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8 **UNITED STATES DISTRICT COURT**  
 9 **CENTRAL DISTRICT OF CALIFORNIA**

11 CLEVELAND CONSTANTINE  
 12 BROWNE, an individual; THE ESTATE  
 OF WYCLIFFE JOHNSON; and STEELY  
 13 & CLEVIE PRODUCTIONS LTD.,  
 14 Plaintiffs,

15 v.

16 RODNEY SEBASTIAN CLARK  
 17 DONALDS, an individual; CAROLINA  
 18 GIRALDO NAVARRO, an individual;  
 19 ARMANDO CHRISTIAN PÉREZ, an  
 individual; BILAL HAJJI, an individual;  
 20 JOSE CARLOS GARCIA, an individual;  
 BURNA AL, an individual; JORGE  
 21 GOMEZ, an individual; GIORDANO  
 22 ASHRUF, an individual; SHAREEF  
 23 BADLOE, an individual; RASHID  
 24 BADLOE, an individual; JUSTON  
 RECORDS, a French private limited  
 company; SONY MUSIC  
 25 ENTERTAINMENT, a Delaware General  
 26 Partnership d/b/a ULTRA MUSIC,  
 27 Defendants.

Case No.:

**COMPLAINT FOR:**

1. COPYRIGHT INFRINGEMENT
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

**JURY TRIAL DEMANDED**

1 Plaintiffs Cleveland Constantine Browne, the Estate of Wycliffe Johnson, and  
2 Steely & Clevie Productions Ltd., by and through their undersigned attorneys, hereby  
3 pray to this honorable Court for relief based on the following:

4 **Jurisdiction & Venue**

5 1. This action arises under the Copyright Act of 1976, 17 U.S.C. §§ 101, *et*  
6 *seq.*

7 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331,  
8 1338(a) and (b), & 1367(a).

9 3. Venue in this judicial district is proper under 28 U.S.C. § 1391 (c) and §  
10 1400(a).

11 **Parties**

12 4. At all times mentioned herein, Plaintiff Cleveland Constantine Browne  
13 was and is an individual residing in Kingston, Jamaica.

14 5. At all times mentioned herein, Plaintiff the Estate of Wycliffe Johnson  
15 was and is the successor in interest to the intellectual property rights of Mr. Johnson.

16 6. At all times mentioned herein, Plaintiff Steely & Clevie Productions Ltd.  
17 was and is a limited company organized and existing under the laws of Jamaica.

18 7. At all times mentioned herein Defendant Rodney Sebastian Clark  
19 Donalds p/k/a El Chombo (“El Chombo”) was an individual residing in Panama and  
20 doing business in and with the state of California, including in this judicial district.

21 8. At all times mentioned herein Carolina Giraldo Navarro p/k/a Karol G  
22 (“Karol G”) was an individual residing in Medellin, Colombia and doing business in  
23 and with the state of California, including in this judicial district.

24 9. At all times mentioned herein Defendant Armando Christian Pérez p/k/a  
25 Pitbull (“Pitbull”) was an individual residing in Miami, Florida and doing business in  
26 and with the state of California, including in this judicial district.

1           10. At all times mentioned herein Defendant Bilal Hajji was an individual  
2 residing in Sweden and doing business in and with the state of California, including  
3 in this judicial district.

4           11. At all times mentioned herein Defendant Jose Carlos Garcia was an  
5 individual residing in Miami, Florida and doing business in and with the state of  
6 California, including in this judicial district.

7           12. At all times mentioned herein Defendant Burna Al was an individual  
8 residing in Miami, Florida and doing business in and with the state of California,  
9 including in this judicial district.

10           13. At all times mentioned herein Defendant Jorge Gomez was an individual  
11 residing in Miami, Florida and doing business in and with the state of California,  
12 including in this judicial district.

13           14. At all times mentioned herein Defendant Giordano Ashruf was an  
14 individual residing in Arnhem, Netherlands and doing business in and with the state  
15 of California, including in this judicial district.

16           15. At all times mentioned herein Defendant Shareef Badloe was an  
17 individual residing in Arnhem, Netherlands and doing business in and with the state  
18 of California, including in this judicial district.

19           16. At all times mentioned herein Defendant Rashid Badloe was an  
20 individual residing in Arnhem, Netherlands and doing business in and with the state  
21 of California, including in this judicial district.

22           17. At all times mentioned herein Defendants Giordano Ashruf, Shareef  
23 Badloe and Rashid Badloe collectively p/k/a Afro Bros (“Afro Bros”) was a DJ and  
24 record production entity from Arnhem, Netherlands and doing business in and with  
25 the state of California, including in this judicial district.

