA, and record
4 companies.
5

6 222. Plaintiff, as well as various third parties, including at least the U.S.
7 Copyright Office, BMI, HFA, and record companies, have relied on Defendants'
8 foregoing actions and representations and, as a result, Plaintiff has been injured.
9

10 223. The acts of the Defendants are causing irreparable injury to the
11 Plaintiff. Plaintiff has no adequate remedy at law and said acts will continue
12 unless restrained by this Court.
13

14
15 **COUNT VI**
16 **Injurious Falsehood**
17 **(Against All Defendants)**

18 224. Plaintiff repeats and realleges the allegations set forth in the preceding
19 paragraphs as if fully set forth herein.
20

21 225. This is a claim for injurious falsehood under state common law.

22 226. Defendants' actions and representations in commerce relating to the
23 musical works and sound recordings comprising the Westbound Sound Recordings
24 and the Warner Brothers Sound Recordings, including in public filings before at
25 least the U.S. Copyright Office, BMI, and HFA, constituted a publication of a false
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1 statement(s) knowing that statement to be false or acting in reckless disregard for
2 its truth or falsity.

3
4 127. Defendants knew, or should have known, that the false publications,
5 actions, and representations set forth in the preceding paragraphs would likely
6 result in pecuniary loss and/or harm to the interests of the Plaintiff having a
7 pecuniary value, by conveying and circulating the false and misleading impression
8 that the Defendants possess or retain some legal rights or interests in the musical
9 works and sound recordings comprising the Westbound Sound Recordings and the
10 Warner Brothers Sound Recordings, or that third parties would need to contract
11 with the Defendants to obtain rights therein to the exclusion of the Plaintiff.
12

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14
15 128. Plaintiff has suffered special damages and lost opportunities as a
16 result of the actions and conduct by Defendants.

17
18 129. By virtue of the facts herein averred, the acts of the Defendants
19 constitute injurious falsehood within the meaning of the common law of the State
20 of California as they pertain to the unlawful use and dominion over the Plaintiff's
21 rights in at least the copyright interests and renewal term copyrights in and to the
22 musical works and sound recordings comprising the Westbound Sound Recordings
23 and the Warner Brothers Sound Recordings.
24

25
26 130. Defendants' unlawful and unauthorized use and dominion over the
27 Plaintiff's rights in and to the musical works and sound recordings comprising the
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1 Westbound Sound Recordings and the Warner Brothers Sound Recordings have
2 been deliberate and willful and committed with the intent to cause confusion and
3 mistake, and to deceive and defraud the public into believing that the Defendants
4 somehow possess legal rights which are superior to that of the Plaintiff.
5

6
7 131. Defendants have and/or will obtain substantial benefit from the use of,
8 and dominion over, the musical works and sound recordings comprising the
9 Westbound Sound Recordings and the Warner Brothers Sound Recordings without
10 Plaintiff's permission, consent, and/or authorization.
11

12 132. Plaintiff has not received appropriate compensation for the
13 Defendants' use and dominion over at least the the musical works and sound
14 recordings comprising the Westbound Sound Recordings and the Warner Brothers
15 Sound Recordings.
16

17
18 133. Defendants' actions and representations in commerce have
19 caused, or will likely cause, a benefit to the Defendants at the expense of the
20 Plaintiff in that such statements and representations to third parties convey the
21 false and misleading impression that the Defendants possess some legal rights or
22 interests in the musical works and sound recordings comprising the Westbound
23 Sound Recordings and the Warner Brothers Sound Recordings which are superior
24 to that of Plaintiff.
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1 134. The acts of the Defendants are causing irreparable injury to the
2 Plaintiff. Plaintiff has no adequate remedy at law and said acts will continue
3 unless restrained by this Court.
4

5 **COUNT VII**
6 **Federal Trademark Counterfeiting, 15 U.S.C. § 1114**
7 **(Against Charly, Snapper, Union Square, Artistry Music, Atom Records)**
8

9 135. Plaintiff repeats and realleges the allegations set forth in preceding
10 paragraphs as if fully set forth herein.

11 136. This is a claim for Federal Trademark Counterfeiting, under 15 U.S.C.
12 § 1114.
13

14 137. Defendants have used spurious designations that are identical with, or
15 substantially indistinguishable from, the Funkadelic Trademarks on goods they offer
16 for sale and commercial exploitation.
17

18 138. Defendants have used these spurious designations knowing they are
19 counterfeit in connection with the advertisement, promotion, sale, offering for sale and
20 distribution of goods.
21

22 139. Defendants' use of the Funkadelic Trademarks to advertise, promote,
23 offer for sale, distribute, and sell defendants' infringing albums was and is without the
24 consent of Clinton.
25

26 140. Defendants' unauthorized use of the Funkadelic Trademarks on and in
27 connection with Defendants' advertisement, promotion, sale, offering for sale and
28

1 distribution of infringing albums through the world wide web and at retail constitute
2 defendants' unauthorized use of the Funkadelic trademarks in commerce.

3
4 141. Defendants' unauthorized use of the Funkadelic Trademarks as set forth
5 above is likely to: (a) cause confusion, mistake and deception; (b) cause the public to
6 believe that defendants are authorized, sponsored or approved by Clinton or that
7 defendants are affiliated, connected or associated with or in some way related to
8 Clinton; and (c) result in defendants unfairly benefitting from Clinton's advertising
9 and promotion and profiting from the reputation of Clinton and his Funkadelic
10 Trademarks all to the substantial and irreparable injury of the public, Clinton and
11 Plaintiff's Funkadelic Trademarks and the substantial goodwill represented thereby.

