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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

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14 FOUR JAYS MUSIC COMPANY and
JULIA RIVA,

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Plaintiffs,

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v.

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18 GOOGLE LLC, VALLEYARM DIGITAL
LIMITED, LENANDES LTD,
GIACOMO VERANI, and
19 LIMITLESS INT. RECORDINGS,

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Defendants.

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**COMPLAINT FOR
COPYRIGHT INFRINGEMENT
AND DEMAND FOR
JURY TRIAL**

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Jurisdiction

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1. The Court has jurisdiction over the subject matter of this action against Defendants Google LLC, Valleyarm Digital Limited, Lenandes Ltd, Giacomo Verani, and Limitless Int. Recordings pursuant to 28 U.S.C. § 1338(a) because this is an action for copyright infringement arising under the Copyright Act of 1976, 17 U.S.C. §§ 101, 106, 115, 501, 602 *et seq.*

Introduction

1
2 2. Plaintiffs are the legal and/or beneficial copyright owners of musical
3 works authored by Harry Warren, one of the premier composers of American music.

4 3. Harry Warren wrote over 800 songs, including *At Last*, *Chattanooga*
5 *Choo Choo*, *I Only Have Eyes for You*, *You Must Have Been a Beautiful Baby*, *Jeepers*
6 *Creepers*, *The Gold Diggers' Song (We're in the Money)*, *Lullaby of Broadway*, *You'll*
7 *Never Know*, *On the Atchison, Topeka and the Santa Fe*, *That's Amore*, *Nagasaki*,
8 *There Will Never Be Another You*, and *The More I See You*.

9 4. The Composition Chart annexed as Exhibit A provides a list of Plaintiffs’
10 copyrighted compositions at issue in this case (the “Subject Compositions”).

11 5. The works of Warren have been recorded by the most prominent jazz
12 and popular artists of all time, including Benny Goodman, Bing Crosby, Cab
13 Calloway, Charlie Parker, Coleman Hawkins, Count Basie, Dean Martin, Ella
14 Fitzgerald, Frank Sinatra, Glen Miller, John Coltrane, Judy Garland, Louis
15 Armstrong, Miles Davis, Ray Charles, and Shirley Bassey, Tony Bennett, and Sarah
16 Vaughan to name only a few. These monumental works of art are, quite literally,
17 national treasures.

18 6. These and other recordings of Plaintiffs’ copyrighted musical works
19 have been pirated by the Defendants in this case. Defendants are all players in the
20 digital music business that participate in, and jointly profit from, making digital
21 phonorecord deliveries (*i.e.*, downloads) of pirated recordings of the Subject
22 Compositions.

23 7. Digital phonorecord deliveries of musical recordings constitute a
24 reproduction and distribution of the musical work embodied in the digital recording
25 and require a license from the copyright owner of the musical composition, sometimes
26 referred to as a “mechanical license.”

27 8. Defendants have failed to obtain any license that would authorize them
28 to reproduce, distribute, or sell the recordings of the Subject Compositions identified

1 on Exhibit B and, as a result, Defendants have infringed Plaintiffs' exclusive rights of
2 reproduction and distribution of the Subject Compositions under 17 U.S.C. §§
3 106(1)(3).

4 9. Further, the activity of making digital phonorecord deliveries of pirated
5 recordings of the Subject Compositions does not qualify for a compulsory license or
6 as a covered activity under Section 115 of the Copyright Act.

7 10. A list of the pirated recordings of the Subject Compositions that
8 Defendants have reproduced and distributed without authorization, including by
9 making digital phonorecord deliveries, thus far identified, is set forth in the
10 Infringement Chart (Exh. B).

11 11. All the recordings identified on Exhibit B are pirated. Plaintiffs have thus
12 far identified over 60 pirated recordings of the Subject Compositions that have been
13 separately reproduced and distributed as digital phonorecord deliveries by Defendants
14 in the Google Play store as set forth in the Infringement Chart annexed as Exhibit B.
15 Defendants have infringed these works in a concerted and distinct distribution chain.

16 **Defendants' Piracy is Massive and Flagrant**

17 12. The scope and flagrant nature of Defendants' piracy cannot be
18 understated. It is obvious that the recordings listed in Exhibit B are pirated by virtue
19 of the scope of the Limitless catalog, the replication of the original album artwork
20 (while removing the original label logos), and the continued distribution of legitimate
21 versions of the recordings by the rightful record label owners on Google Play.

22 13. Limitless, which has no web presence and no listing on Discogs.com, is
23 selling recordings by virtually every well-known recording artist from the 1930s
24 through the 1960s, including Frank Sinatra, Ella Fitzgerald, Miles Davis, Louis
25 Armstrong, Mel Torme, Ray Charles, Tony Bennet, and Judy Garland.

