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14

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

18 RUPA MARYA On Behalf Of
19 Herself And All Others Similarly
20 Situated,

21 Plaintiff,

22 v.

23 WARNER/CHAPPELL MUSIC,
24 INC.,

25 Defendant.
26
27
28

) Case No. **CV 13- 4460 P SWL (FFW)**
) **COMPLAINT FOR DECLARATORY**
) **JUDGMENT; INJUNCTIVE AND**
) **DECLARATORY RELIEF; AND**
) **DAMAGES FOR: (1) INVALIDITY**
) **OF COPYRIGHT UNDER THE**
) **COPYRIGHT ACT (17 U.S.C. §§ 101**
) **et seq.); AND (2) VIOLATIONS OF**
) **CALIFORNIA UNFAIR**
) **COMPETITION LAWS (Cal. Bus. &**
) **Prof. Code §§ 17200 et seq.)**
) CLASS ACTION
) DEMAND FOR JURY TRIAL

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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SAN FRANCISCO
BY: _____

1 Plaintiff Rupa Marya d/b/a/ Rupa Marya & The April Fishes (“Marya”), on
2 behalf of herself and all others similarly situated, by her undersigned attorneys, as
3 and for her Class Action Complaint against defendant Warner/Chappell Music, Inc.
4 (“Warner/Chappell”), alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. The Court has subject-matter jurisdiction over this action pursuant to
7 28 U.S.C. § 1331 and 28 U.S.C. § 1338 with respect to claims seeking declaratory
8 and other relief arising under the Copyright Act, 17 U.S.C. §§ 101 *et seq.*; pursuant
9 to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*; pursuant to the Class
10 Action Fairness Act, 28 U.S.C. § 1332(d)(2); and supplemental jurisdiction pursuant
11 to 28 U.S.C. § 1367 over the entire case or controversy.

12 2. The Court has personal jurisdiction and venue is proper in this District
13 under 28 U.S.C. §§ 1391(b)-(c) and 28 U.S.C. § 1400(a), in that the claims arise in
14 this Judicial District where defendant Warner/Chappell’s principal place of business
15 is located and where Warner/Chappell regularly conducts business and may be
16 found.

17 **INTRODUCTION**

18 3. This is an action to declare invalid the copyright that defendant
19 Warner/Chappell claims to own to the world’s most popular song, *Happy Birthday*
20 *to You* (the “Song”), to declare that *Happy Birthday to You* is dedicated to public use
21 and in the public domain; and to return millions of dollars of unlawful licensing fees
22 collected by defendant Warner/Chappell pursuant to its wrongful assertion of
23 copyright ownership of the Song.

24 4. According to the United States Copyright Office (“Copyright Office”),
25 a “*musical composition* consists of music, including any accompanying words, and
26 is normally registered as a work of the performing arts.” Copyright Office Circular
27 56A, “Copyright Registration of Musical Compositions and Sound Recordings,” at 1
28 (Feb. 2012) (available at www.copyright.gov/circs/circ.56a.pdf). The author of a

1 musical composition generally is the composer, and the lyricist (if a different
2 person). *Id.*

3 5. More than 120 years after the melody to which the simple lyrics of
4 *Happy Birthday to You* is set was first published, defendant Warner/Chappell
5 boldly, but wrongfully and unlawfully, insists that it owns the copyright to *Happy*
6 *Birthday to You*, and with that copyright the exclusive right to authorize the song's
7 reproduction, distribution, and public performances pursuant to federal copyright
8 law. Defendant Warner/Chappell either has silenced those wishing to record or
9 perform *Happy Birthday to You*, or has extracted millions of dollars in unlawful
10 licensing fees from those unwilling or unable to challenge its ownership claims.

11 6. Irrefutable documentary evidence, some dating back to 1893, shows
12 that the copyright to *Happy Birthday to You*, if there ever was a valid copyright to
13 any part of the song, expired no later than 1921 and that if defendant
14 Warner/Chappell owns any rights to *Happy Birthday to You*, those rights are limited
15 to the extremely narrow right to reproduce and distribute specific piano
16 arrangements for the song published in 1935. Significantly, no court has ever
17 adjudicated the validity or scope of the defendant's claimed interest in *Happy*
18 *Birthday to You*, nor in the song's melody or lyrics, which are themselves
19 independent works.

20 7. Plaintiff Marya, on behalf of herself and all others similarly situated,
21 seeks a declaration that *Happy Birthday to You* is dedicated to public use and is in
22 the public domain as well as monetary damages and restitution of all the unlawful
23 licensing fees that defendant Warner/Chappell improperly collected from Marya and
24 all other Class members.

25 **PARTIES**

26 8. Plaintiff Marya is a musician and leader of the band entitled "Rupa &
27 The April Fishes" ("RTAF"), and a member of the American Society of Composers,
28 Authors and Publishers ("ASCAP"). Plaintiff Marya is a resident of San Mateo

1 County, California. RTAF recorded *Happy Birthday to You* at a live show in San
2 Francisco, California, on April 27, 2013. Under a claim of copyright by defendant
3 Warner/Chappell, on or about June 17, 2013, Plaintiff Marya d/b/a RTAF paid to
4 defendant Warner/Chappell the sum of \$455 for a compulsory license pursuant to 17
5 U.S.C. § 115 (commonly known as a “mechanical license”) to use *Happy Birthday*
6 *to You*, as alleged more fully herein.

7 9. Defendant Warner/Chappell is a Delaware corporation with its
8 principal place of business located at 10585 Santa Monica Boulevard, Los Angeles,
9 California 90025. Warner/Chappell regularly conducts business within this Judicial
10 District, where it may be found.

11 **FACTUAL BACKGROUND**

12 ***Good Morning to All and the Popular Adoption of Happy Birthday to You***

13 10. Sometime prior to 1893, Mildred J. Hill (“Mildred Hill”) and her sister
14 Patty Smith Hill (“Patty Hill”) (Mildred and Patty Hill are collectively referred to as
15 the “Hill Sisters”) authored a written manuscript containing sheet music for 73
16 songs composed or arranged by Mildred Hill, with words written and adapted by
17 Patty Hill.

18 11. The manuscript included *Good Morning to All*, a song written by the
19 Hill Sisters.

20 12. On or about February 1, 1893, the Hill Sisters sold and assigned all
21 their right, title, and interest in the written manuscript to Clayton F. Summy
22 (“Summy”) in exchange for 10 percent of retail sales of the manuscript. The sale
23 included the song *Good Morning to All*.