12
13 142. Defendants' acts as aforesaid constitute trademark counterfeiting in
14 violation of Section 32 of the Lanham Act, 15 U.S.C. §1114.

15
16 143. Defendants' acts are both willful and malicious.

17
18 144. By reason of the foregoing, defendants are liable to Clinton for: (a)
19 statutory damages in the amount of up to \$1,000,000 for each mark counterfeited as
20 provided by 15 U.S.C. § 1117(c) of the Lanham Act or, at Clinton's election, an
21 amount representing three (3) times Clinton's damage or Defendants' illicit profits; and
22 (b) reasonable attorney's fees, investigative fees and pre-judgment interest pursuant to
23 15 U.S.C. § 1117(b).
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COUNT VIII
Federal Trademark Infringement, 15 U.S.C. § 1114
(Against Charly, Snapper, Union Square, Artistry Music, and Atom)

145. Plaintiff repeats and realleges the allegations set forth in preceding paragraphs as if fully set forth herein.

146. This is a claim for federal trademark infringement under 15 U.S.C. § 1114.

147. Based on Clinton's extensive advertising under the Funkadelic Trademark, its extensive sales and world wide popularity of Funkadelic music, the Funkadelic Trademarks have acquired a secondary meaning so that any product and advertisement bearing such trademarks is immediately associated by purchasers and the public as being a product and affiliate of Clinton.

148. Defendants' activities constitute use in commerce of the Funkadelic trademarks. Defendants' use of the Funkadelic Trademarks in connection with Defendants' sale, offers of sale, distribution, promotion, and advertisement of their goods constitutes infringement of the Funkadelic Trademarks.

149. Defendants have used the Funkadelic Trademarks, knowing they are the exclusive property of Clinton, in connection with defendants' sale, offers for sale, distribution, promotion and advertisement of their goods.

150. Defendants' activities create the false and misleading impression that defendants are sanctioned, assigned or authorized by Clinton to use the Funkadelic

1 Trademarks to advertise, manufacture, distribute, offer for sale or sell albums
2 containing infringing sound recordings when defendants are not so authorized.

3
4 151. Defendants engage in the aforementioned activity with the
5 intent to confuse and deceive the public into believing that Defendants and the
6 albums they sell are in some way sponsored, affiliated, or associated with Clinton, when in
7 fact they are not.

8
9 152. Defendant's use of the Funkadelic Trademark has been without the
10 consent of Clinton, is likely to cause confusion and mistake in the minds of the public
11 and, in particular, tends to and does falsely create the impression that the goods
12 advertised, promoted, distributed and sold by defendants are warranted, authorized,
13 sponsored or approved by Clinton when, in fact, they are not.

14
15
16 153. Defendants' unauthorized use of the Funkadelic Trademarks has resulted
17 in Defendants unfairly benefiting from Clinton's advertising and promotion, and
18 profiting from the reputation of Clinton and the Funkadelic Trademarks, to the
19 substantial and irreparable injury of the public, Clinton and the Funkadelic Trademarks,
20 and the substantial goodwill represented thereby.

21
22
23 154. Defendants' acts constitute willful trademark infringement in
24 violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

25
26 155. By reason of the foregoing, defendants are liable to Clinton for: (a) an
27 amount representing three (3) times Clinton's damage or Defendants' illicit profits;
28

1 and (b) reasonable attorney's fees, investigative fees and pre-judgment interest
2 pursuant to 15 U.S.C. § 1117.
3

4 **COUNT IX**
5 **Federal False Designation of Origin and Unfair Competition**
6 **15 U.S.C. § 1125(a)**
7 **(Against All Defendants except Sync2Picture)**

8 156. Plaintiff repeats and realleges the allegations set forth in the preceding
9 paragraphs as if fully set forth herein.

10 157. This is a claim for federal false designation of origin and unfair
11 competition under 15 U.S.C. § 1125(a).

12 158. In connection with defendants' advertisement, promotion, distribution,
13 sales and offers of sales of their goods, defendants have used in commerce, and
14 continues to use in commerce, the Funkadelic Trademarks.
15

16 159. In connection with defendants' advertisement, promotion, distribution,
17 sales and offers of sales of their goods, defendants have affixed, applied and used false
18 designations of origin and false and misleading descriptions and representations,
19 including the Funkadelic Trademarks, which tend to falsely describe the origin,
20 sponsorship, association or approval by Clinton of the goods defendants sell.
21

22 160. Defendants have used one or more of the Funkadelic Trademarks with
23 full knowledge of the falsity of such designations of origin, descriptions and
24 representations, all to the detriment of Clinton.
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1 161. Defendants' use of the Funkadelic Trademarks on defendants' goods
2 constitutes false descriptions and representations tending falsely to describe or represent
3 defendants and defendants' products as being authorized, sponsored, affiliated or
4 associated with Clinton.
5

6 162. Defendants have used one or more of the Funkadelic Trademarks on
7 goods with the express intent to cause confusion and mistake, to deceive and mislead
8 the public, to trade upon the reputation of Clinton and to improperly appropriate to
9 themselves the valuable trademark rights of Clinton.
10