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1 14. In addition, strong evidence of the piracy can be gleaned directly from
 2 the Google Play store from the comparison of the bootlegged Limitless catalog entries
 3 side-by-side with legal recordings being sold by legitimate record labels.

4 15. For example, Album cover art has been an essential part of the packaging
 5 and marketing and labels have taken great care to create album artwork commensurate
 6 with the music it accompanied. Not so with Limitless, which has often either stolen
 7 the album art and music wholesale or employed stock artwork for its bootlegged
 8 albums.

9 16. Invariably, Limitless has simply applied a silver border with its name
 10 written around the original release artwork and obscuring the original label logo as
 11 exemplified by the following screenshots comparing the Limitless release with the
 12 original:



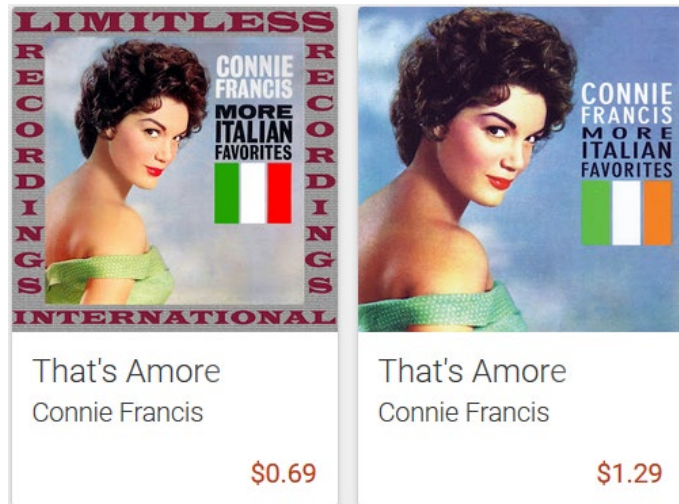
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 24 17. In many instances, Google Play is selling the legitimate release by the
 25 original label side by side with Limitless' bootlegged copy. For example, in 1962,
 26 Capitol Records released the Bobby Darin's album, Look At Me Now, which included
 27 his recording of the Warren composition *You'll Never Know*. Capitol sells the
 28 recording on Google Play in direct competition with Defendants, who sell their pirated

1 copy for about half the price. In addition, Defendants have appropriated the recording
 2 and artwork (eliminating the Capitol logo) as evidenced by the following screenshot:



10 <https://play.google.com/store/search?q=Oh!%20Look%20At%20Me%20Now%20you%27I!%20never%20know&c=music> (11/20/2019)

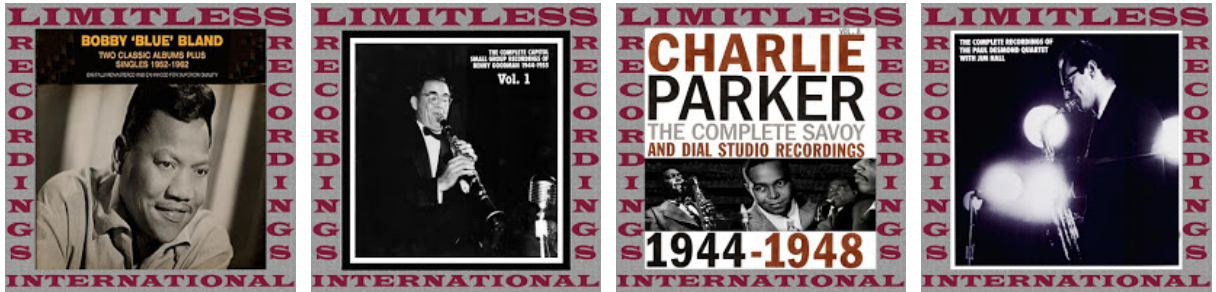
11 18. Similarly, in 1960, MGM Records (now part of Universal Music Group)
 12 released Connie Francis's recording of the Warren composition *That's Amore* as part
 13 of the More Italian Favorites album. Universal continues to sell the recording on
 14 Google Play in direct competition with Defendants. Once again, Defendants have
 15 appropriated the original recording and artwork and are offering their pirated copy of
 16 the recording at about half the price, as evidenced by the following screenshot:



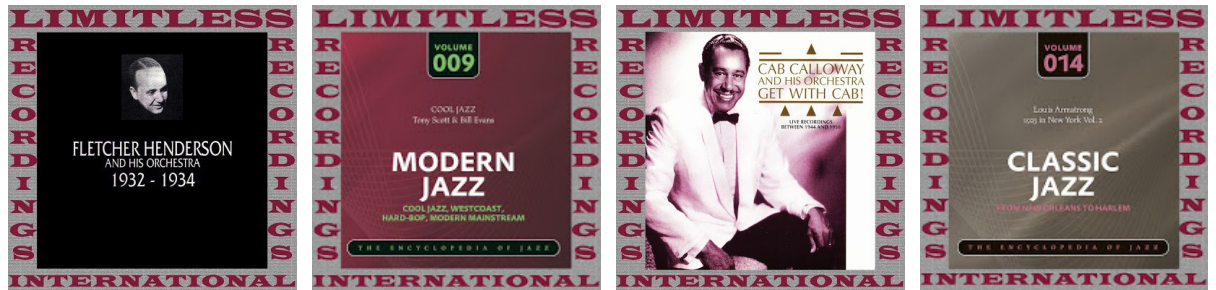
26 <https://play.google.com/store/search?q=More%20Italian%20Favorites%20That%27s%20Amore%20Connie%20Francis&c=music> (11/19/2019)

27 19. The scope and scale of Defendants' piracy operation cannot be
 28 understated. Defendants have, on occasion, flagrantly bootlegged an entire label's

1 catalog for a particular artist. For example, as shown in the following screenshots,
 2 Defendants claim to have compiled: (a) The Singles of Bobby Bland; (b) The
 3 Complete Capitol Small Group Recordings of Benny Goodman; (c) The Complete
 4 Savoy And Dial Studio Recordings of Charlie Parker; and (d) The Complete
 5 Recordings of the Paul Desmond Quartet With Jim Hall:



11 20. For addition, for older recordings originally released before albums were
 12 popular, Defendants have simply compiled the singles and applied the Limitless
 13 border around a simple background or a stock photograph of the artist, as illustrated
 14 by the following screenshots:

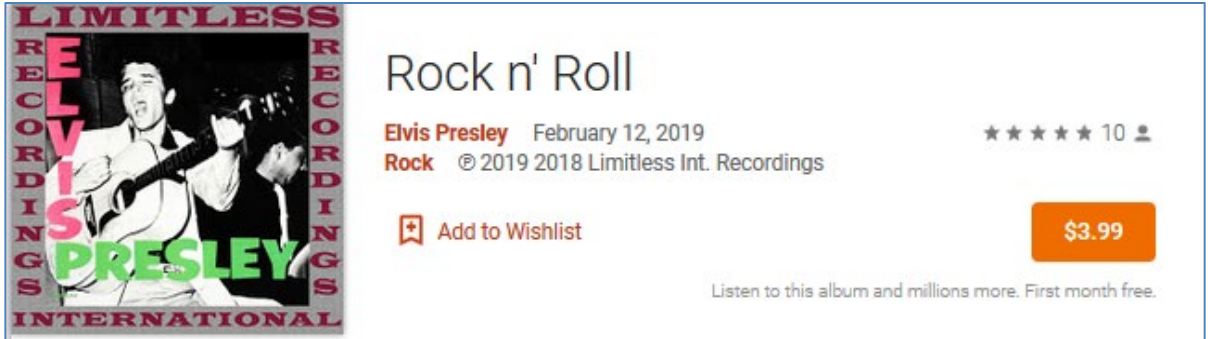


21 21. In addition to the pirated recordings of Plaintiffs' compositions,
 22 Defendants have distributed a broad and deep catalog of thousands of other pirated
 23 recordings through the Google Play store, including many entire albums of seminal
 24 musical works.

1 22. For example, the Limitless catalog available in the Google Play store
2 includes the following seminal albums:

3 a. Elvis Presley's debut album, Elvis Presley:

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10 b. Surfin' USA, by The Beach Boys:

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18 c. James Brown's debut album, Please, Please, Please:

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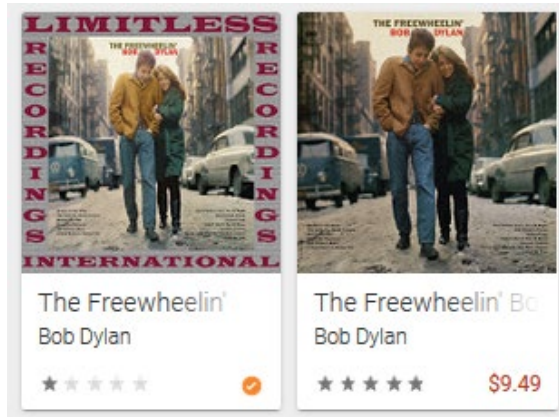
d. Bob Dylan’s debut studio album, Bob Dylan:



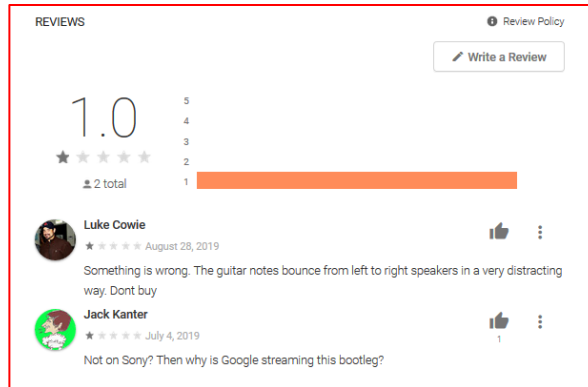
e. Roy Orbison’s Crying:



23. Google’s own customers have noticed that the Limitless albums are pirated and have alerted Google to the piracy, but Google has not taken any action. For example, Google is selling a legitimate version of the Bob Dylan album The Freewheelin’ Bob Dylan, released by Sony side by side with the Limitless bootleg:



1 24. The Limitless bootleg catalog page on Google Play has elicited
2 comments from Google users noting the poor quality of the recording and asking,
3 “Not on Sony? Then why is Google streaming this bootleg?”:



11 25. All of this should have made it obvious that Limitless is operating a huge
12 music piracy operation. Valleyarm and Google chose to ignore the evidence of piracy
13 and to participate in the infringement on a massive scale.

14 26. To put this case in context, in 2007, Jammie Thomas-Rasset, a single
15 mother of four in Brainerd, Minnesota, was found liable, after three separate jury
16 trials, for copyright infringement for using file sharing software that enabled the
17 unauthorized downloading and distribution of 24 recordings by the Goo Goo Dolls
18 and Def Leppard, among others. The juries awarded statutory damages in all three
19 trials of up to \$80,000 per infringement. The Eighth Circuit Court of Appeals
20 ultimately affirmed statutory damages in the amount of \$9,250 for each infringed
21 recording, for a total award of \$222,000. Ms. Thomas-Rasset declared bankruptcy as
22 she had “no other option.”

23 27. In 2009, Joel Tenenbaum, a Massachusetts college student, who also
24 used file-sharing software that permitted others to download 30 recordings by Limp
25 Bizkit and Blink-182, was found liable and the jury awarded statutory damages of
26 \$22,500 per recording, for a judgment that totaled \$675,000 forcing Mr. Tenenbaum
27 to file for Chapter 7 bankruptcy.

1 28. Unlike Ms. Thomas-Rassett and Mr. Tenenbaum who were not alleged
2 to have sold their infringing recordings or profited from their conduct, Defendants in
3 this case have engaged in massive music piracy operation for the purpose of
4 generating profits from their sales of pirated recordings and by other means.

5 29. The copyright infringement operation detailed in this Complaint is only
6 the latest in a long line of piracy schemes that have plagued composers, publishers,
7 and record labels since the inception of the music industry over 100 years ago, when
8 the perforated rolls used by player pianos to perform musical works were pirated. See
9 *Aeolian Co. v. Royal Music Co.*, 196 F. 926 (W.D.N.Y. 1912).

10 30. As the technology employed by the music industry to reproduce musical
11 works advanced, bootlegging efforts by music pirates kept pace. In the 1960s and
12 1970s, organized criminal enterprises engaged in record and tape piracy operations
13 on a scale that is dwarfed by the infringing conduct explained herein. Like the
14 Defendants in this case, the “tape pirates” and “record pirates” of years past
15 unlawfully duplicated popular pre-existing recordings, and then claimed their liability
16 was limited by the compulsory license provision of the 1909 Copyright Act, § 1(e).

17 31. The landmark case *Duchess Music Corp. v. Stern*, 458 F.2d 1305 (9th Cir.
18 1972) settled the issue as to whether tape pirates could limit their liability for piracy
19 under the compulsory license provision of the 1909 Copyright Act. In *Duchess*, the
20 defendant tape pirate engaged in the same conduct identified in this Complaint, and
21 claimed her conduct was lawful because the compulsory license provision of the
22 Copyright Act authorized the reproduction and distribution of the musical works
23 embodied on the recordings she pirated. The Ninth Circuit rejected the argument,
24 stating, “She may not continue her piracy under the flag of compulsory licensing.”
25 The *Duchess* court concluded that the tape pirates’ activity was ineligible for a
26 compulsory license and that reproduction of a musical composition on a pirated
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1 recording infringed the copyright in the composition, even when a compulsory license
2 was claimed.¹

3 32. The holding in *Duchess* was codified when the Copyright Act was
4 revised in 1976. The statutory bar against compulsory licensing of pirated recordings
5 continues in the recent amendments to Section 115 of the Copyright Act, which
6 provides that reproduction and distribution of pirated sound recordings is not a
7 covered activity under Section 115 and is ineligible for a compulsory license.

