

1 KIBLER FOWLER & CAVE LLP
Matthew J. Cave (SBN 280704)
2 mcave@kfc.law
John D. Fowler (SBN 271827)
3 jfowler@kfc.law
Tracy B. Rane (SBN 192959)
4 trane@kfc.law
11100 Santa Monica Blvd., Suite 360
5 Los Angeles, California 90025
Telephone: (310) 409-0400
6 Facsimile: (310) 409-0401

7 *Attorneys for Plaintiff*
8 *Iceberg Records A/S*
9

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
12

13 ICEBERG RECORDS A/S, a Danish
14 corporation,

15 Plaintiff,

16 v.

17 WILLIAM ADAMS, JR. p/k/a
WILL.I.AM, an individual; ALLEN
PINEDA LINDO p/k/a APL.DE.AP;
18 JAIME LUIS GOMEZ p/k/a TABOO,
an individual; BEP MUSIC, LLC, a
19 Delaware limited liability company;
SONY MUSIC ENTERTAINMENT, a
20 Delaware general partnership; RAMÓN
LUIS AYÁLA-RODRIGUEZ p/k/a
21 DADDY YANKEE, an individual;
YONATAN GOLDSTEIN, an
22 individual; and DOES 1-10, inclusive

23 Defendants.
24
25
26
27
28

CASE NO. 2:24-cv-01893

COMPLAINT FOR:

- 1. **DIRECT COPYRIGHT INFRINGEMENT;**
- 2. **CONTRIBUTORY COPYRIGHT INFRINGEMENT; and**
- 3. **FRAUD**

DEMAND FOR JURY TRIAL

1 Plaintiff Iceberg Records A/S (“Plaintiff”), demanding trial by jury,
2 complains and alleges as follows:

3 **INTRODUCTION**

4 1. This is a clear-cut copyright infringement case. Plaintiff’s song,
5 “Scatman (ski-ba-bop-ba-dop-bop)” by Scatman John, is one of the most
6 recognizable dance songs in the world, made famous by Scatman John’s unique
7 style of scat singing. To date, the song alone has amassed hundreds of millions of
8 streams and topped charts across the globe.

9 2. In 2022, Plaintiff granted Defendants a limited license to use the
10 musical composition for the song in their hit single “Bailar Contigo (feat. Daddy
11 Yankee)” by Black Eyed Peas.

12 3. Defendants assured Plaintiff that the master would not be used, and
13 were specifically advised by Plaintiff that “[r]ights to the recording of the original
14 (so called master rights) are not subject” to the parties’ license agreement and
15 “require separate licensing.”

16 4. Defendants’ assurances turned out to be pretense: once the Black Eyed
17 Peas’ song was released, Plaintiff discovered that Defendants had, in fact, used the
18 master in Bailar Contigo without authorization. Plaintiff therefore brings this action
19 for direct and contributory infringement against Defendants pursuant to the
20 Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*, and for fraud, to enjoin Defendants
21 from further exploiting the work and to recover damages.

22 **JURISDICTION AND VENUE**

23 5. This Court has jurisdiction over Plaintiff’s copyright claims under 28
24 U.S.C. §§ 1331, 1332, and 1338. This Court has supplemental jurisdiction over
25 Plaintiff’s related state law claim for fraud pursuant to 28 U.S.C. § 1367(a) because
26 it is so related to claims in the action within such original jurisdiction that they form
27 part of the same case or controversy under Article III of the United States
28 Constitution.

1 12. On information and belief, Defendant Sony Music Entertainment
2 (“Sony”) is a Delaware general partnership that is authorized to conduct business in
3 the State of California and maintains offices in Los Angeles, California. Plaintiff is
4 informed and believes that the record label known as Epic Records is a subdivision
5 of Sony.

6 13. On information and belief, Defendant Ramon Luis Ayala-Rodriguez
7 p/k/a Daddy Yankee (“Daddy Yankee”) is an individual who resides in the
8 Commonwealth of Puerto Rico. Daddy Yankee is a world renowned musician that,
9 on information and belief, routinely conducts business in Los Angeles, California.