24 13. In or around 1893, Summy published the Hill Sisters’ written
25 manuscript with an introduction by Anna E. Bryan (“Bryan”) in a songbook titled
26 *Song Stories for the Kindergarten*. *Song Stories for the Kindergarten* included the
27 song *Good Morning to All*.

28

1 14. On or about October 16, 1893, Summy filed a copyright application
2 (Reg. No. 45997) with the Copyright Office for *Song Stories for the Kindergarten*.

3 15. On the October 16, 1893, copyright application, Summy claimed to be
4 the copyright's proprietor, but not the author of the copyrighted works.

5 16. *Song Stories for the Kindergarten* bears a copyright notice reading
6 "Copyright 1893, by Clayton F. Summy."

7 17. As proprietor of the 1893 copyright in *Song Stories for the*
8 *Kindergarten*, Summy owned the rights to both the songbook as a compilation and
9 the individual songs published therein, including *Good Morning to All*.

10 18. The lyrics to *Good Morning to All* are:

11 Good morning to you

12 Good morning to you

13 Good morning dear children

14 Good morning to all.

15
16 19. The lyrics to *Happy Birthday to You* are set to the melody from the
17 song *Good Morning to All*. As nearly everyone knows, the lyrics to *Happy Birthday*
18 *to You* are:

19 Happy Birthday to You

20 Happy Birthday to You

21 Happy Birthday dear [NAME]

22 Happy Birthday to You.

23
24 20. The lyrics to *Happy Birthday to You* were **not** published in *Song Stories*
25 *for the Kindergarten*.

26 21. On or about January 14, 1895, Summy incorporated the Clayton F.
27 Summy Co. ("Summy Co.") under the laws of the State of Illinois for a limited term
28 of 25 years.

1 22. In 1896, Summy published a new, revised, illustrated, and enlarged
2 version of *Song Stories for the Kindergarten*, which contained eight previously
3 unpublished songs written by the Hill Sisters as well as illustrations by Margaret
4 Byers.

5 23. On or about June 18, 1896, Summy filed a copyright application (Reg.
6 No. 34260) with the Copyright Office for the 1896 publication of *Song Stories for*
7 *the Kindergarten*.

8 24. On its June 18, 1896, copyright application, Summy again claimed to
9 be the copyright's proprietor, but (again) not the author of the copyrighted works.

10 25. The 1896 version of *Song Stories for the Kindergarten* bears a
11 copyright notice reading "Copyright 1896, by Clayton F. Summy."

12 26. As proprietor of the 1896 copyright in the revised *Song Stories for the*
13 *Kindergarten*, Summy owned the rights to both the songbook as a compilation and
14 the individual songs published therein, including *Good Morning to All*.

15 27. The lyrics to *Happy Birthday to You* were *not* published in the 1896
16 version of *Song Stories for the Kindergarten*.

17 28. In 1899, Summy Co. published 17 songs from the 1893 version of *Song*
18 *Stories for the Kindergarten* in a songbook titled *Song Stories for the Sunday*
19 *School*. One of those songs included in *Song Stories for the Sunday School* was
20 *Good Morning to All*.

21 29. On or about March 20, 1899, Summy Co. filed a copyright application
22 (Reg. No. 20441) with the Copyright Office for *Song Stories for the Sunday School*.

23 30. On the 1899 copyright application, Summy Co. claimed to be the
24 copyright's proprietor, but not the author of the copyrighted works.

25 31. The title page to *Song Stories for the Sunday School* states:
26 This collection of songs has been published in response to earnest
27 requests from various sources. They are taken from the book, *Song*
28 *Stories for the Kindergarten* by the MISSES HILL, and *are the*

1 **copyright property of the publishers.** (Emphasis added).

2 32. *Song Stories for the Sunday School* bears a copyright notice reading
3 “Copyright 1899 by Clayton F. Summy Co.”

4 33. As proprietor of the 1899 copyright in *Song Stories for the Sunday*
5 *School*, Summy Co. owned the rights to both the songbook as a compilation and the
6 individual songs published therein, including *Good Morning to All*.

7 34. The lyrics to *Happy Birthday to You* were **not** published in *Song Stories*
8 *for the Sunday School*.

9 35. Even though the lyrics to *Happy Birthday to You* and the song *Happy*
10 *Birthday to You* had not been fixed in a tangible medium of expression, the public
11 began singing *Happy Birthday to You* no later than the early 1900s.

12 36. For example, in the January 1901 edition of *Inland Educator and*
13 *Indiana School Journal*, the article entitled “First Grade Opening Exercises”
14 described children singing the words “happy birthday to you,” but did not print the
15 song’s lyrics or melody.

16 37. In or about February, 1907, Summy Co. republished the song *Good*
17 *Morning to All* as an individual musical composition.

18 38. On or about February 7, 1907, Summy Co. filed a copyright application
19 (Reg. No. 142468) with the Copyright Office for the song *Good Morning to All*.

20 39. The lyrics to *Happy Birthday to You* do **not** appear in the 1907
21 publication of *Good Morning to All*.

22 40. In 1907, Fleming H. Revell Co. (“Revell”) published the book *Tell Me*
23 *a True Story*, arranged by Mary Stewart, which instructed readers to:

24 Sing: “Good-bye to you, good-bye to you, good-bye dear children,
25 good-bye to you.” Also: “Good-bye dear teacher.” (From “Song
26 Stories for the Sunday-School,” published by Summy & Co.)

27 Sing: “Happy Birthday to You.” (Music same as “Good-bye to
28

1 You.”)

2 41. On or about May 18, 1909, Revell filed an application (Reg. No.
3 A239690) with the Copyright Office for *Tell Me a True Story*.

4 42. *Tell Me a True Story* did **not** include the lyrics to *Happy Birthday to*
5 *You*.

6 43. Upon information and belief, the lyrics to *Happy Birthday to You*
7 (without the sheet music for the melody) were first published in 1911 by the Board
8 of Sunday Schools of the Methodist Episcopal Church (“Board of Sunday Schools”)
9 in *The Elementary Worker and His Work*, by Alice Jacobs and Ermina Chester
10 Lincoln, as follows:

11 Happy birthday to you, Happy birthday to you, Happy birthday,
12 dear John, Happy birthday to you. (Sung to the same tune as the
13 “Good Morning”) [NOTE: The songs and exercises referred to in
14 this program may be found in these books:... “Song Stories for the
15 Sunday School,” by Patty Hill.]