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1           18. At all times mentioned herein Defendant Juston Records, individually  
2 (collectively “Juston”) was a French private limited company and doing business in  
3 and with the state of California, including in this judicial district.

4           19. At all times mentioned herein Sony Music Entertainment, individually  
5 and doing business as “Ultra Music” (collectively “Sony”) was an American record  
6 label/music industry conglomerate and a Delaware General Partnership with offices  
7 in Santa Monica, California.

8           20. Defendants Does 1 through 10, inclusive, are other parties not yet  
9 identified who have infringed Plaintiffs’ copyrights, have contributed to the  
10 infringement of Plaintiffs’ copyrights, or have engaged in one or more of the  
11 wrongful practices alleged herein. The true names, whether corporate, individual or  
12 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,  
13 which therefore sue said Defendants by such fictitious names, and will seek leave to  
14 amend this Complaint to show their true names and capacities when same have been  
15 ascertained.

16           21. Plaintiffs are informed and believes and thereon alleges that at all times  
17 relevant hereto each of the Defendants was the agent, affiliate, officer, director,  
18 manager, principal, alter-ego, and/or employee of the remaining Defendants and was  
19 at all times acting within the scope of such agency, affiliation, alter-ego relationship  
20 and/or employment; and actively participated in or subsequently ratified and adopted,  
21 or both, each and all of the acts or conduct alleged, with full knowledge of all the  
22 facts and circumstances, including, but not limited to, full knowledge of each and  
23 every violation of Plaintiffs’ rights and the damages to Plaintiffs proximately caused  
24 thereby.

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1 **Factual Background**

2 22. Plaintiff Cleveland Constantine Browne, p/k/a Clevie, is a world-  
3 renowned influential and innovative composer, musician and producer known for,  
4 inter alia, pioneering the use of drum machines in reggae.

5 23. Wycliffe Anthony Johnson, p/k/a Steely, was a visionary and innovative  
6 composer, musician and producer.

7 24. Together, Mr. Browne and Mr. Johnson formed the writing, musical and  
8 producing duo Steely & Clevie, and worked on numerous genre-defining projects.  
9 Our clients worked with such artists as reggae legends Bob Marley, Bunny Wailer,  
10 Jimmy Cliff, Gregory Isaacs, Ziggy Marley and Lee Scratch Perry.

11 25. Plaintiff the Estate of Wycliffe Johnson is the successor-in-interest to  
12 Mr. Johnson's intellectual property rights.

13 26. Plaintiff Steely & Clevie Productions Ltd. is the production company of  
14 Mr. Browne and Mr. Johnson.

15 27. In 1989 Mr. Browne and Mr. Johnson wrote and recorded the  
16 instrumental song entitled *Fish Market* (the "Song"). The recording and composition  
17 for the Song are registered with the United States Copyright Office.

18 28. *Fish Market* is an original work including an original drum pattern that  
19 gives it a unique sound as compared to prior works. The combination of instruments  
20 in *Fish Market* includes a drumset incorporating kick, snare, and hi hat. These  
21 instruments are playing a one bar pattern. *Fish Market* also includes percussion  
22 instruments – tambourine and synthesizer 'tom'- playing a one bar pattern. A timbale  
23 phrase occurs at the end of every second bar. Timbales also play a free improvisation  
24 over the pattern for the duration of the song.

25 29. *Fish Market* forms the basis for a number of popular songs within the  
26 global reggae dancehall scene recorded with established vocalists, such as Gregory  
27 Peck, Red Dragon, Johnny P and Shabba Ranks.

1           30. In 1990, Mr. Browne and Mr. Johnson created the song entitled *Dem*  
2 *Bow* with Shabba Ranks. *Dem Bow* was a massive club hit and garnered worldwide  
3 acclaim in the international reggae dancehall scene. *Dem Bow's* instrumental (which  
4 is an alternative mix of *Fish Market*, based on the same multi-track recording) is  
5 iconic and has been acknowledged as foundational to reggaeton music.

6           31. On April 2, 2018, Sony and Juston released the single *Dame tu Cosita*  
7 by El Chombo.

8           32. In or about August 2018, Sony and Juston released an alternative mix of  
9 *Dame tu Cosita* by El Chombo, Pitbull and Karol G.

10           33. Both recordings of *Dame tu Cosita* (hereinafter the “Infringing Works”)   
11 were hit songs garnering millions (if not billions) of plays and streams around the  
12 world resulting in significant revenue and profits to Defendants.

