

UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

BROADCAST MUSIC, INC.; VELVET §  
APPLE MUSIC; SONGS OF §  
UNIVERSAL, INC.; EMI VIRGIN §  
SONGS, INC. d/b/a EMI §  
LONGITUDE MUSIC; TOKECO TUNES; §  
UNIVERSAL-SONGS OF POLYGRAM §  
INTERNATIONAL, INC.; SONY/ATV §  
SONGS LLC d/b/a SONY/ATV TREE §  
PUBLISHING; BIG YELLOW DOG, §  
LLC d/b/a BIG YELLOW DOG §  
MUSIC; WARNER-TAMERLANE §  
PUBLISHING CORP.; AVERAGE JOES §  
ENTERTAINMENT GROUP INC. d/b/a §  
AVERAGE ZJS MUSIC PUBLISHING; §  
INDIANA ANGEL MUSIC, §

Plaintiffs,

Civil Action No. \_\_\_\_\_

v.

WICB ENTERPRISES, LLC d/b/a §  
MONKEY’S PUB N GRUB; CHARLENE §  
E. WINTER and CLIFFORD L. BOAZ JR., §  
each individually, §

Defendants. §

**PLAINTIFFS’ ORIGINAL COMPLAINT**

Plaintiffs Broadcast Music, Inc., *et al.*, by their attorneys, for their Original Complaint against Defendants WICB Enterprises, LLC d/b/a Monkey’s Pub N Grub, Charlene E. Winter and Clifford L. Boaz, Jr. (collectively “Defendants”), allege as follows:

**JURISDICTION AND VENUE**

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C §§ 101 *et seq.* (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. This Court has personal jurisdiction over Defendants because Defendants are residents of and/or are incorporated in this State and are conducting business in this State, including in this District, Defendants' acts of copyright infringement are occurring in this State, including in this District, and Defendants should anticipate being haled into court in this State.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(a).

### **THE PARTIES**

4. Plaintiff, Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 6.5 million copyrighted musical compositions (the "BMI Repertoire"), including those alleged herein to have been infringed.

5. The other Plaintiffs are the owners of the copyrights in the musical compositions which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

6. Plaintiff Velvet Apple Music is a sole proprietorship owned by Dolly Parton. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

7. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

8. Plaintiff EMI Virgin Songs, Inc. is a corporation d/b/a EMI Longitude Music. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

9. Plaintiff Tokeco Tunes is a sole proprietorship owned by Toby Keith Covell. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

10. Plaintiff Universal-Songs of Polygram International, Inc. is a corporation. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

11. Plaintiff Sony/ATV Songs LLC is a limited liability company d/b/a Sony/ATV Tree Publishing. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

12. Plaintiff Big Yellow Dog, LLC is a limited liability company d/b/a Big Yellow Dog Music. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

13. Plaintiff Warner-Tamerlane Publishing Corp. is a corporation. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

14. Plaintiff Average Joes Entertainment Group Inc. is a corporation d/b/a Average ZJS Music Publishing. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

15. Plaintiff Indiana Angel Music is a sole proprietorship owned by Brantley Keith Gilbert. This Plaintiff is the owner of a copyright in at least one of the songs in this action.

16. Defendant WICB Enterprises, LLC is a limited liability company organized and existing under the laws of the State of Texas which operates, maintains and controls an establishment known as Monkey's Pub N Grub, located at 7340 Highway 78, Suite 500, Sachse, Texas 75048-2606, in this District (the "Establishment"). Defendant WICB Enterprises, LLC may be served with process by serving its registered agent, Charlene E. Winter, 415 Moonlight Dr., Murphy, Texas 75094-3269.

17. In connection with the operation of this business, Defendant WICB Enterprises, LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

18. Upon information and belief, Defendant WICB Enterprises, LLC has a direct financial interest in the Establishment.

19. Upon information and belief, Defendant Charlene E. Winter is a member of Defendant WICB Enterprises, LLC, with primary responsibility for the operation and management of that limited liability company and the Establishment. Defendant Charlene E. Winter may be served with process by serving her at 415 Moonlight Dr., Murphy, Texas 75094-3269.

20. Upon information and belief, Defendant Charlene E. Winter has the right and ability to supervise the activities of Defendant WICB Enterprises, LLC and a direct financial interest in that limited liability company and the Establishment.

21. Upon information and belief, Defendant Clifford L. Boaz Jr. is a member of Defendant WICB Enterprises, LLC, with primary responsibility for the operation and management of that limited liability company and the Establishment. Defendant Clifford L. Boaz, Jr. may be served with process by serving him at 1721 Sheffield Dr., Garland, Texas 75040-3829.

22. Upon information and belief, Defendant Clifford L. Boaz Jr. has the right and ability to supervise the activities of Defendant WICB Enterprises, LLC and a direct financial interest in that limited liability company and the Establishment.

### **CLAIMS OF COPYRIGHT INFRINGEMENT**

23. Plaintiffs repeat and reallege each of the allegations contained in Paragraphs 1 through 22 as if fully set forth herein.

24. Plaintiffs allege five (5) claims of willful copyright infringement, based on Defendants' unauthorized public performance (or causing public performance) of musical compositions from the BMI Repertoire at the Establishment. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

25. Attached as the Schedule (Exhibit A) and incorporated by reference herein is a list identifying some of the many musical compositions whose copyrights Defendants have infringed. The Schedule contains information on the five (5) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information: Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the Plaintiff in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration issued for the musical composition; Line 6 indicating the Registration number; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment as the location where the infringement occurred.

26. Each of the musical compositions identified on Line 2 was created by the person(s) named on Line 3 (all references to "Lines" are lines on the Schedule).

27. On or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors-in-interest) complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights the Certificate of Registration bearing the number listed on Line 6.

28. On the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical compositions identified on Line 2. On the date(s) listed on Line 7, the publisher(s) listed on Line 4 were (and still are) the owner(s) of the copyright in the respective musical compositions listed on Line 2.

29. On the date(s) listed on Line 7, Defendants performed and/or caused the musical compositions identified on Line 2 to be publicly performed at the Establishment without a license or permission to do so. Thus, Defendants committed copyright infringement.

30. The specific acts of copyright infringement alleged, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer additional irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

- (a) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. § 502;
- (b) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. § 504(c);
- (c) Defendants be ordered to pay costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505; and
- (d) That Plaintiffs have such other and further relief as is just and equitable.

Dated: January 5, 2012

Respectfully submitted,

/s/ Lisa H. Meyerhoff  
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