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10 Attorneys for Plaintiffs
CHRISTOPHER EDWARD COPE,
CHRISTOPHER EDWARD MONTAGUE,
11 FABIAN ANDRES ACUNA, ADAM
SPENCER KAMPF and DENTON BEDWARD

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION
15

16 CHRISTOPHER EDWARD COPE,
CHRISTOPHER EDWARD MONTAGUE,
17 FABIAN ANDRES ACUNA, ADAM
SPENCER KAMPF and DENTON BEDWARD,

Case No. 2:22CV01384 SSS (AS)

FIRST AMENDED
COMPLAINT FOR COPYRIGHT
INFRINGEMENT

18
19 Plaintiffs,
20 vs.

21 WARNER RECORDS, INC., a Delaware
corporation, DUA LIPA, an individual,
CLARENCE COFFEE, JR.,
22 an individual, SARAH HUDSON,
an individual, STEPHEN KOZMENIUK,
23 an individual and DOES 1 through 10,

DEMAND FOR JURY TRIAL

24 Defendants.
25 _____/

1 Plaintiffs CHRISTOPHER EDWARD COPE, CHRISTOPHER EDWARD
2 MONTAGUE, FABIAN ANDRES ACUNA, ADAM SPENCER KAMPF and DENTON
3 BEDWARD, for their complaint against WARNER RECORDS, INC., DUA LIPA, an
4 individual, CLARENCE COFFEE, JR., an individual, SARAH HUDSON, an individual,
5 STEPHEN KOZMENIUK, an individual and DOES 1 through 10, hereby allege:

6 PARTIES

7 1. Plaintiff CHRISTOPHER EDWARD COPE is an individual resident of the
8 State of Florida.

9 2. Plaintiff CHRISTOPHER EDWARD MONTAGUE is an individual
10 resident of the State of Florida.

11 3. Plaintiff FABIAN ANDRES ACUNA is an individual resident of the State
12 of Florida.

13 4. Plaintiff ADAM SPENCER KAMPF is an individual resident of the State
14 of Florida.

15 5. Plaintiff DENTON BEDWARD is an individual resident of the State of
16 Florida.

17 6. Defendant WARNER RECORDS, INC. (“WARNER”) is a corporation
18 organized and existing pursuant to the laws of the State of Delaware with its principal
19 place of business located in the Central District of California. WARNER is in the
20 business of recording and distributing musical performances.

21 7. Defendant DUA LIPA is an individual resident of the United Kingdom.
22 She is a singer/songwriter who in 2020 released a song entitled “Levitating.” Her
23 recording of that song became an international best seller.

24 8. DUA LIPA’s recording of “Levitating” was released in many formats by
25 WARNER including as a track on her album “Future Nostalgia,” as well as a single, as
26 several remixes and as videos. Various formats of the performance reached as high as

1 Number 3 on the United States Billboard 200 Chart and Number 2 on Billboard’s Hot
2 100.

3 9. Defendants SARAH HUDSON and STEPHEN KOZMENIUK are, upon
4 information and belief, individual residents of Venice, California. Defendant
5 CLARENCE COFFEE, JR. is an individual resident of Oakland, California.

6 10. The true names and capacities of the Defendants sued as DOES 1 through
7 10, whether individual, corporate, associate or otherwise, are unknown to Plaintiffs who
8 therefore sue such Defendants by fictitious names. Plaintiffs are informed and believe
9 and thereupon allege that each of the Defendants designated as a fictitiously named
10 Defendant is in some manner responsible for the wrongful acts complained of herein. If
11 and when Plaintiffs ascertain the true names and capacities of DOES 1 through 10,
12 Plaintiffs will amend this Complaint to state their true names and capacities.

13 11. Plaintiffs are informed and believe and thereupon alleges that at all relevant
14 times each of the Defendants was the agent and employee of each other Defendant and
15 acted within the course and scope of their respective agency and/or employment in the
16 performance of the wrongful acts alleged herein.

17 JURISDICTION AND VENUE

18 12. The subject matter jurisdiction of this Court is invoked pursuant to 28 USC
19 1331 because it involves copyright infringement under 17 USC §101, et seq.

20 13. Venue is proper in this District pursuant to 28 USC §1391(b)(1) because
21 WARNER RECORDS has its principal place of business in this District and the other
22 Defendants conduct business in this district.

23 FACTS

24 14. Plaintiffs are members of the band Artikal Sound System (“Artikal”).
25 Artikal has been performing and touring together since 2011 and their album upon which
26 the song “Live Your Life” appears charted in 2017 at number 2 on the Billboard

1 magazine Reggae chart. They are the authors and copyright owners of the musical
2 composition entitled “Live Your Life.” Attached hereto as Exhibit A is a true and correct
3 copy of the Certificate from the U.S. Copyright Office for “Live Your Life,” Registration
4 Number PA 2-314-836.

5 15. “Live Your Life” is an original work which was written in 2017. Plaintiffs
6 spent their time and talent creating and recording “Live Your Life.” and are entitled to
7 full copyright protection.