16 44. On or about January 6, 1912, the Board of Sunday Schools filed a
17 copyright application (Reg. No. A303752) with the Copyright Office for *The*
18 *Elementary Worker and His Work*.

19 45. *The Elementary Worker and His Work* attributed authorship or
20 identified the copyrights to many of the works included in the book. Significantly, it
21 did **not** attribute authorship or identify any copyright for the song *Happy Birthday to*
22 *You*.

23 46. On or about January 14, 1920, Summy Co. was dissolved in accordance
24 with its limited (not perpetual) 25-year term of incorporation. Summy Co. did not
25 extend or renew the 1899 (Reg. No. 20441) or 1907 (Reg. No. 142468) copyrights
26 prior to its dissolution.

27 47. Pursuant to Section 24 of the Copyright Act of 1909, the renewal rights
28

1 to the original and revised *Song Stories for the Kindergarten* were vested solely in
2 their proprietor, Summy.

3 48. Pursuant to Section 24 of the Copyright Act of 1909, the renewal rights
4 to *Song Stories for the Sunday School* and *Good Morning to All* were vested solely
5 in their proprietor, Summy Co.

6 49. The copyright to the original *Song Stories for the Kindergarten* (Reg.
7 No. 45997) was not extended by Summy, and consequently expired on October 16,
8 1921. *Song Stories for the Kindergarten*, including the song *Good Morning to All*,
9 became dedicated to public use and fell into the public domain by no later than that
10 date.

11 50. The copyright to the revised *Song Stories for the Kindergarten* (Reg.
12 No. 34260) was not extended by Summy, and consequently expired on June 18,
13 1924. The revised *Song Stories for the Kindergarten* became dedicated to public
14 use and fell into the public domain by no later than that date.

15 51. In or around March 1924, the sheet music (with accompanying lyrics)
16 to *Happy Birthday to You* was in a songbook titled *Harvest Hymns*, published,
17 compiled, and edited by Robert H. Coleman (“Coleman”). Upon information and
18 belief, *Harvest Hymns* was the first time the melody and lyrics of *Happy Birthday to*
19 *You* were published together.

20 52. Coleman did not claim authorship of the song entitled *Good Morning*
21 *to You* or the lyrics to *Happy Birthday to You*. Although *Harvest Hymns* attributed
22 authorship or identified the copyrights to many of the works included in the book, it
23 did **not** attribute authorship or identify any copyright for *Good Morning to You* or
24 *Happy Birthday to You*.

25 53. On or about March 4, 1924, Coleman filed a copyright application
26 (Reg. No. A777586) with the Copyright Office for *Harvest Hymns*. On or about
27 February 11, 1952, the copyright was renewed (Reg. No. R90447) by the Sunday
28 School Board of the Southern Baptist Convention.

1 54. On or about April 15, 1925, Summy incorporated a new Clayton F.
2 Summy Co. (“Summy Co. II”) under the laws of the State of Illinois. Upon
3 information and belief, Summy Co. II was not a successor to Summy Co.; rather, it
4 was incorporated as a new corporation.

5 55. The sheet music (with accompanying lyrics) to *Happy Birthday to You*
6 was again published in 1928 in the compilation *Children’s Praise and Worship*,
7 compiled and edited by A.L. Byers, Bessie L. Byrum, and Anna E. Koglin (“Byers,
8 Byrum & Koglin”). Upon information and belief, *Children’s Praise and Worship*
9 was the first time the song was published under the title *Happy Birthday to You*.

10 56. On or about April 7, 1928, Gospel Trumpet Co. (“Gospel”) filed a
11 copyright application (Reg. No. A1068883) with the Copyright Office for
12 *Children’s Praise and Worship*.

13 57. *Children’s Praise and Worship* attributed authorship or identified the
14 copyrights to many of the works included in the book. Significantly, it did *not*
15 attribute authorship or identify any copyright for the song *Happy Birthday to You*.

16 58. *Children’s Praise and Worship* did not provide any copyright notice for
17 the combination of *Good Morning to All* with the lyrics to *Happy Birthday to You*,
18 nor did it include the names of Mildred Hill or Patty Hill and did not attribute any
19 authorship or ownership to the Hill Sisters.

20 59. Upon information and belief, the Hill Sisters had not fixed the lyrics to
21 *Happy Birthday to You* or the song *Happy Birthday to You* in a tangible medium of
22 expression, if ever, at any time before Gospel published *Children’s Praise and*
23 *Worship* in 1928.

24 60. Upon information and belief, Summy sold Summy Co. II to John F.
25 Sengstack (“Sengstack”) in or around 1930.

26 61. Upon information and belief, on or about August 31, 1931, Sengstack
27 incorporated a third Clayton F. Summy Co. (“Summy Co. III”) under the laws of the
28 State of Delaware. Upon information and belief, Summy Co. III was not a

1 successor to Summy Co. or Summy Co. II; rather, it was incorporated as a new
2 corporation.

3 62. On May 17, 1933, Summy Co. II was dissolved for failure to pay taxes.

4 63. On July 28, 1933, *Happy Birthday to You* was used in the world's first
5 singing telegram.

6 64. On September 30, 1933, the Broadway show *As Thousands Cheer*,
7 produced by Sam Harris with music and lyrics written by Irving Berlin, began using
8 the song *Happy Birthday to You* in public performances.

9 65. On August 14, 1934, Jessica Hill, a sister of Mildred and Patty Hill,
10 commenced an action against Sam Harris in the Southern District of New York,
11 captioned *Hill v. Harris*, Eq. No. 78-350, claiming that the performance of *Happy to*
12 *Birthday to You* in *As Thousands Cheer* infringed on the Hill Sisters' 1893 and 1896
13 copyrights to *Good Morning to All*. Jessica Hill asserted no claim in that action
14 regarding *Happy Birthday to You*, alone or in combination with *Good Morning to*
15 *All*.

16 66. On January 21, 1935, Jessica Hill commenced an action against the
17 Federal Broadcasting Corp. in the Southern District of New York, captioned *Hill v.*
18 *Federal Broadcasting Corp.*, Eq. No. 79-312, claiming infringement on the Hill
19 Sisters' 1893 and 1896 copyrights to *Good Morning to All*. Jessica Hill asserted no
20 claim in that action regarding *Happy Birthday to You*, alone or in combination with
21 *Good Morning to All*.

22 67. In 1934 and 1935, Jessica Hill sold and assigned to Summy Co. III
23 certain piano arrangements of *Good Morning to All*, including publishing, public
24 performance, and mechanical reproduction rights, copyright, and extension of
25 copyright in exchange for a percentage of the retail sales revenue from the sheet
26 music.

