UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

ERNIE HINES D/B/A COLORFUL MUSIC)
Plaintiff) Action No.
v.)
) COMPLAINT
ROC-A-FELLA RECORDS INC, DEF JAM)
RECORDINGS INC., UNIVERSAL MUSIC GROUP,)
SONY MUSIC HOLDINGS INC.,)
SHAWN CARTER p/k/a JAY-Z and)
TIMOTHY MOSLEY p/k/a TIMBALAND)
Defendants)
JURISDICTION)

in controversy exceeds Two Million Dollars (\$2,000,000.00).

- 1. Jurisdiction is based on diversity of citizenship and federal question. The amount
- 2. This Court has supplemental jurisdiction over Plaintiffs' claims arising under the statutory and common law pursuant to 28 U.S.C. § 1338(b), because those claims are joined with substantial and related claims. The Court also has subject matter jurisdiction over those claims pursuant to 28 U.S.C. § 1367, because Plaintiff's state law claims are interrelated with Plaintiff's federal claims and arise from a common nucleus of operative facts such that the adjudication of Plaintiff's state law claims with Plaintiff's federal claims furthers the interest of judicial economy.

PARTIES

- 3. Ernie Hines d/b/a Colorful Music ("Hines") has an address of 227 Elgin Ave. Apt 2A Forest Park, IL 60130.
- 4. Roc-a-Fella Records Inc. ("RFR"), is a New York entity, DOS ID 1988516.
- 5. Def Jam Recordings Inc. ("Def Jam") is a New York entity with an address of 1755 Broadway 7th Floor, New York, NY 10019.
- 6. Universal Music Group Inc. ("Universal") is a Delaware entity and is registered in New York, DOS ID 3178160. Universal owns Def Jam and RFR, and has a business address of 2220 Colorado Ave., Santa Monica, CA 90404. The registered agent for Universal is CT Corporation System, 28 Liberty Street, New York, NY 10005.
- 7. Sony Music Holdings Inc. ("Sony"), is a Delaware entity that is registered in New York DOS ID 1218162. The registered agent is Corporation Service Company, 80 State Street, Albany, NY 12207. Sony has an office at 25 Madison Ave, New York, NY 10010.
- 8. Shawn Carter p/k/a ("Jay-Z") is an American mogul and rapper, and a resident of the State of New York.
- 9. Timothy Mosley p/k/a ("Timbaland") is an American music producer. He is the owner of Timbaland Productions Inc., a Virginia entity, ID No. 05264957, with a business address of L.L. Business Management Inc., 3000 Marcus Ave. Suite 1W5, Lake Success, NY 11042 on file with

the Virginia Secretary of State's Office. The registered agent for Timbaland Productions, Inc. is United Corporate Services, Inc. 7705 Yolanda Road, Richmond, VA 23229.

FACTS

10. Hines is the co-author and composer of the song "Help Me Put Out The Flame (In My Heart)" ("Help Me") which is registered with the United States Copyright Office. It was originally registered in 1969 and has a renewal registration of EU0000154302. The song was released on Stax Records over forty (40) years ago.

Vol. 2... Hard Knock Life 1998- Jay-Z

- 11. *Vol. 2... Hard Knock Life* ("HKL") is the third studio album by American rapper Jay-Z. It was released on September 29, 1998, by RFR and Def Jam. It went on to become a commercially successful album, selling over 5 million copies in the United States. See Exhibit A.
- 12. The album HKL contains the song "Paper Chase" which is performed by Jay-Z featuring the legendary female rapper "Foxy Brown" and is produced by Timbaland. The credits on the song identify the composers/writers of the song as Jay-Z and Timbaland.
- 13. All the Defendants were aware that the song "Paper Chase" contained a sample of the master recording and composition of "Help Me" as performed by Hines.

- 14. Jay-Z and Timbaland failed to financially acknowledge Hines' contributions to the composition (Paper Chase).
- 15. All the Defendants knew or should have known that "Paper Chase" contained a sample of "Help Me" yet none of the defendants from 1998 through 2018 ever attempted to contact Hines or pay for the sample of the master or composition.
- 16. Hines is a senior citizen, does not listen to rap music and was unaware that "Paper Chase" contained his music and composition until 2018.
- 17. The credits for "Paper Chase" on Tidal, another entity owned by Jay-Z, clearly identifies the unauthorized use of the sample of "Help Me", indicating that all of the defendants knew of the use of Hines' song in "Paper Chase". See Exhibit B.
- 18. Upon information and belief, "Paper Chase" has been played millions of times on traditional, satellite and digital radio and appears on multiple compilation albums including the 2003 release, "Bring It On- The Best of Jay-Z".

https://www.discogs.com/Jay-Z-Bring-It-On-The-Best-Of/release/1031110 and the 2011 release "The Best Of Jay-Z" https://www.discogs.com/Jay-Z-The-Best-Of/release/6244319, released by Sony.