10 14. On information and belief, Defendant Yonatan Goldstein (“Goldstein”)
11 is an individual who resides in Los Angeles, California. Goldstein is a record
12 producer and songwriter that, on information and belief, routinely conducts business
13 in Los Angeles, California.

14 15. Defendants Does 1 through 10 are sued by fictitious names as their true
15 names are currently unknown to Plaintiff. Plaintiff will seek leave to amend this
16 complaint to allege the true identities of these Defendants when the same have been
17 ascertained.

18 16. Plaintiff is informed and believes that at all relevant times, all
19 Defendants were the agents and/or co-conspirators of their co-defendants, and in
20 doing the things hereinafter alleged, were acting within the course and scope of their
21 authority as those agents and/or co-conspirators, and with the permission and
22 consent of their co-defendants.

23 GENERAL ALLEGATIONS

24 *Plaintiff’s Work:*

25 *“Scatman (ski-ba-bop-ba-dop-bop)” by Scatman John*

26 17. Since its inception in 1982 by Manfred Zähringer, Plaintiff has built a
27 distinctive international network, allowing several of its artists to gain worldwide
28 recognition, through releases by both major and independent labels. The most

1 notable of those artists was John Larkin, now better known as Scatman John.

2 18. Mr. Zähringer met Mr. Larkin in Frankfurt, Germany in the early 1990s
3 and encouraged Mr. Larkin to combine his unique style of scat singing with modern
4 dance and hip hop music. Shortly thereafter, in 1993, Mr. Larkin recorded his first
5 single, “Scatman (ski-ba-bop-ba-dop-bop)” (the “Song”).

6 19. The Song was an instant global success, prompting Mr. Larkin to
7 permanently adopt the stage name Scatman John. Since then, Scatman John’s music
8 has sold 4.5 million albums, 4.5 million singles, and over 35 million compilations
9 globally, receiving 17 gold and 22 platinum awards. The Song alone has been
10 streamed hundreds of millions of times to date.¹

11 20. By assignment, Plaintiff owns 50% of the publishing rights and 100%
12 of the master recording rights to the Song, which was registered with the United
13 States Copyright Office on November 21, 1995 (Reg. No. SR0000197635).

14 *The License Agreement*

15 21. In or around October 2022, Defendants submitted a Clearance Request
16 Form through DMG Clearances, Inc. to obtain a license to sample the composition
17 of the Song in a new work titled “Bailar Contigo (feat. Daddy Yankee)” by Black
18 Eyed Peas (the “Derivative Work”). In discussing the license, Defendants made
19 clear that the master was not used in the Derivative Work.

20 22. Based on Defendants’ representations, Plaintiff agreed to license the
21 work and, on October 12, 2022, sent Defendants an email stating in relevant part:

22
23 We hereby agree to the *use of extracts from the composition* “Scatman”
24 written by John Larkin and Antonio Nunzio Catania (“the Original
25 Work”) within the new work entitled “Bailar Contigo (ft Daddy
26 Yankee)” (“the New Work”) as performed by Black Eyed Peas (“the
27 Artist”).

28 ¹ The official music video for the Song currently has over 198 million views on
YouTube. See <https://www.youtube.com/watch?v=Hy8kmNEo1i8>.

1 Clearance is granted throughout the World on the basis that Iceberg
2 Publishing A/S and Edition Scales acquire a 75%% [sic] copyright
3 ownership interest in and to the New Work, on a most favoured nations
4 basis. Additionally Iceberg Publishing A/S acquires a 5% net income of
5 the master of "Bailar Contigo (ft. Daddy Yankee)"

6 ***Rights to the recording of the original work (so called master rights)***
7 ***are not subject of this approval and require separate licensing by the***
8 ***respective right holder.***

9 23. On December 6, 2022, DMG Clearances, Inc. sent a letter confirming
10 the limited license, which states in relevant part:

11 We are writing to confirm your approval and quote whereby ALL
12 PUBLISHERS have ***agreed to license the below noted sampled***
13 ***composition*** for inclusion in the song "Bailar Contigo (feat. Daddy
14 Yankee)" by Black Eyed Peas. It is our understanding that ALL
15 PUBLISHERS warrant and represent that they are authorized,
16 empowered, and able to enter into and fully perform its obligations under
17 these terms.