11 163. Defendants' acts constitute the use in commerce of false designations of
12 origin and false or misleading descriptions or representations, tending to falsely or
13 misleadingly describe or represent defendants' products as those of Clinton in violation of
14 Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).
15

16 164. By reason of the foregoing, defendants are liable to Clinton for: (a) an
17 amount representing three (3) times Clinton's damage or defendants' illicit profits;
18 and (b) reasonable attorney's fees, investigative fees and pre-judgment interest
19 pursuant to 15 U.S.C. § 1117.
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3 **COUNT X**
4 **False Designation of Origin/False Impression of Association**
5 **15 U.S.C. § 1125(2)**
6 **(Against Sync2Picture)**

7 165. Plaintiff repeats and realleges the allegations set forth in preceding
8 paragraphs as if fully set forth herein.

9 166. This is a claim for false designation of origin and false impression of
10 association under 15 U.S.C. § 1125(a).

11 167. Defendant has knowingly commercially misappropriated and used the
12 name, image, and/or likeness of Clinton, as well as an “imitation” sound recording
13 of Clinton owned sound recording “(Not Just) Knee Deep” to falsely advertise or
14 represent that Defendant’s business and products are associated, approved,
15 endorsed by or otherwise connected with Clinton. Defendant has further misled
16 the public that the “imitation” recording of “(Not Just) Knee Deep” is the original
17 sound recording owned by Clinton. Clinton has on limited occasions licensed the
18 use of his rights of publicity and sound recordings to advertise, promote and
19 market third party’s goods and services. By virtue of advertising and sales,
20 together with consumer goods endorsed by and affiliated with Clinton, Clinton’s
21 name, image, likeness and distinct music sound, have become and are valuable
22 assets identified with and symbolizing Clinton.
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28 168. Defendant’s commercial and public use and exploitation of Clinton’s

1 name, likeness, image, and distinct music sound for the promotion, advertisement,
2 and marketing of Defendant's business and products is a false designation of origin
3 and a false or misleading representation of fact which is likely to cause confusion,
4 mistake, and deceive the public as to an affiliation, connection or association
5 between Defendant and Clinton, and is likely to cause confusion, mistake or
6 deception as to the origin, sponsorship or approval by Clinton of Defendant's
7 business and products.
8
9

10
11 169. Clinton is informed and believes and based thereon alleges that
12 Defendant intended to, and did, confuse and mislead the public, and did represent
13 and create the false impression that Defendant's business and products are
14 endorsed, authorized, originated, sponsored, approved, or licensed by Clinton, or
15 otherwise affiliated with Clinton.
16

17
18 170. In fact, there is no affiliation, endorsement, or other relationship of
19 any kind between Clinton and Defendant. Clinton has not authorized, licensed or
20 given permission to Defendant to use his name, image, likeness or distinct musical
21 sound in any commercial or other manner whatsoever. Defendant has therefore
22 created and will continue to create a false impression concerning an association
23 and affiliation between Clinton and Defendant, a false designation of the origin of
24 Defendant's business and products, and confusion as to a connection between
25 Clinton and Defendant and Clinton's purported endorsement and approval of
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1 Defendant's products.

2 171. As a direct and proximate result of the aforementioned acts, Clinton
3 has suffered and continues to suffer damages in an amount to be proven at trial.
4

5 When Clinton has ascertained the full amount of damages, he will seek leave of
6 Court to amend this Complaint accordingly.
7

8 172. Pursuant to 15 U.S.C. § 1116(a), Clinton is entitled to an order
9 enjoining Defendant from using Clinton's name, image, likeness and distinct
10 musical sound in connection with Defendant's business and products.
11

12 173. Pursuant to 15 U.S. C. § 1117(a), Clinton is entitled to an Order
13 requiring Defendant to account to Clinton for any and all profits derived by
14 Defendant from the aforesaid wrongful conduct, and to an Order awarding all
15 damages sustained by Clinton. Moreover, Defendant's acts make this an
16 exceptional case under 15 U.S.C. § 1117(a), and Clinton is therefore entitled to
17 recover his attorneys' fees and costs of this action.
18
19

20 174. Clinton is informed and believes and based thereon alleges that
21 Defendant's conduct is intentional and without foundation in law. Pursuant to 15
22 U.S.C. § 1117(a), Clinton is entitled to an award of treble damages against
23 Defendant.
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COUNT XI
Unfair Competition and Unfair Business Practices
Bus. & Prof. Code § 17200 Against All Defendants

175. Plaintiff repeats and realleges the allegations set forth in preceding paragraphs as if fully set forth herein.

176. This is a claim for unfair competition and unfair business practices under Cal Bus & Prof. Code § 17200.

177. Clinton is informed and believes and based thereon alleges that Defendants, by their acts and omissions alleged herein, have engaged in unlawful, unfair and fraudulent business practices as defined in Business and Professions Code Section 17200, and has utilized the unlawful and tortious means alleged herein to unjustly enrich themselves by, among other things, misappropriating, using and exploiting, without right, title or authority, the valuable copyrights, trademarks and publicity rights owned solely and exclusively by Clinton.