19. Despite the commercial success of HKL and "Paper Chase", the Defendants have failed to pay Plaintiff and never informed Plaintiff of the use of his composition. The Defendants knew or should have known of their copyright infringement and their actions were willful in the infringement. All the Defendants knew that they did not have a clearance from Hines to use the "Help Me" composition in "Paper Chase". The Defendants converted the use of "Help Me" for their own benefit.

100 %Ginuwine 1999-Ginuwine

- 20. Upon information and belief, the same sample of "Help Me" was included by Sony and Timbaland in the song "Toe 2 Toe" in which was released on the Ginuwine album "100% Ginuwine" in March 1999 on Sony. "100% Ginuwine" has sold over 2 Million copies to date. Exhibit C.
- 21. Timbaland is identified as the composer of the song "Toe 2 Toe" on the Ginuwine song released by Sony in 1999. "Toe 2 Toe" contains a sample of "Help Me".
- 22. Neither Timbaland or Sony ever attempted to contact Hines to get his clearance for the use of the composition sample on "Help Me" on the Ginuwine album.
- 23. The Defendants have unlawfully infringed on Hines' copyright and have converted the copyright for their own use.

24. The Defendants never had Plaintiff's consent nor did the Defendants ever seek Plaintiff's consent for over twenty (20) years. Plaintiff learned of the use of his song in the Jay-Z and Ginuwine albums in 2018.

COUNT I COPYRIGHT INFRINGEMENT 17 U.S.C. § 501, 502, 504 and 505 AGAINST ALL DEFENDANTS

- 25. Hines repeats and realleges each of the preceding paragraphs 1-24 above.
- 26. Hines is the co-author of "Help Me" which is registered in the United States Copyright Office.
- 27. All of the Defendants have unlawfully used the sample of Hines and never sought his approval to sample his work.
- 28. The Defendants have infringed on Hines's exclusive rights under the United States Copyright Act.
- 29. Hines seeks to (1) enjoin the activity of the Defendants (2) actual or statutory damages per sale and (3) Attorneys fees relating to Defendants' actions.

COUNT II CONVERSION AGAINST ALL DEFENDANTS

- 30. Hines repeats and realleges each of the preceding paragraphs 1-29 above.
- 31. Conversion claims in New York may be predicated upon a defendant's wrongful dominion over plaintiff's tangible or intangible personal property. Thyroff v. Nationwide Mutual Ins. Co., 864 N.E.2d 1272, 1278 (N.Y. 2007).
- 32. To establish a cause of action in conversion, the plaintiff must show (i) legal ownership or an immediate superior right of possession to specific identifiable personal property, and (ii) the defendant exercised an unauthorized dominion over the property in question to the exclusion of the plaintiff's rights. Korangy Publishing, Inc. v. Miceli, 2009 WL 586131, at *4 (N.Y. Sup. 2009); Five Star Bank v. CNH Capital America, LLC, 865 N.Y.S.2d 190, 192 (App. Div. 4 Dept. 2008).
- 33. Plaintiff is the legal owner and has superior rights relating to the song "Help Me" than the Defendants.
- 34. The Defendants have exercised unauthorized dominion over the song "Help Me" in violation and exclusion of Plaintiff's rights.
- 35. Plaintiff has been harmed by the Defendants actions.

WHEREFORE, The Plaintiff demands a jury trial and the following:

- 1. Judgment on all counts and amount to be determined by the Court;
- 2. Interest;
- 3. Attorneys Fees; and,