27 68. On or about December 29, 1934, Summy Co. III filed an Application
28 for Copyright for Republished Musical Composition with new Copyright Matter

1 (Reg. No. E45655) with the Copyright Office for the song *Happy Birthday*.

2 69. In that December 1934 Application for Copyright, Summy Co. III
3 claimed to be the proprietor of the copyright as a work for hire by Preston Ware
4 Orem (“Orem”) and claimed the copyrighted new matter as “arrangement by piano
5 solo.”

6 70. The lyrics to *Happy Birthday to You* were not included on the work
7 registered with the Copyright Office as Reg. No. E45655. The application did not
8 contain the names of the Hill Sisters and did not claim copyright in the lyrics to
9 *Happy Birthday to You* alone or in combination with the melody of *Good Morning*
10 *to All*.

11 71. The work registered with the Copyright Office as Reg. No. E45655 was
12 not eligible for federal copyright protection in that it consisted entirely of
13 information that was common property and contained no original authorship, except
14 as to the arrangement itself.

15 72. On or about February 18, 1935, Summy Co. III filed an Application for
16 Copyright for Republished Musical Composition with new Copyright Matter (Reg.
17 No. E46661) with the Copyright Office for the song *Happy Birthday*.

18 73. In that February 1935 Application for Copyright, Summy Co. III
19 claimed to be the proprietor of the copyright as a work for hire by Orem and claimed
20 the copyrighted new matter as “arrangement for four hands at one piano.”

21 74. The lyrics to *Happy Birthday to You* were not included on the work
22 registered with the Copyright Office as Reg. No. E46661. The application did not
23 contain the names of the Hill Sisters and did not claim copyright in the lyrics to
24 *Happy Birthday to You* alone or in combination with the melody of *Good Morning*
25 *to All*.

26 75. The work registered with the Copyright Office as Reg. No. E46661 was
27 not eligible for federal copyright protection in that it consisted entirely of
28 information that was common property and contained no original authorship, except

1 as to the arrangement itself.

2 76. On or about April 5, 1935, Summy Co. III filed an Application for
3 Copyright for Republished Musical Composition with new Copyright Matter (Reg.
4 No. E47439) with the Copyright Office for the song *Happy Birthday*.

5 77. In that April 1935 Application for Copyright, Summy Co. III claimed
6 to be the proprietor of the copyright as a work for hire by Orem and claimed the
7 copyrighted new matter as “arrangement of second piano part.”

8 78. The lyrics to *Happy Birthday to You* were not included on the work
9 registered with the Copyright Office as Reg. No. E47439. The application did not
10 contain the names of the Hill Sisters and did not claim copyright in the lyrics to
11 *Happy Birthday to You* alone or in combination with the melody of *Good Morning*
12 *to All*.

13 79. The work registered with the Copyright Office as Reg. No. E47439 was
14 not eligible for federal copyright protection in that it consisted entirely of
15 information that was common property and contained no original authorship, except
16 as to the arrangement itself.

17 80. On or about April 5, 1935, Summy Co. III filed an Application for
18 Copyright for Republished Musical Composition with new Copyright Matter (Reg.
19 No. E47440) with the Copyright Office for the song *Happy Birthday*.

20 81. In that additional April 1935 Application for Copyright, Summy Co. III
21 claimed to be the proprietor of the copyright as a work for hire by Orem and claimed
22 the copyrighted new matter as “arrangement for six hands at one piano.”

23 82. The lyrics to *Happy Birthday to You* were not included on the work
24 registered with the Copyright Office as Reg. No. E47440. The application did not
25 contain the names of the Hill Sisters and did not claim copyright in the lyrics to
26 *Happy Birthday to You* alone or in combination with the melody of *Good Morning*
27 *to All*.

28 83. The work registered with the Copyright Office as Reg. No. E47440 was

1 not eligible for federal copyright protection in that it consisted entirely of
2 information that was common property and contained no original authorship, except
3 as to the arrangement itself.

4 84. On December 9, 1935, Summy Co. III filed an Application for
5 Copyright for Republished Musical Composition with new Copyright Matter (Reg.
6 No. E51988) with the Copyright Office for *Happy Birthday to You*.

7 85. In that December 1935 Application for Copyright, Summy Co. III
8 claimed to be the proprietor of the copyright as a work for hire by R.R. Forman
9 (“Forman”) and claimed the copyrighted new matter as “arrangement for Unison
10 Chorus and revised text.” The sheet music deposited with the application credited
11 Forman only for the arrangement, not for any lyrics, and did not credit the Hill
12 Sisters with writing the lyrics to *Happy Birthday to You*.

13 86. The lyrics to *Happy Birthday to You*, including a second verse as the
14 revised text, were included on the work registered with the Copyright Office as Reg.
15 No. E51988. However, the December 1935 Application for Copyright did not
16 attribute authorship of the lyrics to either of the Hill Sisters and did not claim
17 copyright in the lyrics to *Happy Birthday to You* alone or in combination with the
18 melody of *Good Morning to All*.

19 87. The work registered with the Copyright Office as Reg. No. E51988 was
20 not eligible for federal copyright protection in that it consisted entirely of
21 information that was common property and contained no original authorship, except
22 as to the sheet music arrangement itself.

23 88. The work registered as Reg. No. E51988 was not eligible for federal
24 copyright protection because Summy Co. III did not have authorization from the
25 author to publish that work.

26 89. On December 9, 1935, Summy Co. III filed an Application for
27 Copyright for Republished Musical Composition with new Copyright Matter (Reg.
28 No. E51990) with the Copyright Office for *Happy Birthday to You*.

1 90. In that additional December 1935 Application for Copyright, Summy
2 Co. III claimed to be the proprietor of the copyright as a work for hire by Orem and
3 claimed the copyrighted new matter as “arrangement as easy piano solo, with text.”
4 The sheet music deposited with the application credited Orem only for the
5 arrangement, not for any lyrics, and did not credit the Hill Sisters with writing the
6 lyrics to *Happy Birthday to You*.

7 91. The lyrics to *Happy Birthday to You* were included on the work
8 registered with the Copyright Office as Reg. No. E51990. However, the additional
9 December 1935 Application for Copyright did not attribute authorship of the lyrics
10 to either of the Hill Sisters, did not contain the names of either of the Hill Sisters,
11 and did not claim any copyright in the lyrics to *Happy Birthday to You* alone or in
12 combination with the melody of *Good Morning to All*.