178. The conduct of Defendants alleged herein violate Business and Professions Code section 17200 in the following respects: (a) Defendants' acts of misappropriation, as alleged herein, violate the common law trademark rights and right of publicity and consequently constitute an unlawful business act or practice within the meaning of the section; and (b) Defendants' unfair, misleading and deceptive use of Clinton's name, image, likeness, distinct musical sound, trademarks, artwork, photographs, as alleged herein has created confusion in the

1 public's mind, creating the false appearance of Clinton's endorsement of
2 Defendants' businesses and products.

3
4 179. The unlawful, unfair and fraudulent business practices alleged herein
5 present a continuing threat to members of the public in that Defendants, if
6 unpunished, are likely to continue to misappropriate the valuable rights of
7
8 acclaimed celebrities for commercial profit and thus continue their practice of
9
10 unlawful, unfair and fraudulent business practices.

11 180. As a direct and proximate result of the acts alleged herein, Defendants
12 received the benefit of the use of Clinton's rights, and continue to exploit Clinton's
13 rights, which rights are exclusively held by him.

14
15 181. As a direct and proximate result of the acts alleged herein, Clinton has
16 suffered and continues to suffer damages in an amount to be proven at trial. When
17 Clinton has ascertained the full amount of damages, he will seek leave of Court to
18 amend this Complaint accordingly.

19
20
21 **COUNT XII**
22 **Violation of Cal Code § 3344**
23 **(Against All Defendants)**

24 182. Plaintiff repeats and realleges the allegations set forth in preceding
25 paragraphs as if fully set forth herein.

26 183. This is a claim for violation of rights to publicity under Cal Code §
27 3344.

1 184. Through his hard work and use of his talents in the field of
2 entertainment, Clinton's name, likeness and image are immediately recognizable
3 by the public, and have become invested with substantial goodwill in the eyes of
4 the public. Accordingly, Clinton's right of publicity has substantial commercial
5 value which he has not agreed to license or transfer to Defendants, in whole or in
6 part, for any purpose whatsoever.
7

8
9 185. Clinton has carefully developed and cultivated his image and persona,
10 resulting in his worldwide recognition and the goodwill associated therewith.
11 Defendants have, without right, title or authorization, misappropriated and
12 commercially used Clinton's valuable publicity rights in and to his name, likeness
13 and image, and the manifest success and popularity of Clinton, by illegally using
14 them for commercial purposes, including the marketing, advertising, packaging
15 and selling of Defendants' products.
16
17

18
19 186. The conduct of Defendants as alleged herein constitute a violation of
20 Section 3344 of the Civil Code due to the knowing and unauthorized use by
21 Defendants of the name, image, likeness of Clinton for commercial use without
22 authority or consent.
23

24
25 187. As a direct and proximate result of Defendants' wrongful acts, Clinton
26 has suffered substantial financial loss because he was not compensated for the
27 value of Defendants' use of his name, likeness and image. As a further direct and
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1 proximate result of Defendants' alleged conduct herein, Clinton has suffered from
2 the dilution of the value of his publicity rights, to his detriment and general
3 damage. As a further direct and proximate result of Defendants' conduct alleged
4 herein, Clinton has suffered and continues to suffer damages in an amount to be
5 proven at trial. When Clinton has ascertained the full amount of damages, he will
6 seek leave of Court to amend this Complaint accordingly.
7

9 188. By reason of the aforesaid wrongful acts of Defendants, in addition to
10 the relief set forth above, Clinton is entitled to a full accounting of all gross
11 revenues and profits received, directly and indirectly, by Defendants as a result of
12 the unauthorized use of Clinton's publicity rights and to an award of all such sums.
13
14 By reason of Defendants' wrongful acts as alleged above, Defendants are
15 involuntary trustees holding all such sums in their possession under a constructive
16 trust for the benefit of Clinton, and with a duty to transfer all such sums to Clinton
17 forthwith.
18

20 189. As a further direct and proximate result of the aforesaid wrongful acts
21 of Defendants, Clinton has incurred and will continue to incur substantial
22 attorneys' fees and costs. Clinton is entitled to an award of his attorneys' fees and
23 costs incurred in connection with this action pursuant to Section 3344(a) of the
24 California Civil Code.
25

27 190. Clinton is informed and believes and based thereon alleges that
28

1 Defendants, in doing the things alleged herein, acted willfully, maliciously,
2 oppressively and despicably, and with full knowledge of the adverse effect of their
3 actions on Clinton and with willful and deliberate disregard for the consequences
4 to Clinton. By reason thereof, Clinton is entitled to recover punitive and
5 exemplary damages from Defendants in an amount sufficient to punish Defendants
6 for their wrongful conduct, set and example and deter similar conduct.
7

8
9 191. There is a real threat that Defendants will continue to violate Clinton's
10 right of publicity, in that Clinton has been unable to curtail Defendants' knowing
11 misappropriation through extra-judicial communications and demands. Unless and
12 until enjoined and restrained by order of this Court, Defendants' continued use of
13 Clinton's name, likeness, and image will cause Clinton great and irreparable injury
14 because Clinton will suffer lost profits and dilution of the value of his identity.
15 Clinton also has no adequate remedy at law for the injuries being suffered because
16 a judgment for money damages will not suffice to prevent Defendants' continued
17 misappropriation of Clinton's publicity rights.
18
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21

22 **COUNT XIII**
23 **Common Law Right of Publicity**
24 **(Against all Defendants)**

25 192. Plaintiff repeats and realleges the allegations set forth in preceding
26 paragraphs as if fully set forth herein.