13           34. The Infringing Works consist of rhythmic speech, drums and percussion.  
14 The primary rhythm and drum sections of the Infringing Works are comprised of an  
15 unauthorized sample and/or a verbatim copy of elements from the Song.

16           35. The composition of each of the Infringing Works substantially  
17 comprises the composition of *Fish Market*. The drum pattern of the Infringing Works  
18 is the drum pattern of *Fish Market*. Two versions of the drum pattern are played. The  
19 first is one with a ‘stop’, that is, cut on the 3rd beat and silence on the 4th beat. The  
20 second is similar to the first but with a continuous beat (i.e., with no stop). As in *Fish*  
21 *Market*, the low drum or bass sound in the rhythm track of each of the Infringing  
22 Works that plays on beats 1 and 3, is pitched at a flat (or low) Bb. The main riffs of  
23 *Fish Market* are played in the Infringing Works. These include the kick and snare  
24 pattern, the reinforcing of beats 1 and 3 on a low-pitched drum, and the sixteenth  
25 notes on the ‘and’ of beat 1 from a snare sound. The kick and snare drums are  
26 prominent in the mix of each of the Infringing Works as is the case in *Fish Market*.

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1           44. In addition, Defendants’ “sampling” (direct extraction and reproduction  
2 of the Song) establishes access by way of striking similarity, if not virtual identity.

3           45. Defendants, and each of them, infringed Plaintiffs’ rights in the Song by  
4 sampling the recording of the Song and reproducing it in one or both of the Infringing  
5 Works without Plaintiffs’ authorization or consent.

6           46. Alternatively, Defendants, and each of them, infringed Plaintiffs’ rights  
7 by making a direct copy of the composition of the Song and using that copy in one or  
8 both of the Infringing Works without Plaintiffs’ authorization or consent.

9           47. Defendants, and each of them, have engaged and continue to engage in  
10 the unauthorized reproduction, distribution, public performance, licensing, display,  
11 and creation of one or both of the Infringing Works. The foregoing acts infringe  
12 Plaintiffs’ rights under the Copyright Act. Such exploitation includes, without  
13 limitation, Defendants’, and each of them, distributing and broadcasting the  
14 Infringing Works on streaming platforms, including Spotify, Apple Music, Amazon,  
15 Pandora, and YouTube.

16           48. Due to Defendants’, and each of their, acts of infringement, Plaintiffs’  
17 have suffered actual, general and special damages in an amount to be established at  
18 trial, including but not limited a reasonable license fee for Defendants’ use of the  
19 sample.

20           49. Due to Defendants’ acts of copyright infringement as alleged herein,  
21 Defendants, and each of them, have obtained direct and indirect profits they would  
22 not otherwise have realized but for their infringement of Plaintiffs’ rights in  
23 Plaintiffs’ copyrighted sound recordings. As such, Plaintiffs are entitled to  
24 disgorgement of Defendants’ profits directly and indirectly attributable to  
25 Defendants’ infringements of their rights in the sound recordings in an amount to be  
26 established at trial.

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- 1 c. For a constructive trust to be entered over any recordings, videos
- 2 reproductions, files, online programs, and other material in connection with
- 3 “Pray for Me,” and all revenues resulting from the exploitation of same, for
- 4 the benefit of Plaintiffs;
- 5 d. That Plaintiffs be awarded all profits of Defendants, and each, plus all
- 6 losses of Plaintiff, plus any other monetary advantage gained by the
- 7 Defendants through their infringement, the exact sum to be proven at the
- 8 time of trial;
- 9 e. That Defendants pay damages equal to Plaintiffs’ actual damages and lost
- 10 profits;
- 11 f. That Plaintiffs be awarded statutory damages and attorneys’ fees as
- 12 available under 17 U.S.C. § 505 or other statutory or common law;
- 13 g. That Plaintiffs be awarded pre-judgment interest as allowed by law;
- 14 h. That Plaintiffs be awarded the costs of this action; and
- 15 i. That Plaintiffs be awarded such further legal and equitable relief as the
- 16 Court deems proper.

17 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
18 38 and the 7th Amendment to the United States Constitution.

19 Respectfully submitted,

20  
21 Dated: April 1, 2021

22 By: /s/ Scott Alan Burroughs  
23 Scott Alan Burroughs, Esq.  
24 David Shein, Esq.  
25 Frank Trechsel, Esq.  
26 DONIGER / BURROUGHS  
27 Attorneys for Plaintiffs  
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