

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.

ATLANTIC RECORDING CORPORATION;
ATLANTIC RECORDS GROUP LLC; WARNER
RECORDS INC.; ASYLUM WORLDWIDE LLC;
BAD BOY RECORDS LLC; RHINO
ENTERTAINMENT COMPANY; RHINO
ENTERTAINMENT LLC; SPINNIN RECORDS
B.V.; WARNER MUSIC INTERNATIONAL
SERVICES LIMITED; WARNER MUSIC
LATINA INC.; GENE AUTRY'S WESTERN
MUSIC PUBLISHING CO.; UNICHAPPELL
MUSIC INC.; W CHAPPELL MUSIC CORP.;
WARNER CHAPPELL MUSIC, INC.; and
WARNER-TAMERLANE PUBLISHING CORP.

Plaintiffs,

vs.

VITAL PHARMACEUTICALS, INC. d/b/a BANG
ENERGY, JACK OWOC and DOES 1-10,

Defendants.

COMPLAINT

Plaintiffs Atlantic Recording Corporation, Atlantic Records Group LLC, Warner Records Inc., Asylum Worldwide LLC, Bad Boy Records LLC, Rhino Entertainment Company, Rhino Entertainment LLC, Spinnin Records B.V., Warner Music International Services Limited, Warner Music Latina Inc., Gene Autry's Western Music Publishing Co., Unichappell Music Inc., W Chappell Music Corp., Warner Chappell Music, Inc., and Warner-Tamerlane Publishing Corp. (collectively, "Plaintiffs"), by and through their attorneys, allege as follows:

INTRODUCTION

1. All Plaintiffs are related affiliates of Warner Music Group Corp. ("WMG"), one of the world's largest music entertainment companies. Through its affiliated recorded music and music publishing companies, including Plaintiffs, WMG produces, manufactures, distributes, sells, and licenses a legion of iconic and popular sound recordings and musical compositions.

These works include legendary sound recordings and musical compositions of the past, as well as many of today's biggest hits.

2. Defendant Vital Pharmaceuticals, Inc. d/b/a Bang Energy ("Bang") markets, sells, and distributes energy drinks, sports and nutrition supplements, apparel, and accessories, and claims to be "the nation's leading energy and lifestyle brand."¹

3. Defendant Jack Owoc ("Owoc," and collectively with Bang and Does 1-10, "Defendants") is Bang's founder, CEO, Chief Scientific Officer, and owner.

4. Defendants have achieved widespread commercial success by infringing Plaintiffs' copyrighted sound recordings and musical compositions on a massive scale.

5. Defendants have largely eschewed traditional advertising, relying instead upon promotion of Bang's products through social media websites and mobile applications such as Instagram, TikTok, and Facebook.

6. Defendants' primary use of these platforms is to post or facilitate the posting of videos demonstrating use of Bang's products. These videos (each, a "Bang Video," and collectively, the "Bang Videos") feature popular sound recordings and musical compositions as integral parts of the presentation; indeed, there is typically no speaking or sound in the videos *other than* the music integrated into the video.

7. While these social media "commercials" have been instrumental to Bang's success, Defendants have not paid to use the sound recordings and musical compositions that are featured in them. Defendants have misappropriated *nearly two hundred* of Plaintiffs' most popular and valuable sound recordings and musical compositions (the "Copyrighted Musical Works"), including sound recordings and musical compositions featuring such chart-topping and award-winning artists as Bruno Mars, Cardi B, Dua Lipa, Jack Harlow, Lizzo, Saweetie, and Van Halen. Bang has used the Copyrighted Musical Works to drive sales to Bang and increase Bang's brand awareness and profile without any compensation to Plaintiffs.

¹ See <https://bangenergy.com/about/> (last visited August 26, 2022).

8. As part of their infringing marketing efforts, Defendants have partnered with “influencers” – individuals who create infringing Bang Videos and post those videos on their own pages, some of which Defendants then repost on Bang’s social media pages. Defendants compensate these influencers with free product, commissions, discounts, and/or direct monetary payment, sometimes tied to Bang’s sales of the product(s) featured in the Bang Videos.