8 33. Defendants are nothing more than modern tape pirates and their conduct
9 constitutes willful copyright infringement of the Subject Compositions in violation of
10 the United States Copyright Act [17 U.S.C. §§ 101, 106, 115, 501, 602 *et seq.*] (the
11 “Copyright Act”).

12 ***Four Jays Music Company & Julia Riva***

13 34. Plaintiff Four Jays Music Company is a California corporation with a
14 principal place of business at 421 E. 6th St. in Los Angeles, California.

15 35. Plaintiff Julia Riva is Harry Warren’s granddaughter and the President
16 of Four Jays Music Company. Julia Riva is a resident of Los Angeles, California.

17 ***Google***

18 36. Defendant Google LLC (“Google”) is a limited liability company
19 organized under the laws of the State of Delaware with a place of business at 1600
20 Amphitheatre Parkway, Mountain View, California.

21 37. Google has owned and operated a digital music store under various
22 names since 2011, including “Google Music” at launch, and currently, “Google Play”,
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24 ¹ The criminal conduct of “tape pirates” became a priority of the Attorney General of the
25 United States, Edward H. Levi, in 1975 when the Justice Department determined that decisions
26 reached by four Circuit Courts of Appeals, including the Ninth Circuit in *Duchess*, rendered tape
27 pirates criminally liable even where the statutory royalty was tendered. See *Heilman v. Levi*, 391
28 F.Supp. 1106 (E.D.Wisc. 1975). Criminal copyright infringement sentences continue to this day.
See *Matter of Zaragoza-Vaquero*, 26 I&N Dec. 814 (BIA 2016)(defendant sentenced to 33 months
in prison and ordered to be removed from the United States for selling bootleg copies of music
CDs at a Florida flea market, as a crime involving moral turpitude).

1 all selling permanent downloads. Google Play currently has a catalog of over 40
2 million tracks for sale as permanent downloads in the U.S.

3 38. Google specifically selected and contracted with Valleyarm and/or
4 Limitless to provide the Limitless digital music catalog to be sold in its Google Play
5 store on negotiated financial terms.

6 39. Google received all of the recordings of the Subject Compositions
7 identified on Exhibit B from Limitless and/or Valleyarm. Google then reproduced,
8 distributed and sold these pirated recordings of the Subject Compositions in Google
9 Play, without any licenses, as permanent downloads among other types of digital
10 phonorecord deliveries identified herein.

11 ***Valleyarm***

12 40. Upon information and belief, Defendant Valleyarm Digital Limited
13 (“Valleyarm”) is a business entity organized under the laws of Australia with a place
14 of business at Suite 1.09, 838 Collins Street, Docklands, VIC 3008, Australia.

15 41. Valleyarm has distributed, and continues to distribute, digital music to the
16 Google Play store and has delivered thousands of recordings to Google Play for sale
17 throughout the U.S.

18 42. Valleyarm specifically selected and contracted with Limitless to provide
19 the Limitless digital music catalog to be sold in the Google Play store on negotiated
20 financial terms.

21 43. At Limitless’ direction, Valleyarm unlawfully reproduced all of the
22 pirated recordings of the Subject Compositions identified on Exhibit B, distributed
23 them to Google, and unlawfully authorized Google to make digital phonorecord
24 deliveries in the Google Play store, as specifically set forth in Exhibit B.

25 ***Limitless***

26 44. Upon information and belief, Defendant Lenandes Ltd (“Lenandes”) is a
27 company organized under the laws of the United Kingdom with a registered office
28 address at 10 Philpot Lane, London, England, EC3M 8AA.

1 California between Valleyarm and Google, concerning reproduction, distribution and
2 delivery of the pirated recordings of the Subject Compositions.

3 51. Limitless intentionally directed its distributor, Valleyarm, to distribute
4 the pirated recordings to Google in California for sale in its Google Play store.

5 52. Valleyarm and Limitless intentionally distributed and delivered the
6 pirated recordings of the Subject Compositions identified in Exhibit B to Google, and
7 unlawfully authorized Google to reproduce these pirated recordings of the Subject
8 Compositions in its Google Play store and to sell permanent downloads to California
9 consumers.

10 53. Venue is proper in this District pursuant to 28 U.S.C §§ 1391(b), 1391(c)
11 and 1400(a) because Plaintiffs are located in this District and Google has its principal
12 place of business here. In addition, Defendants are subject to personal jurisdiction in
13 this Judicial District and have committed unlawful acts of infringement in this Judicial
14 District.

15 54. Joinder of Limitless, Valleyarm and Google is proper under Fed. R. Civ.
16 P. 20 because Defendants are jointly and severally liable as members of a distinct
17 distribution chain for the acts of copyright infringement identified herein.

