

1 Peter Anderson, Esq. (Cal. Bar No. 88891)
peteranderson@dwt.com
2 Sean M. Sullivan, Esq. (Cal. Bar No. 229104)
seansullivan@dwt.com
3 Eric H. Lamm, Esq. (Cal. Bar No. 324153)
ericlamm@dwt.com
4 DAVIS WRIGHT TREMAINE LLP
865 South Figueroa Street, 24th Floor
5 Los Angeles, California 90017-2566
Telephone: (213) 633-6800
6 Fax: (213) 633-6899

7 Attorneys for Defendants

8 J. Douglas Baldrige, Esq.
jbaldrige@venable.com
9 Katherine Wright Morrone, Esq.
kwmorrone@venable.com
10 VENABLE LLP
600 Massachusetts Avenue NW
11 Washington, DC 20001
Telephone: (202) 344-4000
12 Fax: (202) 344-8300

13 Attorney for Defendant
TAYLOR SWIFT
14

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **WESTERN DIVISION**

18 SEAN HALL, *etc., et al.*,) Case No. 2:17-cv-06882 MWF (ASx)
19 Plaintiffs,)
20 vs.) DEFENDANTS' MEMORANDUM OF
21 TAYLOR SWIFT, *etc., et al.*,) POINTS AND AUTHORITIES IN
22 Defendants.) SUPPORT OF ALTERNATIVE
23) MOTION FOR PARTIAL SUMMARY
24) JUDGMENT

Date: September 29, 2022
Time: 10:00 a.m.

Courtroom of the Honorable
Michael W. Fitzgerald
United States District Judge

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **1. SUMMARY OF ARGUMENT**

3 Defendants are concurrently moving for Summary Judgment on the grounds
4 that Plaintiffs lack standing to assert the alleged copyright infringement claim, that
5 there is no genuine dispute that the creators of *Shake It Off* did not copy *Playas Gon'*
6 *Play* (“*Playas*”), and that, in any event, the alleged copying—which is disputed—is
7 within the fair use doctrine. If for any reason that Motion is not granted, Defendants
8 move in the alternative for Partial Summary Judgment as to the following two issues.

9 **2. IF SUMMARY JUDGMENT IS NOT GRANTED, PARTIAL**
10 **SUMMARY JUDGMENT IS APPROPRIATE**

11 **(a) Universal Music Group, Inc., Has Nothing to Do with *Shake It Off***

12 There is no genuine dispute that defendant Universal Music Group, Inc.
13 (“UMGI”) does not own or exploit *Shake It Off*. Facts 514-18. As a result, UMGI
14 cannot be liable for the alleged copyright infringement. [*Perfect 10, Inc. v.*](#)
15 [*Amazon.com, Inc.*, 508 F.3d 1146, 1159 \(9th Cir. 2007\)](#) (copyright infringement claim
16 requires, *inter alia*, proof the defendant “violate[d] at least one exclusive right granted
17 to copyright holders under [17 U.S.C. § 106](#)”). Since Plaintiffs have declined to
18 dismiss UMGI from this case, it is entitled to partial summary judgment and, pursuant
19 to [Federal Rule of Civil Procedure 54\(b\)](#), a final judgment in its favor.

20 **(b) Plaintiffs’ Damages Are Limited to Their Ownership Interests**

21 Should the Court permit Plaintiffs’ claim to proceed, the Court should limit any
22 recovery to their proportionate ownership of *Playas*. That is so because a co-owner’s
23 “recovery in a copyright case is ‘confined to [its] own part; that is to say, to its own
24 actual damages, to its proper share of any statutory damages, and to its proper share
25 of the profits.’” [*Manno v. Tennessee Prod. Ctr., Inc.*, 657 F. Supp. 2d 425, 432](#)
26 [\(S.D.N.Y. 2009\)](#) (quoting [*Edward B. Marks Music Corp. v. Jerry Vogel Music Co.*,](#)
27 [140 F.2d 268, 270 \(2d Cir. 1944\)](#)); [*Skidmore v. Led Zeppelin*, No. CV 15–3462, 2016](#)

28

1 WL 1442461 at *17 (C.D. Cal. Apr. 8, 2016); *Botts v. Kompany.com*, No. SACV 09-
2 00195, 2013 WL 12137690 at *2 (C.D. Cal. Apr. 10, 2013).

3 Mr. Hall and Mr. Butler have conceded that, by transferring a half or more of
4 their copyright interests to their music publishers, they retain only a 16 2/3% and 25%
5 ownership interest, respectively, in *Playas*. Facts 517-19. Accordingly, they are
6 limited to 41 2/3% of any recovery.

7 **3. CONCLUSION**

8 If Summary Judgment is not granted, Defendants respectfully submit that the
9 alternative Motion for Partial Summary Judgment is properly granted.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: August 8, 2022

/s/ Peter Anderson
Peter Anderson, Esq.
Sean M. Sullivan, Esq.
Eric H. Lamm, Esq.
DAVIS WRIGHT TREMAINE LLP
Attorneys for Defendants

J. Douglas Baldrige, Esq.
Katherine Wright Morrone, Esq.
VENABLE LLP
Co-counsel for Defendant
TAYLOR SWIFT