9. Plaintiffs’ sound recordings and musical compositions, including the Copyrighted Musical Works, are protected by copyright law, which grants the copyright owner the exclusive right to, among other things, reproduce, distribute, and create derivative works of those copyrighted works, to publicly perform musical compositions, and to digitally transmit sound recordings to the public. An important portion of Plaintiffs’ return on their investment in sound recordings and musical compositions, which they share with their exclusive recording artists and songwriters, comes from licensing sound recordings and musical compositions to others who use Plaintiffs’ musical works in videos, films, television shows, commercials, video games, and on social media, with the glaring exception of Defendants, who have done so without a license.

10. Defendants’ conduct, in which they take and exploit Plaintiffs’ valuable intellectual property without any compensation to Plaintiffs or their respective recording artists and/or songwriters, has caused Plaintiffs substantial and irreparable harm. Plaintiffs bring this action to obtain redress for Defendants’ infringement of Plaintiffs’ valuable rights and to prevent further violations of those rights.

JURISDICTION AND VENUE

11. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), insofar as this action arises under the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a).

13. The Court has personal jurisdiction over Defendants because, among other things: (a) Bang is a Florida corporation with its principal place of business in this state and this District; (b) on information and belief, Owoc is domiciled in this state and this District; (c) Defendants

have been doing business continuously in and maintain a regular presence in this state and this District; (d) a substantial part of the wrongful acts occurred within this state and this District; and (e) the effects of Defendants' unlawful conduct are directed toward and felt in this state and this District.

THE PARTIES

Plaintiffs

14. Plaintiff Atlantic Recording Corporation is a Delaware corporation with its principal place of business at 1633 Broadway, New York, New York.

15. Plaintiff Atlantic Records Group LLC is a Delaware limited liability company with its principal place of business at 1633 Broadway, New York, New York.

16. Plaintiff Warner Records Inc. is a Delaware corporation with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

17. Plaintiff Asylum Worldwide LLC is a Delaware limited liability company with its principal place of business at 1633 Broadway, New York, New York.

18. Plaintiff Bad Boy Records LLC is a Delaware limited liability company with its principal place of business at 1633 Broadway, New York, New York.

19. Plaintiff Rhino Entertainment Company is a Delaware corporation with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

20. Plaintiff Rhino Entertainment LLC is a Delaware limited liability company with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

21. Plaintiff Spinnin Records B.V. is a company organized and existing under the laws of the Netherlands, with its principal place of business at Marathon 4, Hilversum, The Netherlands.

22. Plaintiff Warner Music International Services Limited is a limited liability company organized and existing under the laws of England and Wales, with its principal place of business at 27 Wrights Lane, London, England.

23. Plaintiff Warner Music Latina Inc. is a Delaware corporation with its principal place of business at 555 Washington Avenue, Miami Beach, Florida.

24. Plaintiff Gene Autry's Western Music Publishing Co. is a California corporation with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

25. Plaintiff Unichappell Music Inc. is a Delaware corporation with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

26. Plaintiff W Chappell Music Corp. is a California corporation with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

27. Plaintiff Warner Chappell Music, Inc. is a Delaware corporation with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

28. Plaintiff Warner-Tamerlane Publishing Corp. is California corporation with its principal place of business at 777 S. Santa Fe Avenue, Los Angeles, California.

Defendants

29. Defendant Vital Pharmaceuticals, Inc. d/b/a Bang Energy is a Florida corporation with its principal place of business at 1600 North Park Drive, Weston, Florida.

30. Defendant Jack Owoc is the founder, CEO, Chief Scientific Officer, and owner of Bang, and a citizen of Florida.

31. Defendants Does 1 through 10 own, operate or are affiliates, agents, or employees of Bang, and/or are otherwise responsible for and proximately caused and are causing the harm and damages alleged in this Complaint. Plaintiffs are presently unaware of the true names and/or the involvement of Defendants sued herein by the fictitious designations Does 1 through 10, and for that reason, sue them by those designations. Plaintiffs will seek leave to amend this pleading to identify those Defendants when their true names and involvement in the infringements and other wrongful conduct hereinafter described are known.

DEFENDANTS' INFRINGING CONDUCT

32. Bang sells energy drinks, nutrition supplements, apparel, and accessories. It was founded in 1993 by Owoc, who remains its CEO.

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