18 **Harry Warren**

19 55. Harry Warren (1893-1981) has perhaps contributed more to the great
20 American songbook than any other songwriter in history. Warren was born to Italian
21 immigrant parents in Brooklyn, New York. After serving in the US Navy in World
22 War I, Warren began writing songs.

23 56. In the years 1931 to 1945, Warren wrote more hit songs than Irving
24 Berlin. He was nominated for the Academy Award for Best Song eleven times (more
25 than Berlin, George Gershwin, Cole Porter or Richard Rodgers) and won three Oscars
26 for composing *Lullaby of Broadway*, *You'll Never Know*, and *On the Atchison, Topeka*
27 *and the Santa Fe*.

1 57. Warren wrote over 800 songs including *Chattanooga Choo Choo*, the
2 first song to receive a gold record, presented by RCA Victor in 1942, for sales of 1.2
3 million copies. Over the course of his career, Warren wrote 81 top 10 hits, including
4 timeless classics such as *At Last*, *I Only Have Eyes For You*, *That's Amore*, *You Must*
5 *Have Been A Beautiful Baby*, *Jeepers Creepers*, and *The Gold Diggers' Song (We're*
6 *in the Money)*.



14 58. Warren was one of America's most prolific film composers, and his
15 songs have been featured in over 300 films. Harry Warren was inducted into the
16 Songwriters Hall of Fame in 1971.

17 **Four Jays Music Company & Julia Riva**

18 59. In 1955 Harry Warren formed the Four Jays Music Company, a
19 California corporation, to own the copyrights in his musical works.

20 60. Four Jays Music Company acquired the copyrights in the respective
21 Subject Compositions by assignment from Harry Warren and third party music
22 publishers, as well as by assignment by Harry Warren's wife, daughter, and
23 grandchildren, who acquired the copyrights by termination notices timely served and
24 filed with U.S. Copyright Office under Section 304 of the Copyright Act of 1976.

25 61. Plaintiff Four Jays Music Company is a legal owner of the U.S. copyright
26 in certain of the Subject Compositions as identified in Exhibit A, along with all
27 accrued causes of action.

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1 million recordings in the Google Play store) and a complete willingness by the digital
2 music stores to seek popular and iconic recordings from any source, legitimate or not,
3 provided they participate in sharing the proceeds.

4 70. The iconic status of the pirated recordings of the Subject Compositions
5 at issue in this case cannot be overstated. Any list of the most popular singers and
6 musicians of any period between 1920 and 1970 would be replete with the artists who
7 have recorded Plaintiffs' musical works, some of them multiple times.

8 71. All the recordings on the Infringement Chart (Exh. B) embodying the
9 Subject Compositions are pirated copies, or "bootlegs." Defendants' digital
10 phonorecord deliveries of these pirated copies were all made without authorization
11 from the copyright owners of the sound recordings or those who originally "fixed"
12 them as required by Section 115 (discussed below), and the copyright owners of the
13 Subject Compositions.

14 72. Defendants all generate illicit revenue for themselves when these and
15 other pirated copies are sold or distributed. Plaintiffs have not authorized any
16 reproduction or distribution of these pirate recordings of the Subject Compositions
17 (or any identified on Exhibit B) and it is an infringement for which all the Defendants
18 are jointly and severally liable.

19 **The Pirated Recordings**

20 73. All of the recordings identified in Exhibit B are pirated. Defendants have
21 taken recordings of the Subject Compositions – in which they hold no rights – and
22 reproduced and distributed pirated copies of them to the public, for profit, without
23 authorization.

24 74. Virtually all of the recordings at issue in this case were originally made
25 between 1923 and 1972.

26 75. Since Limitless did not originally "fix" any of the relevant recordings,
27 the only way for it to acquire the rights to duplicate and distribute them would be to
28 purchase or license rights in these recordings.

1 76. Upon information and belief, Limitless never acquired permission or the
2 rights to reproduce or distribute any of these recordings from any person who lawfully
3 fixed them or from the owner of the copyright in the sound recording. Limitless is
4 simply duplicating previously released recordings and selling them as if they were the
5 rightful owner. Valleyarm and Google are duplicating Limitless's pirated sound
6 recordings of the Subject Compositions and selling the pirated copies for profit.

7 **Defendants Have Infringed the Subject Compositions**

8 77. Section 115 of the Copyright Act expressly excludes Defendants'
9 reproduction and distribution of pirated recordings of the Subject Compositions as a
10 covered activity eligible for a compulsory license under Section 115 and Defendants
11 have failed to obtain any licenses for the Subject Compositions that authorize such
12 activity.

13 78. The Infringement Chart annexed as Exhibit B sets forth (1) each pirated
14 recording of the Subject Compositions within the Limitless, Valleyarm, Google
15 distribution chain thus far identified by Plaintiffs that these Defendants have
16 reproduced, distributed, and/or made available for digital phonorecord deliveries in
17 Google's Google Play store without authorization.