13 92. The work registered with the Copyright Office as Reg. No. E51990 was
14 not eligible for federal copyright protection in that it consisted entirely of
15 information that was common property and contained no original authorship, except
16 as to the sheet music arrangement itself.

17 93. The work registered as Reg. No. E51990 was not eligible for federal
18 copyright protection because Summy Co. III did not have authorization from the
19 author to publish that work.

20 94. In or about February, 1938, Summy Co. III purported to grant to
21 ASCAP the right to license *Happy Birthday to You* for public performances and to
22 collect fees for such use on behalf of Summy Co. III. ASCAP thus began working
23 as agent for Summy Co. III in collecting fees for Summy Co. III for licensing *Happy*
24 *Birthday to You*.

25 95. On October 15, 1942, The Hill Foundation commenced an action
26 against Summy Co. III in the Southern District of New York, captioned *The Hill*
27 *Foundation, Inc. v. Clayton F. Summy Co.*, Case No. 19-377, for an accounting of
28 the royalties received by it for the licensing of *Happy Birthday to You*. The Hill

1 Foundation asserted claims under the 1893, 1896, 1899, and 1907 copyrights for
2 *Good Morning to All* and did **not** claim any copyright to the lyrics to *Happy*
3 *Birthday to You*, alone or in combination with the melody of *Good Morning to All*.

4 96. On March 2, 1943, The Hill Foundation commenced an action against
5 the Postal Telegraph Cable Company in the Southern District of New York,
6 captioned *The Hill Foundation, Inc. v. Postal Telegraph-Cable Co.*, Case No. 20-
7 439, for infringement of the Hill Sisters' purported 1893, 1896, and 1899 copyrights
8 to *Good Morning to All*. The Hill Foundation asserted claims only under the 1893,
9 1896, and 1899 copyrights for *Good Morning to All* and did **not** claim any copyright
10 to the lyrics to *Happy Birthday to You*, alone or in combination with the melody of
11 *Good Morning to All*.

12 97. Despite the filing of four prior cases in the Southern District of New
13 York asserting copyrights to *Good Morning to All*, there has been no judicial
14 determination of the validity or scope of any copyright related to *Good Morning to*
15 *All*.

16 98. In or about 1957, Summy Co. III changed its name to Summy-Birchard
17 Company.

18 99. In 1962, Summy Co. III (renamed as Summy-Birchard Company) filed
19 renewals for each of the six registrations it obtained in 1934 and 1935 (Reg. Nos.
20 E45655, E46661, E47439, E47440, E51988, and E51990), each renewal was
21 specifically and expressly confined to the musical arrangements.

22 100. In particular, on December 6, 1962, Summy Co. III filed a renewal
23 application for Reg. No. E51988, as employer for hire of Forman. Forman did not
24 write the lyrics to *Happy Birthday to You* or the combination of those lyrics with the
25 melody of *Good Morning to All*, and neither Summy Co. III nor defendant
26 Warner/Chappell has claimed otherwise.

27 101. Also on December 6, 1962, Summy Co. III filed a renewal application
28 for Reg. No. E51990, as employer for hire of Orem. Orem did not write the lyrics to

1 *Happy Birthday to You* or the combination of those lyrics with the melody of *Good*
2 *Morning to All*, and neither Summy Co. III nor defendant Warner/Chappell has
3 claimed otherwise.

4 102. Summy-Birchard Company was renamed Birch Tree Ltd. in the 1970s
5 and was acquired by Warner/Chappell in or about 1998.

6 ***Happy Birthday to You – 100 Years Later***

7 103. According to a 1999 press release by ASCAP, *Happy Birthday to You*
8 was the most popular song of the 20th Century.

9 104. The 1998 edition of the *Guinness Book of World Records* identified
10 *Happy Birthday to You* as the most recognized song in the English language.

11 105. Defendant Warner/Chappell currently claims it owns the exclusive
12 copyright to *Happy Birthday to You* based on the piano arrangements that Summy
13 Co. III published in 1935.

14 106. ASCAP provides public performance licenses to bars, clubs, websites,
15 and many other venues. ASCAP “blanket licenses” grant the licensee the right to
16 publicly perform any or all of the over 8.5 million songs in ASCAP repertory in
17 exchange for an annual fee. The public performance license royalties are distributed
18 to ASCAP members based on surveys of performances of each ASCAP repertory
19 song across different media. By registering *Happy Birthday to You* with ASCAP,
20 Defendant Warner/Chappell obtains a share of blanket license revenue that would
21 otherwise be paid to all other ASCAP members, in proportion to their songs’ survey
22 shares.

23 107. Plaintiff Marya d/b/a RTAF recorded the song *Happy Birthday to You*
24 at a live show in San Francisco, to be released as part of a “live” album. She learned
25 that defendant Warner/Chappell claimed exclusive copyright ownership to *Happy*
26 *Birthday to You*, including for purposes of issuing mechanical licenses.

27 108. Accordingly, on June 17, 2013, Plaintiff Marya paid Warner/Chappell
28 \$455 for a mechanical license for the reproduction and distribution of 5,000 albums.

1 **CLASS ALLEGATIONS**

2 109. Plaintiff Marya brings this action under Federal Rules of Civil
3 Procedure 23(a) and (b) as a class action on behalf of herself and all others similarly
4 situated for the purpose of asserting the claims alleged in this Complaint on a
5 common basis.

6 110. The proposed Class is comprised of:

7 **All persons or entities (excluding Warner/Chappell’s directors,**
8 **officers, employees, and affiliates) who entered into a license with**
9 **Warner/Chappell, or paid Warner/Chappell, directly or indirectly**
10 **through its agents, a licensing fee for the song *Happy Birthday to***
11 ***You* at any time from June 18, 2009, until Warner/Chappell’s**
12 **conduct as alleged herein has ceased.**

13 111. Although Plaintiff Marya does not know the exact size of the Class or
14 the identities of all members of the Class, upon information and belief that
15 information can be readily obtained from the books and records of defendant
16 Warner/Chappell. Plaintiff believes that the Class includes thousands of persons or
17 entities who are widely geographically disbursed. Thus, the proposed Class is so
18 numerous that joinder of all members is impracticable.

