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SOUTHERN DISTRICT OF CALIFORNIA
BY *s/ robertc* DEPUTY

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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 HARLEM WEST MUSIC GROUP

11 Plaintiff,

12 vs.

13 YOUTUBE, L.L.C., a Delaware company;
14 and DOES 1-10, inclusive.

15 Defendants.

16 Case No. '21CV448 DMS KSC

17 **COMPLAINT FOR:**

- 18 (1) Copyright Infringement
- 19 (2) Vicarious Copyright Infringement
- 20 (3) Violations of California's Unfair Competition Law

21 **DEMAND FOR JURY TRIAL**

INTRODUCTION

1
2 This case involves the well-publicized results of one of the first cases brought
3 to trial under section 203 of the 1976 Copyright Act. Plaintiff Harlem West Music
4 Group bring this complaint against Defendant YouTube, L.L.C., for damages.
5 Plaintiff alleges as follows:

6 1. In the case of Scorpio v. Willis (Southern District of California, Hon. Judge
7 Ted Moskowitz), on or about 2011, Victor Willis (“Willis”) served notices of
8 terminations (the “Notices”) regarding grants to Can’t Stop Productions (“Can’t
9 Stop”) and Scorpio Music (“Scorpio”) of his copyrights to numerous Village People
10 compositions for which he wrote the lyrics. On or about 2012, Can’t Stop brought
11 an action seeking to have the notices declared invalid.

12 2. On or about 2013, the Notices were declared VALID. On or about 2014,
13 a Jury trial was held for Willis who sought upwards of 50% ownership in the
14 compositions. The results (pursuant to the jury verdict) were that Willis recaptured
15 33% ownership in 20 compositions including “In the Navy” and “Go West,” and
16 50% ownership in 13 compositions including the biggest and most iconic hit
17 “Y.M.C.A.”

18 3. On or about September 15, 2016, Willis served notices of terminations of
19 grants or implied grants of copyrights on Universal Music Group, Can’t Stop
20 Productions/Music and Scorpio Music with respect to all Village People recordings
21 wherein Willis is the featured vocalists, and all original music Videos, including the
22 original iconic “Y.M.C.A.” music video.

23 4. Moreover, pursuant to section 203 of the 1976 Copyright Act, the
24 aforementioned Notices (master recordings, and music videos) were all filed in the
25 U.S. Copyright Office with subsequent receipt of official Certificates of
26 Recordation.

1 5. This time, none of the parties challenged Willis's Notices of Terminations
2 in a court of law. Therefore, Willis recaptured 100% of his contributions to the
3 copyrights (master recordings and music videos) on the effective date of termination
4 pursuant to the Notices.

5 6. The effective date of termination for all the Notices (grants or implied
6 grants of copyrights) was September 15, 2018.

7 7. Willis transferred all his rights in the recaptured copyrights to Harlem West
8 Music Group ("Harlem West") including the initial recaptured copyrights, the
9 master recordings, and music video rights as well.

10 8. Over several years, Harlem West has suffered and continued to suffer
11 irreparable harm, and financial losses as a direct consequence of YouTube's
12 deliberate and inexplicable failure to allow Harlem West to resume monetizing its
13 Village People music videos on its platform (as an owner of the copyrights) after the
14 very co-owners of the copyrights filed bogus takedown orders; all of which were
15 removed or retracted by them.

16 9. Though there are presently no claims or takedown request on Harlem
17 West's *Victor Willis Music Channel* (and none would be valid under the
18 circumstances) YouTube continues to deny Harlem West's *Victor Willis Music*
19 *Channel* competing monetization of its Village People music videos. Instead,
20 YouTube only allows Harlem West's co-owners of the copyrights to monetize the
21 music videos therein stifling competitive use of the copyrights amongst the
22 copyright owners, facilitating and/or directly engaging in unfair competition.

23 10. When Plaintiff filed takedown requests for the removal of certain videos
24 uploaded without permission and which constitutes copyright infringement,
25 YouTube refused to remove the videos.

26 11. YouTube's failure takedown the offending videos as requested, as well as

1 18. The Court has supplemental jurisdiction over the third claim (state
2 claim) for relief pursuant to 28 U.S.C. § 1367 because the claim arises out of the
3 same nucleus of the operative federal claim.

4 19. Venue is proper in the Southern District of California pursuant to 28
5 U.S.C. § 13919 (b) because Plaintiff reside and operate her business within the
6 Southern District of California.

7 FACTURAL ALLEGATIONS

8 20. On or about September 11, 2017, 2018, Plaintiff filed a counter-
9 takedown notice with YouTube related a Universal Music Group (“UMG”)
10 takedown request of Plaintiff’s videos. Plaintiff demanded that YouTube provide
11 her with contact information on the person or persons acting on behalf of UMG
12 requesting the takedown of her videos. Defendant YouTube refused to provide
13 Plaintiff with the requested information. However, had the requested contact
14 information been provided, Plaintiff could have made direct contact with UMG
15 and quickly had the issue resolved.

16 Plaintiff then put YouTube on notice that, since UMG was an owner music
17 video but not an owner of the compositions whatsoever but which Plaintiff owns,
18 she would file takedown notices of all UMG Village People music videos because
19 she would had not and will not issue UMG the required composition license
20 considering that UMG had filed takedown requests on her videos. This means that
21 UMG, at the most, could display the videos without sound (the music
22 compositions).

23 21. On or about November 2018, Plaintiff demanded that YouTube
24 takedown all UMG relevant Village People music videos for copyright
25 infringement as Plaintiff had not and would not grant UMG a license for use of the
26

1 compositions at YouTube (especially “Y.M.C.A.”) in conjunction with their partial
2 ownership in Village People music videos.

3 22. On or about November 2018, YouTube responded that it could not
4 takedown the UMG music videos because YouTube has a special relationship with
5 companies like UMG through Content ID. The same Content ID that YouTube
6 repeatedly denied Plaintiff of course. Plaintiff responded by reminding YouTube
7 that were it to fail to remove the videos or disable the sound, it would have waived
8 its protection under the *safe harbour* provision of the *Digital Millennium*
9 *Copyright Act* (DMCA), and Plaintiff would eventually sue.

10 23. YouTube also failed to act to take down numerous other, unrelated,
11 takedown requests of offending videos engaged in copyright infringement against
12 Plaintiff.

13 24. *Victor Willis Music Channel* is a well-established video music channel at
14 YouTube that has operated since 2013 with over 6.2 million views.

15 25. YouTube approved monetization for the channel in 2014. Upon
16 Monetization, Harlem West earned in excess of \$700-\$1,200 per month for
17 YouTube’s placements of its ads.

18 26. In 2015, *Victor Willis Music Channel* started receiving false copyright
19 claims on its account. False or bogus claims to copyrights in efforts to
20 commandeer monetization of popular music videos is quite common at YouTube.

21 27. In Plaintiff’s case, each time a bogus copyright claim was filed, Plaintiff
22 filed the required counter-takedown notification and the false claims were
23 withdrawn after the claimant discovered they’d filed a claim against one of the
24 actual owners of the copyright.

25 28. In fact, this issue is such a nuisance with major music copyright owners
26

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