18 ***Defendants' Infringing Work:***

19 ***"Bailar Contigo (feat. Daddy Yankee)" by Black Eyed Peas***

20 24. Plaintiff is informed and believes that the Derivative Work was first
21 released as part of the album *Elevation* by Black Eyed Peas on November 11, 2022,
22 through Sony's Epic Records and BEP. Plaintiff is further informed and believes
23 that the Derivative Work was then released as a single on March 10, 2023, with the
24 official music video being published to YouTube on March 31, 2023, where it
25 currently has over 41 million views.² In addition to the album and single releases,
26 Plaintiff is informed and believes that Defendants have since released at least seven
27 remixes of the Derivative Work.

28 25. Plaintiff is informed and believes that the Derivative Work was written
by will.i.am, apl.de.ap, Taboo, Daddy Yankee, Goldstein, and Mr. Larkin and
Antonio Nunzio Catania (the original authors of the Song). Plaintiff is further

² For reference, the official music video for the Derivative Work can be found here:
<https://www.youtube.com/watch?v=heihCpHHjBA>.

1 informed and believes that will.i.am and Goldstein also produced the Derivative
2 Work.

3 26. After comparing the tracks, it is apparent that the Derivative Work and
4 the Song are so strikingly similar that Defendants have used the sound recording of
5 the Song, rather than just the composition, as agreed.

6 27. Although it appears that Defendants attempted to manipulate the sound
7 recording slightly to hide their infringement, the work remains so strikingly similar
8 to the Song that it could not have been created without using the Song's sound
9 recording.

10 28. It became apparent that Defendants simply lied to Plaintiff about not
11 using the sound recording in order to avoid paying a larger licensing fee.

12 29. Plaintiffs bring this lawsuit for copyright infringement and fraud to
13 enjoin Defendants from further exploiting its work and to recover damages.

14 **FIRST CAUSE OF ACTION**

15 **Direct Copyright Infringement**

16 **(Plaintiff against All Defendants)**

17 30. All previous allegations are realleged and incorporated herein by
18 reference.

19 31. Plaintiff is the sole owner by assignment of all exclusive rights in the
20 sound recording of the Song, which was registered with the United States Copyright
21 Office on November 21, 1995 (Reg. No. SR0000197635).

22 32. Defendants had access to and have directly copied the sound recording
23 of the Song by incorporating it into the Derivative Work.

24 33. Plaintiff has not granted any license to Defendants or otherwise
25 permitted Defendants to use its sound recording of the Song.

26 34. As such, Defendants have directly infringed and are continuing to
27 directly infringe Plaintiff's exclusive rights under 17 U.S.C. § 114, including but not
28 limited to Plaintiff's exclusive rights to reproduce, prepare derivative works,

1 distribute, and perform the Song publicly by means of a digital audio transmission.
2 *See* 17 U.S.C. § 106.

3 35. As an actual and proximate result of Defendants' copyright
4 infringement, as described herein, Plaintiff has suffered and will continue to suffer
5 damages in an amount to be proven at trial.

6 36. On information and belief, Defendants' copyright infringement was
7 committed maliciously, fraudulently, and oppressively with willful and conscious
8 disregard of Plaintiff's rights and with the wrongful intent to injure Plaintiff.

9 37. Unless Defendants are restrained from further infringing Plaintiff's
10 exclusive rights, Plaintiff will suffer irreparable injury without an adequate remedy
11 at law. Accordingly, Plaintiff seeks a declaration that Defendants are infringing
12 Plaintiff's copyrights and an order under 17 U.S.C. § 502 enjoining Defendants
13 from any further infringement of Plaintiff's copyrights.