19 112. The claims of all members of the Class involve common questions of
20 law and fact including:

- 21 a. whether *Happy Birthday to You* is in the public domain and dedicated
22 to public use;
- 23 b. whether Warner/Chappell is the exclusive owner of the copyright to
24 *Happy Birthday to You* and is thus entitled to all of the rights conferred
25 in 17 U.S.C. § 102;
- 26 c. whether Warner/Chappell has the right to collect fees for the use of
27 *Happy Birthday to You*;
- 28

1 d. whether Warner/Chappell has violated the law by demanding and
2 collecting fees for the use of *Happy Birthday to You* despite not having
3 a valid copyright to the song; and

4 e. whether Warner/Chappell is required to return unlawfully obtained
5 payments to plaintiff Marya and the other members of the Class and, if
6 so, what amount is to be returned.

7 113. With respect to Claim III, the common questions of law and fact
8 predominate over any potential individual issues.

9 114. Plaintiff Marya's claims are typical of the claims of all other members
10 of the Class and plaintiff Marya's interests do not conflict with the interests of any
11 other member of the Class, in that plaintiff and the other members of the Class were
12 subjected to the same unlawful conduct.

13 115. Plaintiff Marya is committed to the vigorous prosecution of this action
14 and has retained competent legal counsel experienced in class action and complex
15 litigation.

16 116. Plaintiff is an adequate representative of the Class and, together with its
17 attorneys, is able to and will fairly and adequately protect the interests of the Class
18 and its members.

19 117. A class action is superior to other available methods for the fair, just,
20 and efficient adjudication of the claims asserted herein. Joinder of all members of
21 the Class is impracticable and, for financial and other reasons, it would be
22 impractical for individual members of the Class to pursue separate claims.

23 118. Moreover, the prosecution of separate actions by individual members
24 of the Class would create the risk of varying and inconsistent adjudications, and
25 would unduly burden the courts.

26 119. Plaintiff Marya anticipates no difficulty in the management of this
27 litigation as a class action.

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FIRST CLAIM FOR RELIEF
DECLARATORY JUDGMENT PURSUANT TO 28 U.S.C. § 2201
(On Behalf Of Plaintiff And The Class)
(Against Defendant Warner/Chappell)

120. Plaintiff Marya repeats and realleges paragraphs 1 through 119 set forth above as though they were fully set forth herein.

121. Plaintiff Marya brings this claim individually on her own behalf and on behalf of the proposed Class pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure.

122. Plaintiff Marya seeks adjudication of an actual controversy arising under the Copyright Act, 17 U.S.C. §§ 101 *et seq.*, in connection with defendant Warner/Chappell’s purported copyright claim to *Happy Birthday to You*. Plaintiff seeks the Court’s declaration that the Copyright Act does not bestow upon Warner/Chappell the rights it has asserted and enforced against plaintiff Marya and the other members of the Class.

123. Defendant Warner/Chappell asserts that it is entitled to royalties pursuant to 17 U.S.C. § 115 for the creation and distribution of phonorecords and digital downloads of the composition *Happy Birthday to You*, under threat of a claim of copyright infringement.

124. Plaintiff Marya’s claim presents a justiciable controversy because plaintiff Marya’s agreement to pay defendant Warner/Chappell and its actual **payment** to Warner/Chappell for use of the song *Happy Birthday to You* in her album, was the involuntary result of Warner/Chappell’s assertion of a copyright and the risk that plaintiff Marya would be exposed to substantial statutory penalties under the Copyright Act had she failed to enter such an agreement and pay Warner/Chappell standard mechanical license royalties it demanded, but then paid for the mechanical license anyway.

125. Plaintiff Marya seeks the Court’s determination as to whether

1 defendant Warner/Chappell is entitled to assert ownership of the copyright to *Happy*
2 *Birthday to You* against Marya pursuant to the Copyright Act as Warner/Chappell
3 claims, or whether Warner/Chappell is wielding a false claim of ownership to inhibit
4 plaintiff Marya's use and enjoyment (and the public's use and enjoyment) of
5 intellectual property which is rightfully in the public domain.

6 126. If and to the extent that defendant Warner/Chappell relies upon the
7 1893, 1896, 1899, or 1907 copyrights for the melody for *Good Morning to All*, those
8 copyrights expired or were forfeited as alleged herein.

9 127. As alleged above, the 1893 and 1896 copyrights to the original and
10 revised versions of *Song Stories for the Kindergarten*, which contained the song
11 *Good Morning to All*, were not renewed by Summy and accordingly expired in 1921
12 and 1924, respectively.

13 128. As alleged above, the 1899 copyright to *Song Stories for the Sunday*
14 *School*, which contained *Good Morning to All*, and the 1907 copyright to *Good*
15 *Morning to All* were not renewed by Summy Co. before its expiration in 1920 and
16 accordingly expired in 1927 and 1935, respectively.

17 129. The 1893, 1896, 1899, and 1907 copyrights to *Good Morning to All*
18 were forfeited by the republication of *Good Morning to All* in 1921 without proper
19 notice of its original 1893 copyright.

20 130. The copyright to *Good Morning to All* expired in 1921 because the
21 1893 copyright to *Song Stories for the Kindergarten* was not properly renewed.

22 131. The piano arrangements for *Happy Birthday to You* published by
23 Summy Co. III in 1935 (Reg. Nos. E51988 and E51990) were not eligible for
24 federal copyright protection because those works did not contain original works of
25 authorship, except to the extent of the piano arrangements themselves.

26 132. The 1934 and 1935 copyrights pertained only to the piano
27 arrangements, not to the melody or lyrics of the song *Happy Birthday to You*.

28 133. The registration certificates for *The Elementary Worker and His Work*

1 in 1912, *Harvest Hymns* in 1924, and *Children's Praise and Worship* in 1928, which
2 did not attribute authorship of the lyrics to *Happy Birthday to You* to anyone, are
3 *prima facie* evidence that the lyrics were not authored by the Hill Sisters.

4 134. If declaratory relief is not granted, defendant Warner/Chappell will
5 continue wrongfully to assert the exclusive copyright to *Happy Birthday to You* at
6 least until 2030, when the current term of the copyright expires under existing
7 copyright law.

8 135. Plaintiff therefore requests a declaration that:

9 (a) defendant Warner/Chappell does not own the copyright to, or possess
10 the exclusive right to reproduce, distribute, or publicly perform, *Happy*
11 *Birthday To You*;

12 (b) Warner/Chappell does not own the exclusive right to demand or grant a
13 license for use of *Happy Birthday To You*; and

14 (c) *Happy Birthday to You* is in the public domain and is dedicated to the
15 public use.