27 193. This is a claim for violation of rights of publicity under state common
28

1 law.

2 194. Through his hard work and use of his talents in the field of
3 entertainment, Clinton's name, likeness and image are immediately recognizable
4 by the public, and have become invested with substantial goodwill in the eyes of
5 the public. Accordingly, Clinton's rights of publicity has substantial commercial
6 value which he has not agreed to license or transfer to Defendants, in whole or in
7 part, for any purpose whatsoever.
8

9
10 195. Defendants have, without any right, title or authorization,
11 misappropriated Clinton's valuable publicity rights in and to his name, image, and
12 likeness by using his publicity rights for commercial purposes, including without
13 limitation, marketing, advertising and selling Defendants' products, among other
14 things.
15

16
17 196. This misappropriation was for Defendants' pecuniary and commercial
18 advantage, in that Clinton's name, image, likeness were exploited with the
19 intention of creating and enhancing Defendants' public image and pecuniary gain
20 and profit resulting from the advertisement, promotion and sale of Defendants'
21 products.
22

23
24 197. Clinton is informed and believes and thereon alleges that Defendants'
25 advertising, promotion and sale of goods misappropriating Clinton's valuable
26 publicity rights, as set forth hereinabove, has resulted in dilution of the value of the
27
28

1 aforesaid publicity rights to the detriment and damage of Clinton. Defendants'
2 wrongful acts, as alleged herein, constitute a violation and misappropriation of
3 Clinton's right of publicity because Defendants misappropriated Clinton's name,
4 image and likeness for the commercial purpose of promoting Defendants'
5 products.
6

7
8 198. As a direct and proximate result of Defendants' wrongful conduct
9 alleged herein, Clinton has suffered and continues to suffer damages in an amount
10 to be proven at trial. When Clinton has ascertained the full amount of damages, he
11 will seek leave of Court to amend this Complaint accordingly.
12

13
14 199. Clinton is informed and believes and based thereon alleges that
15 Defendants, in committing the acts alleged herein, acted willfully, maliciously,
16 oppressively and despicably, and with full knowledge of the adverse effect of their
17 actions on Clinton and with willful and deliberate disregard for the consequences
18 to Clinton. By reason thereof, Clinton is entitled to recover punitive and
19 exemplary damages from Defendants in an amount sufficient to punish Defendants
20 for their wrongful conduct, set an example and deter similar conduct.
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22

23
24 200. There is a real threat that Defendants will continue to violate Clinton's
25 rights of publicity, in that Clinton has been unable to curtail Defendants' knowing
26 misappropriation through extra-judicial communications and demands. Unless and
27 until enjoined and restrained by order of this Court, Defendants' continued use of
28

1 Clinton's name, likeness, and image will cause Clinton great and irreparable injury
2 because Clinton will suffer lost profits and dilution of the value of his identity.
3
4 Clinton also has no adequate remedy at law for the injuries being suffered because
5 a judgment for money damages will not suffice to prevent Defendants' continued
6 misappropriation of Clinton's publicity rights.
7

8 **COUNT XIV**
9 **Accounting**
10 **(Against all Defendants)**

11 201. Plaintiff repeats and realleges the allegations set forth in preceding
12 paragraphs as if fully set forth herein.

13 202. This is a claim for an accounting under state common law.
14

15 203. As alleged hereinabove, Defendants are obligated to accurately and
16 fully account to Clinton for all gross revenues derived from Defendants'
17 exploitation of Clinton's copyrights, trademarks, and rights of publicity. Clinton is
18 informed and believes and based thereon alleges that Defendants have received
19 profits and/or other valuable consideration and benefits as a result of their
20 unauthorized use of Clinton's copyrights, trademarks, and publicity rights.
21
22

23 204. As the rightful owner in and to the copyrights, trademarks and
24 publicity rights, Clinton is entitled to an accounting of any and all monies derived
25 from Defendants' use of these rights.
26

27 205. Clinton is entitled to that portion of Defendants' profits attributable to
28

1 the unauthorized use of Clinton's rights. The amount of these profits is presently

2 unknown and cannot be ascertained without an accounting. The accounting will

3 show any profits now due and owing to Clinton based on Defendants' tortious

4 conduct.

5
6
7 **COUNT XV**
8 **Constructive Trust**
9 **(Against all Defendants)**

10 206. Plaintiff repeats and realleges the allegations set forth in preceding

11 paragraphs as if fully set forth herein.

12 207. This is a claim for a constructive trust under state common law.

13 208. As alleged herein, Defendants have wrongfully misappropriated and

14 exploited Clinton's name, image, likeness, trademarks without authorization from

15 Clinton, for their own commercial profit and benefit.

16 209. Clinton is informed and believes and based thereon alleges that as a

17 result of the aforesaid misappropriation and unauthorized use by Defendants of his

18 valuable publicity and trademark rights as alleged herein, Defendants have

19 received money and/or other valuable consideration and benefits, and has been

20 unjustly enriched at the expense of Clinton, and will continue to receive money

21 and/or other valuable consideration and benefits in the future from the

22 unauthorized misappropriation, use and exploitation of Clinton's valuable rights.