18 79. The various types of unauthorized reproductions, distributions, and/or
19 digital phonorecord delivery configurations of each of the pirated recordings of the
20 Subject Compositions made and/or authorized by Defendants are discussed briefly
21 below.

22 ***Permanent Downloads***

23 80. Permanent download means a digital transmission of a sound recording
24 of a musical work in the form of a download, where such sound recording is accessible
25 for listening without restriction as to the amount of time or number of times it may be
26 accessed.

1 81. Google has made available, reproduced, and distributed permanent
2 downloads of the recordings of the Subject Compositions listed on Exhibit B to its
3 customers.

4 82. Google was unlawfully authorized and directed to do so by Limitless
5 and/or Valleyarm.

6 83. Reproducing or distributing permanent downloads of recordings of the
7 Subject Compositions require licenses from the copyright owners of the Subject
8 Compositions and all of the Defendants failed to obtain such licenses for each entry
9 on the Infringement Chart at Exhibit B.

10 84. The reproduction and distribution of permanent downloads of
11 recordings of the Subject Compositions by Google, and the authorization of this
12 activity by Limitless and Valleyarm, infringes Plaintiffs' exclusive reproduction and
13 distribution rights under 17 U.S.C. § 106(1) and (3).

14 *Server Copies*

15 85. Google has reproduced at least one copy of each recording of the Subject
16 Compositions identified on Exhibit B on its servers for sale of permanent downloads
17 in its Google Play store as server copies.

18 86. Google was unlawfully authorized to engage in this activity by Limitless
19 and/or Valleyarm.

20 87. Making server copies of any of the recordings embodying the Subject
21 Compositions identified on Exhibit B requires a license from the copyright owners of
22 the Subject Compositions.

23 88. All Defendants failed to obtain such licenses for each of the recordings
24 embodying the Subject Compositions identified on Exhibit B.

25 89. Google's reproduction of server copies of pirated recordings of the
26 Subject Compositions for sale of permanent downloads in its Google Play store, and
27 authorization of this activity by Limitless and Valleyarm, as well the distribution of
28 the server copies of pirated recordings of Subject Composition to Google, by

1 Limitless and/or Valleyarm, infringes Plaintiffs’ exclusive reproduction and
2 distribution rights under 17 U.S.C. § 106(1) and (3).

3 ***Making Available***

4 90. Defendants have made and continue to make available, or authorize
5 making available, permanent downloads of the recordings of the Subject
6 Compositions identified on Exhibit B to the public by delivering, uploading and/or
7 offering them as permanent downloads in Google Play.

8 91. The Defendants’ making available recordings of the Subject
9 Compositions identified on Exhibit B for permanent downloads, and authorization of
10 this activity, by Limitless and/or Valleyarm, requires a license from the copyright
11 owners of the Subject Compositions

12 92. Defendants failed to obtain such licenses for each recording of the
13 Subject Compositions identified on Exhibit B and have thereby infringed Plaintiffs’
14 exclusive distribution rights under 17 U.S.C. § 106(3) as a “deemed distribution.”
15 *A&M Records v. Napster*, 239 F.3d 1004, 1014 (9th Cir. 2001); *Perfect 10, Inc. v.*
16 *Amazon.com, Inc.*, 487 F.3d 701 718–19 (9th Cir. 2007).

17 ***Importation***

18 93. Importation of phonorecords of a musical composition acquired outside
19 the U.S. requires authorization of the owner of the copyright of the musical
20 composition under Section 602 of the Copyright Act. Importation without the
21 authority of the owner of the copyright in that composition is an infringement of the
22 exclusive distribution rights under 17 U.S.C. § 106(3).

23 94. Defendants have engaged in the unauthorized importation of
24 phonorecords of the Subject Compositions, acquired outside the U.S., by digital
25 phonorecord deliveries, or other means.

26 95. Limitless and Valleyarm are located outside the United States.
27 Valleyarm, at the direction of Limitless, and Google have engaged in the importation
28 of phonorecords of each recording embodying the Subject Compositions listed on

1 Exhibit B into the United States by digital phonorecord delivery, or other delivery of
2 phonorecords.

3 96. None of the Defendants obtained importation authorization from the U.S.
4 copyright owners of the Subject Compositions.

5 97. Defendants' respective importations of phonorecords embodying the
6 Subject Compositions identified on Exhibit B infringe Plaintiffs' exclusive
7 importation rights under 17 U.S.C. § 602 and distribution rights under 17 U.S.C. §
8 106(3).