16 **SECOND CLAIM FOR RELIEF**

17 **UPON ENTRY OF DECLARATORY JUDGMENT**

18 **DECLARATORY AND INJUNCTIVE RELIEF**

19 **PURSUANT TO 28 U.S.C § 2202**

20 **(On Behalf of Plaintiff and the Class)**

21 **(Against Defendant Warner/Chappell)**

22 136. Plaintiff Marya repeats and realleges paragraphs 1 through 135 set forth
23 above as though they were fully set forth herein.

24 137. Plaintiff Marya brings this claim individually on her own behalf and on
25 behalf of the Class pursuant to Rule 23(b)(2) of the Federal Rules of Civil
26 Procedure.

27 138. Under 28 U.S.C. § 2202 empowers this Court to grant, "necessary or
28 proper relief based on a declaratory judgment or decree . . . after reasonable notice

1 and hearing, against any adverse party whose rights have been determined by such
2 judgment.”

3 139. Plaintiff Marya and the other proposed Class members have been
4 harmed, and defendant Warner/Chappell has been unjustly enriched, by
5 Warner/Chappell’s takings.

6 140. Plaintiff Marya seeks relief for herself and the other members of the
7 proposed Class upon the entry of declaratory judgment upon Claim I, as follows:

8 (a) an injunction to prevent defendant Warner/Chappell from
9 making further representations of ownership of the copyright to
10 *Happy Birthday To You*;

11 (b) restitution to plaintiff Marya and the other Class members of
12 license fees paid to defendant Warner/Chappell, directly or indirectly
13 through its agents, in connection with the purported licenses it granted
14 to Marya and the other Class members;

15 (c) an accounting for all monetary benefits obtained by defendant
16 Warner/Chappell, directly or indirectly through its agents, from
17 plaintiff Marya and the other Class members in connection with its
18 claim to ownership of the copyright to *Happy Birthday to You*; and

19 (d) such other further and proper relief as this Court sees fit.

20 **THIRD CLAIM FOR RELIEF**

21 **UNFAIR BUSINESS ACTS AND PRACTICES IN VIOLATION OF**
22 **CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200 ET SEQ.**

23 **(On Behalf of Plaintiff and the Class)**

24 **(Against Defendant Warner/Chappell)**

25 141. Plaintiff Marya repeats and realleges paragraphs 1 through 119 set forth
26 above as though they were fully set forth herein.

27 142. Plaintiff Marya brings this claim individually on her own behalf and on
28 behalf of the Class pursuant to Rule 23(b)(3) of the Federal Rules of Civil

1 Procedure.

2 143. As alleged herein, plaintiff Marya and the other Class members have
3 paid licensing fees to defendant Warner/Chappell and have therefore suffered injury
4 in fact and have lost money or property as a result of defendant Warner/Chappell's
5 conduct.

6 144. California's Unfair Competition Law, Business & Professions Code §§
7 17200 *et seq.* ("UCL"), prohibits any unlawful or unfair business act or practice.

8 145. UCL § 17200 further prohibits any fraudulent business act or practice.

9 146. Defendant Warner/Chappell's actions, claims, nondisclosures, and
10 misleading statements, as alleged in this Complaint, were unfair, false, misleading,
11 and likely to deceive the consuming public within the meaning of UCL §§ 17200,
12 17500.

13 147. Defendant Warner/Chappell's conduct in exerting control over
14 exclusive copyright ownership to *Happy Birthday to You* to extract licensing fees is
15 deceptive and misleading because Warner/Chappell does not own the rights to
16 *Happy Birthday to You*.

17 148. Plaintiff Marya and the other members of the Class have, in fact, been
18 deceived as a result of their reasonable reliance upon defendant Warner/Chappell's
19 materially false and misleading statements and omissions, as alleged above.

20 149. As a result of defendant Warner/Chappell's unfair and fraudulent acts
21 and practices as alleged above, plaintiff Marya and the other Class members have
22 suffered substantial monetary injuries.

23 150. Plaintiff Marya and the other Class members reserve the right to allege
24 other violations of law which constitute other unfair or deceptive business acts or
25 practices. Such conduct is ongoing and continues to this date.

26 151. As a result of its deception, defendant Warner/Chappell has been able
27 to reap unjust revenue and profit.

28 152. Upon information and belief, defendant Warner/Chappell has collected

1 and continues to collect at least \$2 million per year in licensing fees for *Happy*
2 *Birthday to You*. Therefore, the amount in controversy exceeds \$5 million in the
3 aggregate.

4 153. Unless restrained and enjoined, defendant Warner/Chappell will
5 continue to engage in the above-described conduct. Accordingly, injunctive relief is
6 appropriate.

7 154. Plaintiff Marya, individually on its own behalf and on behalf of the
8 other members of the Class, seeks restitution and disgorgement of all money
9 obtained from plaintiff and the other members of the Class, collected as a result of
10 unfair competition, and all other relief this Court deems appropriate, consistent with
11 UCL § 17203.

12 **FOURTH CLAIM FOR RELIEF**

13 **COMMON COUNT FOR MONEY HAD AND RECEIVED**

14 **(On Behalf of Plaintiff and the Class)**

15 **(Against Defendant Warner/Chappell)**

16 155. Plaintiff Marya repeats and realleges paragraphs 1 through 135 set forth
17 above as though they were fully set forth herein.

18 156. Within the last four years Defendant Warner/Chappell became indebted
19 to all Plaintiff Marya and all class members for money had and received by
20 Defendant Warner/Chappell for the use and benefit of Plaintiff Marya and class
21 members. The money in equity and good conscience belongs to Plaintiff Marya and
22 class members.

23 **FIFTH CLAIM FOR RELIEF**

24 **RECISSION FOR FAILURE OF CONSIDERATION,**

25 **(On Behalf of Plaintiff and the Class)**

26 **(Against Defendant Warner/Chappell)**

27 157. Plaintiff Marya repeats and realleges paragraphs 1 through 135 set forth
28 above as though they were fully set forth herein.

1 158. Defendant's purported licenses were worthless and ineffective, and do
2 not constitute a valid consideration.

3 159. The complete lack of consideration obviates any need for notice to
4 Defendant.

5 **SIXTH CLAIM FOR RELIEF**
6 **FALSE ADVERTISING, CAL. BUS. & PROF. CODE §§ 17500 ET SEQ.**

7 **(On Behalf of Plaintiff and the Class)**

8 **(Against Defendant Warner/Chappell)**

9 160. Plaintiff Marya repeats and realleges paragraphs 1 through 135 set forth
10 above as though they were fully set forth herein.

11 161. On information and belief, Defendant Warner/Chappell intended to
12 induce the public to enter into an obligation related to its alleged property, namely
13 the composition *Happy Birthday to You*.