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1 210. As a direct and proximate result of the acts of misappropriation, use
2 and exploitation of Clinton’s valuable publicity and trademark rights by
3
4 Defendants as alleged herein, Defendants hold any and all money and/or other
5 valuable consideration and benefits received by it from its misappropriation, use
6 and other wrongful acts, including interest thereon, as involuntary constructive
7
8 trustee in constructive trust for Clinton.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE, Plaintiff prays for judgment against the Defendants, as**
11 **follows:**

12 1. On the first cause of action, declaratory judgment and injunctive
13 relief:
14

15 (a) That Plaintiff is the owner of the copyright interests and
16 renewal term copyrights in and to the musical works and sound recordings
17 comprising the Westbound Sound Recordings and the Warner Brothers Sound
18 Recordings;
19
20

21 (b) That Plaintiff has the exclusive rights conferred upon copyright
22 owners under the U.S. Copyright Act in and to the musical works and sound
23 recordings comprising the Westbound Sound Recordings and the Warner Brothers
24 Sound Recordings, including, without limitation, the exclusive right to exploit the
25 musical works and sound recordings comprising the Westbound Sound Recordings
26 and the Warner Brothers Sound Recordings;
27
28

1 (c) That Defendants have no interest in and to the copyrights and
2 renewal term copyrights in and to the musical works and sound recordings
3 comprising the Westbound Sound Recordings and the Warner Brothers Sound
4 Recordings, or any right to exploit the musical works and sound recordings
5 comprising the Westbound Sound Recordings and the Warner Brothers Sound
6 Recordings;
7
8

9 (d) That any further action by Defendants in derogation of the
10 exclusive rights of Plaintiff constitutes willful copyright infringement;
11

12 (e) That Defendants disgorge to Plaintiff all benefits, monetary and
13 non-monetary collected or received by Defendants as the purported copyright
14 licensee, user and/or owner of the musical works and sound recordings comprising
15 the Westbound Sound Recordings and the Warner Brothers Sound Recordings;
16

17 (f) That Defendants re-convey any and all copyright interests and
18 renewal term copyrights in and to the musical works and sound recordings
19 comprising the Westbound Sound Recordings and the Warner Brothers Sound
20 Recordings to Plaintiff to the extent necessary to effectuate Plaintiff's rights; and
21

22 (g) That Defendants, at their sole expense, prepare, file, and record
23 any necessary FORM CA "Correction Certificate" filings with the U.S. Copyright
24 Office to correct and/or clarify any filings or registrations which Defendants
25 obtained from the U.S. Copyright Office relating to the musical works and sound
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1 recordings comprising the Westbound Sound Recordings and the Warner Brothers
2 Sound Recordings.

3
4 2. On the second cause of action for Defendants' federal copyright
5 infringement:

6 (a) Entry of judgment holding Defendants' liable for infringement
7 of the renewal term copyrights in and to the musical works and sound recordings
8 comprising the Westbound Sound Recordings and the Warner Brothers Sound
9 Recordings;
10 Recordings;

11
12 (b) An order permanently enjoining Defendants, their officers,
13 agents, servants, employees, attorneys, and affiliated companies, their assigns and
14 successors in interest, and those persons in active concert or participation with
15 them, from continued acts of infringement of the copyrights or renewal term
16 copyrights in and to the musical works and sound recordings comprising the
17 Westbound Sound Recordings and the Warner Brothers Sound Recordings;
18 Westbound Sound Recordings and the Warner Brothers Sound Recordings;

19
20 (c) An order that all materials in violation of Plaintiff's copyrights
21 and renewal term copyrights in and to the musical works and sound recordings
22 comprising the Westbound Sound Recordings and the Warner Brothers Sound
23 Recordings, and all means by which such materials may be reproduced, be
24 impounded and destroyed or otherwise reasonably disposed of;
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1 (d) An order that Plaintiff be awarded damages for Defendants'
2 copyright infringement of Plaintiff's copyrights and renewal term copyrights in
3 and to the musical works and sound recordings comprising the Westbound Sound
4 Recordings and the Warner Brothers Sound Recordings as either (i) actual
5 damages in an amount to be determined at trial, together with Defendants' profits
6 derived from its unlawful infringement of Plaintiff's copyrights in and to the
7 musical works and sound recordings comprising the Westbound Sound Recordings
8 and the Warner Brothers Sound Recordings; or (ii) statutory damages for each act
9 of infringement in an amount provided by law, at Plaintiff's election before the
10 entry of a final judgment; and
11
12
13
14

15 (e) An order awarding Plaintiff its costs and attorney's fees under
16 17 U.S.C. § 505.
17

18 3. On the fourth cause of action, a determination by the Court that said
19 contract has been rescinded and ordering restitution of the consideration paid by
20 Clinton, specifically the Westbound Sound Recordings, and all monies received in
21 the past four years from the exploitation of those masters, with interest at the rate
22 of ten percent per annum from December 1, 2007.
23

24 4. On all remaining claims, damages to be determined at trial;

25 5. On all claims, an award of pre-judgment and post-judgment interest;
26
27
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1 6. On all claims, an award of attorney's fees and costs of suit incurred
2 herein; and

3
4 7. Any and all other legal relief as may be available under law and which
5 the Court may deem just and proper.

6 **DEMAND FOR JURY TRIAL**

7
8 Plaintiff demands a jury trial for all issues so triable.