Dated: May 16, 2019

4. Any other relief this Court deems just and equitable.

ERNIE HINES D/B/A COLORFUL MUSIC

By His Attorneys,

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EXHIBIT A



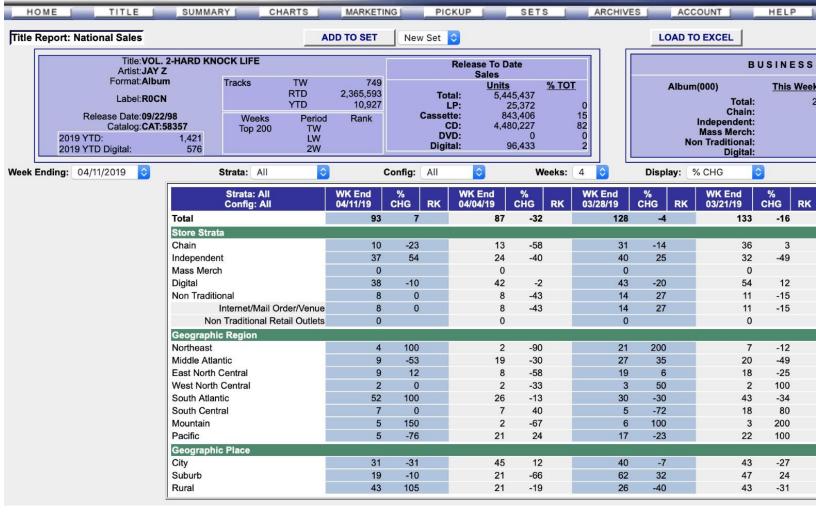
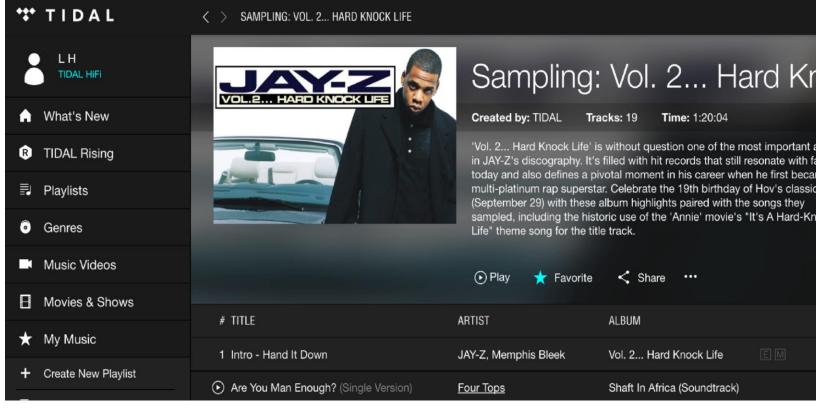


EXHIBIT B



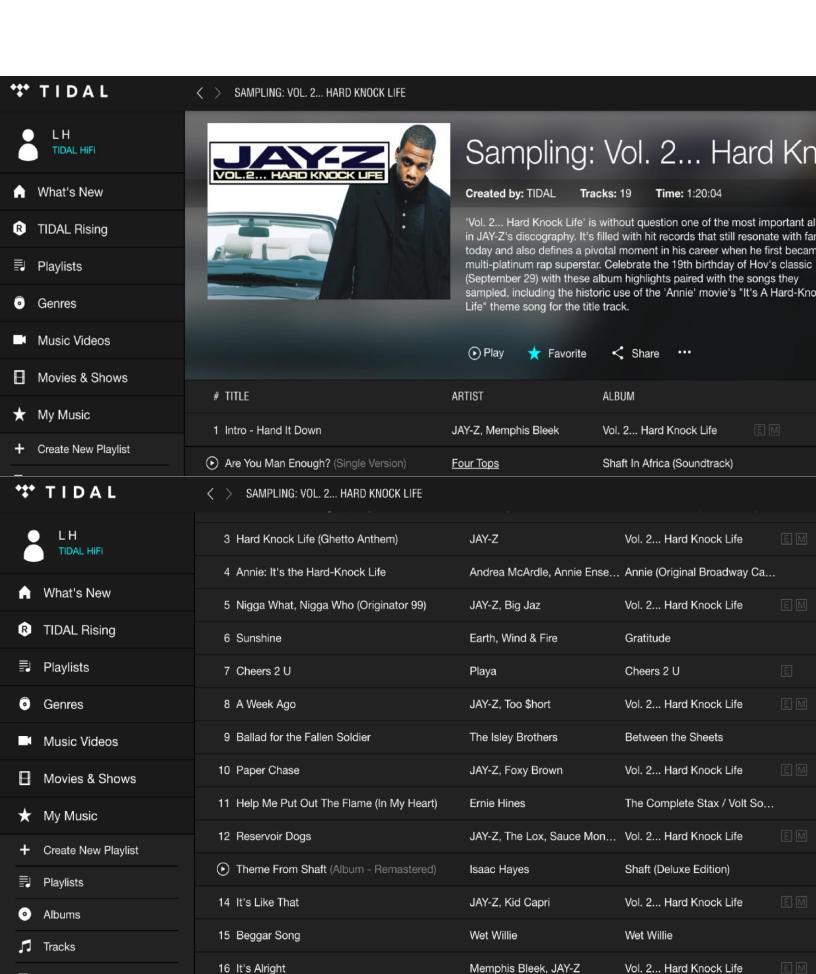


EXHIBIT C