14 **SECOND CAUSE OF ACTION**

15 **Contributory Copyright Infringement**

16 **(Plaintiff against All Defendants)**

17 38. All previous allegations are realleged and incorporated herein by
18 reference.

19 39. To the extent any Defendant did not directly infringe Plaintiff's work,
20 Plaintiff is informed and believes that those Defendants induced, caused, and/or
21 materially contributed to the infringing activity described herein by permitting and
22 encouraging Defendants to directly copy the sound recording of the Song.

23 40. On information and belief, Defendants knew or had reason to know that
24 materially contributing to the use of Plaintiff's copyrighted material for purposes of
25 trade would contribute to infringement of Plaintiff's copyrighted material.

26 41. As an actual and proximate result of Defendants' contributory
27 copyright infringement, as described herein, Plaintiff has suffered and will continue
28 to suffer damages in an amount to be proven at trial.

1 42. On information and belief, Defendants’ contributory copyright
2 infringement was committed maliciously, fraudulently, and oppressively with
3 willful and conscious disregard of Plaintiff’s rights and with the wrongful intent to
4 injure Plaintiff.

5 43. Unless Defendants are restrained from further infringing Plaintiff’s
6 exclusive rights, Plaintiff will suffer irreparable injury without an adequate remedy
7 at law. Accordingly, Plaintiff seeks a declaration that Defendants are infringing
8 Plaintiff’s copyrights and an order under 17 U.S.C. § 502 enjoining Defendants
9 from any further infringement of Plaintiff’s copyrights.

10 **THIRD CAUSE OF ACTION**

11 **Fraud**

12 **(Plaintiff against All Defendants)**

13 44. All previous allegations are realleged and incorporated herein by
14 reference.

15 45. Defendants represented to Plaintiff that they did not use the sound
16 recording of the Song in creating the Derivative Work.

17 46. Plaintiff is informed and believes that Defendants’ representation was
18 false and made in order to avoid paying a higher license fee for the sound recording
19 of the Song.

20 47. Plaintiff is informed and believes that Defendants knew that the
21 representation was false when they made it, or else made the representation
22 recklessly and without regard for its truth.

23 48. Plaintiff reasonably relied on Defendants’ representation, as evidenced
24 by the fact that it granted Defendants a license to use the Song’s composition instead
25 of the sound recording.

26 49. As a direct and proximate result of Defendants’ fraud, Plaintiff has
27 been damaged in an amount to be proved at trial.

28 //

1 50. Defendants' fraud as described herein was made with a conscious
2 disregard of Plaintiff's rights, with the intent to harm, vex, annoy, and/or harass
3 Plaintiff. Such conduct was unauthorized and constitutes oppression, fraud, and/or
4 malice under California Civil Code § 3294, entitling Plaintiff to an award of
5 punitive damages in an amount appropriate to punish or set an example of the
6 offending parties as determined at trial.


7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of
9 them, as follows:

- 10 A. An award of damages in an amount to be determined at trial;
- 11 B. An order imposing a constructive trust on the money wrongfully
12 obtained;
- 13 C. Attorneys' fees and costs of suit incurred herein, pursuant to 17 U.S.C.
14 § 505;
- 15 D. Punitive damages;
- 16 E. Statutory damages;
- 17 F. Injunctive relief;
- 18 G. Pre-judgment interest as provided by law; and
- 19 H. An award of any other and further relief that the Court deems just and
20 proper.

21
22 Dated: March 8, 2024

KIBLER FOWLER & CAVE LLP

23
24
25 By: 
 26 _____
 27 MATTHEW J. CAVE
 28 JOHN D. FOWLER
 TRACY B. RANE
 Attorneys for Plaintiff Iceberg Records A/S


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff Iceberg Records A/S hereby demands trial by jury pursuant to Federal Rule of Civil Procedure 38(b), 28 U.S.C. § 38, and Local Rule 38-1.

Dated: March 8, 2024

KIBLER FOWLER & CAVE LLP

By: 

MATTHEW J. CAVE
JOHN D. FOWLER
TRACY B. RANE
Attorneys for Plaintiff Iceberg Records A/S