9 **Dated:** 12/5/11

10
11
12
13 
14 **Larry Clough**
Attorney for George Clinton

15
16 **Counsel to George Clinton:**

17 **Jeffrey P. Thennisch**
18 **Dobrusin & Thennisch**
19 **29 W. Lawrence Street, Suite 210**
20 **Pontiac, Michigan 48342**
21 **Telephone: (248) 292-2920**
22 **Email: jthennisch@patentco.com**
***Pro Hac Vice* Application to be filed.**

23 **Janet M. Conway**
24 **29761 Old Lincoln Highway**
25 **Wanship, Utah 84017**
26 **Telephone: (435) 659-4122**
27 **Email: pfunkesq@aol.com**
***Pro Hac Vice* Application to be filed.**

NAME, ADDRESS & TELEPHONE NUMBER OF ATTORNEY(S) FOR, OR, PLAINTIFF OR DEFENDANT IF PLAINTIFF OR DEFENDANT IS PRO PER

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11 DEC -5 PM 1:49
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES
BY: _____

ATTORNEYS FOR: Plaintiff, George Clinton

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

GEORGE CLINTON

CASE NUMBER:

CV11-10062 JAK (JEMx)

Plaintiff(s),

v.

NENE MONTES, CHARLY ACQUISITIONS,
LICENSEMUSIC.COM, ARMEN BOLADIAN,
WESTBOUND RECORDS, ET AL.

Defendant(s)

**CERTIFICATION AND NOTICE
OF INTERESTED PARTIES
(Local Rule 7.1-1)**

TO: THE COURT AND ALL PARTIES APPEARING OF RECORD:

The undersigned, counsel of record for GEORGE CLINTON
(or party appearing in pro per), certifies that the following listed party (or parties) may have a direct, pecuniary interest in the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification or recusal. (Use additional sheet if necessary.)

PARTY

CONNECTION

(List the names of all such parties and identify their connection and interest.)

DUUDU, LLC (owned by George Clinton)

ASSIGNEE OF FUNKADELIC TRADEMARK

12/5/11
Date


Sign

Larry H. Clough
Attorney of record for or party appearing in pro per

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Central District of California on the following

Trademarks or Patents. (the patent action involves 35 U.S.C. § 292.):

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT Central District of California
PLAINTIFF GEORGE CLINTON CV 11-10062		DEFENDANT NENE MONTES, CHARLY ACQUISITIONS, LICENSEMUSIC.COM, ARMEN BOLADIAN, WESTBOUND RECORDS, ET AL.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 3,016,720	11/25/2005	DUUDU, LLC (GEORGE CLINTON)
2		
3		
4		
5		

BY: _____
 CLERK U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 LAS ANGELES
 11 DEC -5 PM 1:51
 FILED

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
-------	-------------------	------

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

REPORT ON THE FILING OR DETERMINATION OF AN ACTION OR APPEAL REGARDING A COPYRIGHT	Register of Copyrights Copyright Office Library of Congress Washington, D.C. 20559
---	---

In compliance with the provisions of 17 U.S.C. 508, you are hereby advised that a court action or appeal has been filed on the following copyright(s):

COURT NAME AND LOCATION United States District Court Central District of California Los Angeles, California	PLAINTIFF GEORGE CLINTON DEFENDANT NENE MONTES, CHARLY ACQUISITIONS, LICENSEMUSIC.COM, ARMEN BOLADIAN, WESTBOUND RECORDS, SYNC2PICTURE, ET AL.
---	---

COPYRIGHT REGISTRATION NO.	TITLE OF WORK	AUTHOR OR WORK
1	SEE EXHIBIT "A" ATTACHED HERETO	
2		
3		
4		
5		

In the above-entitled case, the following copyright(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
		BY: _____ CLERK, DISTRICT COURT CENTRAL DISTRICT OF CALIF. LOS ANGELES 11 DEC - 5 PM 1:52 FILED

In the above-entitled case, a final decision was rendered on the date entered below. A copy of the order or judgment together with the written opinion, if any, of the court is attached.

COPY ATTACHED	WRITTEN OPINION ATTACHED
<input type="checkbox"/> Order <input type="checkbox"/> Judgment	<input type="checkbox"/> Yes <input type="checkbox"/> No
DATE RENDERED	

CLERK	(BY) DEPUTY CLERK	DATE

DISTRIBUTION:

- 1) Upon initiation of action, mail copy to Register of Copyrights
- 2) Upon filing of document adding copyright(s), mail copy to Register of Copyrights
- 3) Upon termination of action, mail copy to Register of Copyrights
- 4) In the event of an appeal, forward copy to Appellate Court
- 5) Case File Copy

EXHIBIT A

**Report on the Filing of an Action Regarding a Copyright
Clinton v. Montes, et al.**

V3542D883

“Hardcore Jollies”

“Uncle Jam Wants You”

“One Nation Under a Groove”

“Electric Spanking of War Babies”

Name of Author: George Clinton

Date of registration: September 13, 2006

SR 138278

“America Eats Its Young”

Name of Author: Westbound Records, Inc.

Date of registration: February 7, 1992

SR 138490

“Tales of Kid Funkadelic”

Name of Author: Westbound Records, Inc.