8 16. On information and belief, Defendants copied substantial portions of “Live
9 Your Life” when they wrote “Levitating.” As set forth in detail below, Defendants had
10 access to “Live Your Life” prior to writing “Levitating” and there are substantial
11 similarities between the two compositions.

12 ACCESS

13 17. Artikal has been a popular band, largely in the Florida region, for over a
14 decade.

15 18. During the period in question, March 31, 2017, when the band’s Smoke and
16 Mirrors album was released, and August 28, 2018, when Dua Lipa admits “Levitating”
17 was written, Plaintiffs’ band played in numerous venues, principally in Florida, and
18 performed “Live Your Life.”

19 19. In April 2017 the Smoke and Mirrors EP containing “Live Your Life”
20 charted on Billboard’s Reggae chart at #2.

21 20. Within the reggae music community Smoke and Mirrors garnered coverage
22 which extended to the birthplace of reggae, Jamaica, where it is highlighted in one of that
23 nation’s leading newspapers.

24 21. Beginning in April 2018 “Live Your Life” was significantly used in a video
25 commercial for Delray Beach, Florida’s “Beerfest 2018,” which promoted tours of local
26 bars and restaurants.

1 22. “Live Your Life” was commercially released on CD Baby in 2017 and
2 appeared on a variety of streaming services including Spotify, Pandora, Apple Music,
3 Amazon and Sound Cloud.

4 23. From its 2017 release until late fall 2018, the recordings of “Live Your
5 Life” and the album in which it appears, Smoke and Mirrors, were available online both
6 via streaming and downloads, while the group sold on its own approximately several
7 hundred physical copies at a local music store and to audiences at the various venues at
8 which it played. (In October 2018 Plaintiffs asked that the album be taken off on-line
9 sites because the group had a new lead singer and, as a result, was changing its repertoire
10 to reflect the strengths of the new singer. The album and its recording of “Live Your
11 Life” remains available on SoundCloud.).

12 24. Defendant Clarence Coffee, Jr., a co-writer of “Levitating,” is a member of
13 a production team known as Monsters and Strangerz. On information and belief,
14 Monsters and Strangerz originated in Miami, Florida.

15 25. On information and belief, Monsters and Strangerz produced the recording
16 of a song which also appears on Dua Lipa’s album, Future Nostalgia – “Break My
17 Heart.” Co-writer credit was given on “Break My Heart” to two members of the
18 popular 1980s group, INXS, Andrew Farriss and Michael Hutchence, whose guitar riffs
19 in INXS’ 1987 hit, “Need You Tonight,” are similar to a portion of “Break My Heart.”

20 26. One of the writers of “Break My Heart,” Ali Tamposi, was taught guitar by
21 plaintiff Chris Cope’s brother-in-law. Plaintiff Chris Cope has for years been a Facebook
22 friend of Ali Tamposi and Plaintiff Cope has regularly posted news about Artikal on his
23 Facebook page.

24 SUBSTANTIAL SIMILARITY

25 27. “Live Your Life” and “Levitating” are substantially similar in their main
26 melodic theme, supportive harmonies, and accompaniment.

1 28. "Live Your Life" and "Levitating" are both set to minor keys and have
2 similar tempos and overall feel or style.

3 29. The similarity of "Live Your Life" and "Levitating" is readily apparent
4 from a transcription (i.e., music notation) of the relevant passages of each composition.

5 30. Given the degree of similarity between the "Live Your Life" and
6 "Levitating," it is highly unlikely that "Levitating" was created independently from "Live
7 Your Life."

8 CLAIM FOR RELIEF

9 (For Copyright Infringement Against All Defendants)

10 31. Plaintiffs repeat and incorporate by reference the allegations contained in
11 Paragraphs 1 through 30 above as though fully set forth.

12 32. The acts of Defendants and DOES 1 through 10 constitute copyright
13 infringement under Title 17 of the United States Code.

14 33. Defendants and DOES 1 through 10 acted willfully and in conscious
15 disregard for Plaintiff's rights.

16 34. Plaintiffs are entitled to an award of Defendants' profits and Plaintiffs'
17 actual damages.

18 WHEREFORE Plaintiffs pray for relief as follows:

19 1. For actual damages in an amount according to proof;

20 2. For an award of Defendants' profits attributable to the infringement in an
21 amount according to proof;

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26 ///

- 1 3. For costs of suit herein, including Plaintiffs' reasonable attorney fees; and
- 2 4. For such other relief as the Court may deem just and proper.

3 Dated: September 19, 2022

4 LAW OFFICES OF ROBERT S. BESSER

5 By: *s/ Robert S. Besser*
6 ROBERT S. BESSER
7 Attorneys for Plaintiffs

8 DEMAND FOR JURY TRIAL

9 Plaintiffs CHRISTOPHER EDWARD COPE, CHRISTOPHER EDWARD
10 MONTAGUE, FABIAN ANDRES ACUNA, ADAM SPENCER KAMPF and DENTON
11 BEDWARD hereby demand a jury trial on all issues herein triable by a jury.

12 Dated: September 19, 2022

13 LAW OFFICES OF ROBERT S. BESSER

14 By: *s/ Robert S. Besser*
15 ROBERT S. BESSER