9 **Willfulness**

10 98. The infringing conduct of all of the Defendants is willful. Limitless
11 knows that it does not have authority to reproduce, distribute or for importation of the
12 recordings of the Subject Compositions listed on Exhibit B, or to authorize these
13 actions by Valleyarm and Google. Limitless has pirated thousands of recordings and
14 sold them in the United States through Google Play.

15 99. Similarly, Valleyarm did not perform any investigation or due diligence
16 to confirm that Limitless had authorization to reproduce, distribute, make, or
17 authorize the making of digital phonorecord deliveries, or the importation, of the
18 recordings of the Subject Compositions identified on Exhibit B.

19 100. In fact, Valleyarm has had knowledge of the infringing conduct of
20 Limitless and has nevertheless continued to make digital phonorecord deliveries and
21 other reproductions and distributions of the pirated recordings of the Subject
22 Compositions that Limitless provides without any licenses, and/or were recklessly
23 indifferent or willfully blind to their own infringing conduct.

24 101. Further, Google has had knowledge of its own infringing conduct and
25 that of Limitless and Valleyarm and has continued to work with them and make digital
26 phonorecord deliveries and other reproductions and distributions of the pirated
27 recordings of the Subject Compositions that Limitless and Valleyarm provide and/or
28 were recklessly indifferent or willfully blind to their own infringing conduct.

1 102. Finally, Google has willfully failed to employ adequate human
2 resources, screening mechanisms, or use of digital fingerprinting technology to detect
3 unlawfully duplicated recordings in their stores that it routinely uses for other
4 services, for example, YouTube, or the Google Play “scan and match” service.

5 103. In addition to the recordings identified on Exhibit B, there are believed
6 to be many other pirated recordings of the Subject Compositions that Defendants have
7 reproduced and distributed without authorization that Plaintiffs have not yet identified
8 or that are no longer available on Google Play.

9 104. The infringement by Defendants of each Subject Composition on each
10 pirated recording identified in the Infringement Chart at Exhibit B began as of the
11 date of upload, receipt, delivery to and/or reproduction by Google of server copies of
12 the pirated recordings of the Subject Compositions designated for reproduction and
13 distribution by Limitless and/or Valleyarm in Google Play and continues to the
14 present. The infringements identified in Exhibit B all occurred within three years of
15 filing this Complaint.

16 105. By their conduct described above, Defendants have infringed and are
17 continuing to infringe Plaintiffs’ copyrights on a regular basis in violation of 17
18 U.S.C. §§ 101, 106, 115, 501, 602 *et seq.*

19 106. As a direct and proximate result of Defendants’ infringement, Plaintiffs
20 are entitled to elect either an award of actual damages, including Defendants’ profits,
21 or statutory damages under 17 U.S.C. § 504(c).

22 107. Defendants’ infringement is and has been willful, intentional, purposeful
23 and with willful disregard of the rights of Plaintiffs. Anything less than maximum
24 statutory damage awards would encourage infringement, amount to a slap on the
25 wrist, and reward Defendants for their willful infringement on a grand scale.

26 108. Plaintiffs are also entitled to their costs, including reasonable attorneys’
27 fees, pursuant to 17 U.S.C. § 505.

28

1 109. Pursuant to 17 U.S.C. § 502, Plaintiffs are entitled to a permanent
2 injunction prohibiting Defendants from reproducing, distributing, importing and
3 selling the pirated recordings of the Subject Compositions without license or
4 authorization in violation of the Copyright Act.

5 **Claim for Copyright Infringement Against**
6 **Google, Valleyarm, and Limitless**

7 110. Plaintiffs repeat each and every allegation of the Complaint.

8 111. Plaintiffs Four Jays Music Company and Julia Riva claim that
9 Defendants Google, Valleyarm, and Limitless have unlawfully reproduced,
10 distributed, and imported unauthorized recordings embodying the Subject
11 Compositions including, but not limited to, the recordings identified in Exhibit B by
12 the methods identified herein, and/or have unlawfully directed or authorized this
13 activity.

14 112. Defendants have thereby willfully infringed, and are continuing to
15 infringe, Plaintiffs' copyrights in the Subject Compositions in violation of the
16 Copyright Act.

17 **Prayer for Relief**

18 WHEREFORE, Plaintiffs respectfully request that judgment be entered against
19 Defendants, jointly and severally, as follows:

- 20 1. A declaration that Defendants have infringed Plaintiffs' copyrights in the
21 Subject Compositions in violation of the Copyright Act;
22 2. A declaration that each of Defendants' infringements was willful;
23 3. At Plaintiffs' election, an award of Plaintiffs' actual damages, including
24 Defendants' profits, or a separate award of statutory damages in amounts
25 to be determined by the jury for all infringements involved in the action,
26 with respect to any one work, for which any one infringer is liable
27 individually, or for which any two or more infringers are liable jointly
28 and severally;