Date of registration: February 7, 1992

SR 142111

“Funkadelic: Let’s Take It to the Stage”

Name of Author: Westbound Records

Date of Registration: May 15, 1992

SR 318917

“Cosmic Slop”

Name of Author: Westbound Records

Date of Registration: February 13, 2002

SR 318918

“Standing on the Verge of Getting It On”

Name of Author: Westbound Records

Date of Registration: February 13, 2002

SRu 1-023-017

“(Not Just) Knee Deep S2P”

Name of Author: Sync2Picture

Date of Registration: June 7, 2011

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11 DEC -5 PM 1:51
CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12 **GEORGE CLINTON,**
13 **Plaintiff,**

14 vs.

15 **NENE MONTES, an individual and d/b/a**
16 **TERCER MUNDO, INC., a suspended Cal.**
17 **corp, CHARLY ACQUISITIONS, LTD, a**
18 **Nevis private company,**
19 **LICENSEMUSIC.COM, ApS, a Denmark**
20 **private company, ARMEN BOLADIAN, an**
21 **individual, WESTBOUND RECORDS,**
22 **INC., a Mich. corp, ACE RECORDS, LTD,**
23 **a United Kingdom private company,**
24 **UNION SQUARE MUSIC, LTD, a United**
25 **Kingdom private company, SNAPPER**
26 **MUSIC, LTD, a United Kingdom private**
27 **company, ATOM MUSIC, LTD, an Ireland**
28 **private company, ARTISTRY MUSIC,**
LTD, a United Kingdom private company,
SYNC2PICTURE, LLC, a Mich. limited
liability company, X5 MUSIC GROUP, a
Sweden private company,
Defendants.

Case No: **CV 11-10062** JAV (JEM) X

PLAINTIFF'S
NOTICE OF RELATED CASES
[Central District of California
Local Rule 83-1.3.1]

1
2 Plaintiff, George Clinton, hereby gives notice, pursuant to United States
3 District Court Central District of California Local Rule 83-1.3.1, that the instant
4 lawsuit is substantially related to *Montes v. Boladian, et al.*, 92 CV 2685 (MLR)
5 (C.D. Cal.) and the subsequent actions as detailed herein.

6 *Montes v. Boladian, et al.*, Case No. 92 CV 2685R (MLR) involved a
7 dispute over ownership rights to publishing and sound recordings by the artist
8 Funkadelic, originally released by Warner Brothers Records, Inc. The later filed
9 *Tercer Mundo v. Boladian, et al.*, Case No. 93 CV 4106 (MLR) was consolidated
10 into the first action; and an interpleader action filed in the Southern District of New
11 York, *Priority Records, Inc. v. Tercer Mundo and Boladian, et al.*, 94 CV 0389,
12 involving the exploitation and rights to royalties from the same Warner Brothers
13 Funkadelic sound recordings was also transferred and consolidated into the
14 original action.

15
16 The next action, *Montes v. Kaplan, et al.*, Case No. 03 CV 8955 (MLR) in
17 which plaintiff George Clinton filed a cross-claim of ownership to the Warner
18 Brothers Funkadelic sound recordings, was ordered transferred to Honorable Real
19 under General Order 224, the predecessor to Local Rule 83-1.3.1 as it was related
20 to *Montes v. Boladian, et al.*, 92 CV 2685R (MLR). That case resulted in a bench
21 trial decision in June, 2005, by Honorable Real that George Clinton owned the
22 rights to the Warner Brothers Funkadelic sound recordings, and any third party
23 licensing agreement for those masters entered into with Nene Montes and/or his
24 company, Tercer Mundo, was invalid.

25 The next action, *Clinton v. Capitol Records, Inc.*, Case No. 06 CV 8106
26 (MLR), in which plaintiff George Clinton filed an action to recover lost profits
27 from the illegal license by Nene Montes and his company, Tercer Mundo, to
28 Priority Records, a predecessor in interest to Capitol Records, was ordered

1 transferred to Honorable Real under Local Rule 83-1.3.1 as it was related to
2 *Montes v. Boladian, et al.*, 92 CV 2685R (MLR).

3 The instant action, *Clinton v. Montes, et al.*, involves plaintiff George
4 Clinton's continued efforts to enforce his rights to the Warner Brothers Funkadelic
5 sound recordings pursuant to Honorable Real's June, 2005, Order and Judgment
6 after bench trial in *Montes v. Kaplan, et al.*, Case No. 03 CV 8955 (MLR) in that
7 licenses by Nene Montes and his company Tercer Mundo to third parties for the
8 sale, licensing, and other commercial exploitation of the Warner Brothers Sound
9 Recordings, including defendants Charly Acquisitions, licensemusic.com, Ace
10 Records, Snapper Music, Atom Music, Union Square Music and Artistry Music,
11 are invalid and Clinton is entitled to recover lost profits from the illegal licenses by
12 Nene Montes and his company, Tercer Mundo.

13
14 The instant action, *Clinton v. Montes* appears to 1) arise from the same or a
15 closely related transaction, happening or event; 2) call for a determination of the
16 same or substantially related or similar questions of law and fact; 3) will entail
17 substantial duplication of labor if heard by different judges; and 4) involves the
18 same copyrights.

19 In order to prevent the substantial duplication of judicial resources, as well
20 as the possibility of inconsistent judgments, the instant action should be transferred
21 to Honorable Manuel Real.

22 Dated: 12/5/11

23
24
25 

26 Larry Clough
27 Attorney for Plaintiff, George Clinton
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge John Kronstadt and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

CV11- 10062 JAK (JEMx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.