14 162. Defendant Warner/Chappell publicly disseminated advertising which
15 contained statements which were untrue and misleading and which concerned the
16 composition *Happy Birthday to You*, for which they improperly sought and received
17 licensing fees. Defendant knew, or in the exercise of reasonable care should have
18 known, that these statements were untrue and misleading.

19 163. Plaintiff and class members have suffered injury in fact and have lost
20 money as a result of such unfair competition.

21 **DEMAND FOR JURY TRIAL**

22 160. Plaintiff Marya hereby demands a trial by jury to the extent that the
23 allegations herein are triable by jury under Federal Rules of Civil Procedure 38-39.

24 **PRAYER RELIEF**

25 **WHEREFORE**, plaintiff Marya, on behalf of herself and the other members
26 of the Class, prays for judgment against defendant Warner/Chappell as follows:

- 27 A. certifying the Class as requested herein;
28 B. declaring that the song *Happy Birthday to You* is not protected by

1 federal copyright law, is dedicated to public use, and is in the public domain;

2 C. permanently enjoining defendant Warner/Chappell from asserting any
3 copyright to the song *Happy Birthday to You*;

4 D. permanently enjoining defendant Warner/Chappell from charging or
5 collecting any licensing or other fees for use of the song *Happy Birthday to You*;

6 E. imposing a constructive trust upon the money defendant
7 Warner/Chappell unlawfully collected from plaintiff Marya, the other members of
8 the Class, and ASCAP for use of the song *Happy Birthday to You*;

9 F. ordering defendant Warner/Chappell to return to plaintiff Marya and
10 the other members of the Class all the licensing or other fees it has collected from
11 them, directly or indirectly through its agents, for use of the song *Happy Birthday to*
12 *You*, together with interest thereon;


13 G. awarding plaintiff Marya and the other members of the Class restitution
14 for Warner/Chappell's prior acts and practices;

15 H. awarding plaintiff Marya and the Class reasonable attorneys' fees and
16 costs; and

17 I. granting such other and further relief as the Court deems just and
18 proper.

19 Dated: June 19, 2013

WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP

21 
22 BETSY C. MANIFOLD

24 FRANCIS M. GREGOREK
25 BETSY C. MANIFOLD
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Dated: June 19, 2013

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rsn@randallnewman.net

Attorneys for Plaintiff Rupa Marya

WARNER:19984.complaint

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Central District of California

RUPA MAYRA, On Behalf of Herself and All Others
Similarly Situated,

Plaintiff(s)

v.

WARNER/CHAPPELL MUSIC, INC.,

Defendant(s)

)
)
) **CV13- 4460** P.S.W.L. (FRANK)
)
) Civil Action No.
)
)
)
)
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* WARNER/CHAPPELL MUSIC, INC.
10585 Santa Monica Boulevard
Los Angeles, CA 90025
Tel: 310/441-6840

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

BETSY C. MANIFOLD (SBN182450)
manifold@whafh.com
WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP
750 B Street, Suite 2770
San Diego, CA 92101
T: 619/239-4599

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: JUN 20 2013

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Central District of California

RUPA MAYRA, On Behalf of Herself and All Others
Similarly Situated,

Plaintiff(s)

v.

WARNER/CHAPPELL MUSIC, INC.,

Defendant(s)

CV13- 4460 P SWL (FFU)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) WARNER/CHAPPELL MUSIC, INC.
10585 Santa Monica Boulevard
Los Angeles, CA 90025
Tel: 310/441-6840

A lawsuit has been filed against you.

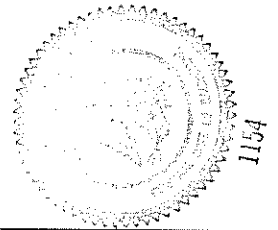
Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

BETSY C. MANIFOLD (SBN182450)
manifold@whafh.com
WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP
750 B Street, Suite 2770
San Diego, CA 92101
T: 619/239-4599

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

JUN 20 2013

CLERK OF COURT
JULIE PRADO



Date: _____

Signature of Clerk or Deputy Clerk

**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 Ronald S. W. Lew and the assigned discovery Magistrate Judge is Frederick F. Mumm.

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

CV13 - 4460 RSWL (FFMx)

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.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) RUPA MAYRA, on behalf herself and others similarly situated	DEFENDANTS (Check box if you are representing yourself <input type="checkbox"/>) WARNER/CHAPPELL MUSIC, INC.
---	--

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) BETSY C. MANIFOLD (SBN 182450) manifold@whafh.com WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP 750 B STREET, SUITE 2770 SAN DIEGO, CA 92101 (T: 619/239-4599)	(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)
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II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1. U.S. Government Plaintiff <input type="checkbox"/> 2. U.S. Government Defendant <input checked="" type="checkbox"/> 3. Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES —For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td>PTF <input type="checkbox"/> 2</td> <td>DEF <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td>PTF <input type="checkbox"/> 5</td> <td>DEF <input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td>PTF <input type="checkbox"/> 3</td> <td>DEF <input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td>PTF <input type="checkbox"/> 6</td> <td>DEF <input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	PTF <input type="checkbox"/> 2	DEF <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	PTF <input type="checkbox"/> 5	DEF <input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	PTF <input type="checkbox"/> 3	DEF <input type="checkbox"/> 3	Foreign Nation	PTF <input type="checkbox"/> 6	DEF <input type="checkbox"/> 6														

IV. ORIGIN (Place an X in one box only.)

<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from Another District (Specify)	<input type="checkbox"/> 6. Multi-District Litigation
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V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT:** \$ _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 17 U.S.C. SECTION 101 et seq.; 28 U.S.C. 2201; 28 U.S.C. 1332(d)(2); Seeks Declaratory Judgment and Declaratory and Injunctive Relief based thereon; and monetary damages for invalidity of copyright and violations of California Unfair Competition Laws (Cal. Bus. & Prof. Code sections 17200 et seq.)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 463 Alien Detainee	<input checked="" type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	<input type="checkbox"/> 535 Death Penalty	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	FORFEITURE/PENALTY	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	LABOR	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	
			<input type="checkbox"/> 448 Education		

FOR OFFICE USE ONLY: Case Number: CV13-4460

AFTER COMPLETING PAGE 1 OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED ON PAGE 2.

CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): CV 13-4418 GHK (MRWx) _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.

Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	SAN MATEO

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.

Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
NOTE: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

*Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): Betsy Mawfada DATE: 06/19/2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))