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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

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

11 NATHAN FILBY, aka MOTOE BLIZZID,
an individual,
12 Plaintiff,

Case No. **CV10-00450 JHN(RZX)**

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT (17 U.S.C. § 501)**

13 v.

DEMAND FOR JURY TRIAL

14 T.I., the stage name of CLIFFORD JOSEPH
HARRIS, an individual; GRAND HUSTLE,
15 a Georgia Limited Liability Company;
ATLANTIC RECORDING
16 CORPORATION, a Delaware Corporation;
WARNER BROS. ENTERTAINMENT,
17 INC., a Delaware Corporation; and DOES 1
through 10, inclusive

BY FAX

18 Defendants.
19

20 NATHAN FILBY, ("Filby"), by and through his attorneys of record, complains
21 against CLIFFORD JOSEPH HARRIS ("Harris"), GRAND HUSTLE ("Grand Hustle"),
22 ATLANTIC RECORDING CORPORATION ("Atlantic"), WARNER BROS.
23 ENTERTAINMENT, INC. ("Warner Bros."), and DOES 1 through 10 ("DOES")
24 (altogether "Defendants"), alleging as follows:

25 **JURISDICTION AND VENUE**

26 1. This is a civil action against Defendants Harris, Grand Hustle, Atlantic,
27 Warner Bros., and DOES 1 through 10 for copyright infringement in breach of the
28

1 Copyright Act, 17 U.S.C. §§ 101 *et seq.* This Court has subject matter jurisdiction
2 pursuant to 17 U.S.C. § 501(a), 28 U.S.C. § 1331, and 28 U.S.C. § 1338(a).

3 2. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 28
4 U.S.C. § 1400(a) in that the claim arises in this Judicial District and the Defendants may be
5 found and transact business in this Judicial District. Defendants are subject to the personal
6 jurisdiction of this Court and are amenable to service of process pursuant to the California
7 Long-Arm Statute, Cal. Civ. Proc. Code § 413.10, and Fed. R. Civ. P. 4(e) and (h).

8 **PARTIES**

9 3. Plaintiff Filby is an individual residing in the County of Los Angeles,
10 California, and is the owner of the infringed intellectual property.

11 4. Plaintiff is informed and believes and, upon such, alleges that Defendant
12 Harris is a resident of the State of Georgia who is currently incarcerated by the federal
13 government. Harris purports to be a co-writer of the infringing work, "What You Know."

14 5. Plaintiff is informed and believes and, upon such, alleges that Defendant
15 Grand Hustle is a Georgia limited liability company based in Georgia that has distributed,
16 and continues to distribute, the infringing work, "What You Know," to the public.

17 6. Plaintiff is informed and believes and, upon such, alleges that Defendant
18 Atlantic is a Delaware corporation based in New York that has distributed, and continues to
19 distribute, the infringing work, "What You Know," to the public.

20 7. Plaintiff is informed and believes that Warner Bros. Entertainment, Inc.
21 ("Warner Bros.") is a Delaware corporation based in Los Angeles. Warner Bros. created
22 and distributed the motion picture *ATL*, which makes use of the song "What You Know."

23 8. The true names or capacities, whether individual, corporate or otherwise, of
24 the Defendants named herein as DOES 1 through 10, inclusive, are unknown to Plaintiff,
25 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
26 Court to amend this Complaint and insert the true names and capacities of said Defendants
27 when the same have been ascertained.

1 16. Defendant Harris, among others, purports to have co-written “What You
2 Know.”

3 17. Both *King* and “What You Know” proved to be sensational hits for Defendant
4 Harris. As reported by Billboard in April of 2006, *King* reached No. 1 on the Billboard
5 200, No. 1 in Digital albums, and No. 1 in Rap Albums.

6 18. Furthermore, the song “What You Know” peaked at No. 3 in Billboard’s Hot
7 100, No. 1 in R&B/Hip-Hop Songs, and No. 2 in Digital Songs in April of 2006. It also
8 reached No. 2 in Radio Songs in May of 2006.

9 19. “What You Know” also earned Defendant Harris a Grammy award for Best
10 Rap Solo Performance at the 49th Annual Grammy Awards.

11 **FIRST CLAIM FOR RELIEF**

12 **(Copyright Infringement, 17 U.S.C. § 501)**

13 **(Against All Defendants)**

14 20. Plaintiff Filby incorporates here by reference the allegations in paragraphs 1
15 through 19 above.

16 21. Plaintiff Filby is the owner of all rights, title and interest in the copyrights to
17 the musical work “Reverence.” This musical work was created by Filby in or around
18 October 2004, and substantially consists of material wholly original with Plaintiff and is
19 copyrightable subject matter under the laws of the United States. Furthermore, Plaintiff
20 Filby has complied in all respects with the Copyright Act and all of the laws of the United
21 States governing copyrights. “Reverence” has been registered with the United States
22 Copyright Office.

23 22. Defendants infringed Plaintiff Filby’s copyright with the infringing work
24 entitled “What You Know” which is substantially similar to Filby’s work entitled
25 “Reverence.” Among other things and without limitation, some of the noticeable
26 similarities are as follows:

27
28 ² See <http://www.myspace.com/motoeblizzid>
16001

- 1 a. Both works are substantially similar in total concept and feel.
- 2 b. Both songs are in the same contemporary R&B or Urban music style.
- 3 c. Both works were composed in a singular form comprised of only one
- 4 section repeated throughout.
- 5 d. Both songs share the same rate of harmonic change.
- 6 e. Both works are curiously similar in the selection of instruments used in
- 7 the arrangement. Specifically, both incorporate an 808 style drum
- 8 machine, a vocal element, a synthesized brass horn inspired element, a
- 9 pulsating piano³, and synthesized violins.
- 10 f. Both works are based upon a virtually identical core harmonic
- 11 progression of descending 4ths. To illustrate in traditional Roman
- 12 Numeral Analysis, “Reverence” and “What You Know” share the
- 13 sequential harmonic pattern VI – III – bVII – IV – i.⁴
- 14 g. Both works share nearly identical instrumental melodic lines in terms of
- 15 pitch, shape, and rhythm. Provided below are reductions of the two
- 16 works at issue to their core melodic and harmonic elements for purposes
- 17 of side-by-side comparison in musical notation.
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26 ³ In bars 3 and 4, and each respective reiteration thereafter.

27 ⁴ While both works do share virtually identical harmonic sequences, Filby’s “Reverence” treats

28 this sequence as a malleable source with which to impose stylistic techniques such as repeating certain isolated beats and partial sections, à la a turntablist, resulting in intentional variances from the original source sequence.

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What You Know by T.I.

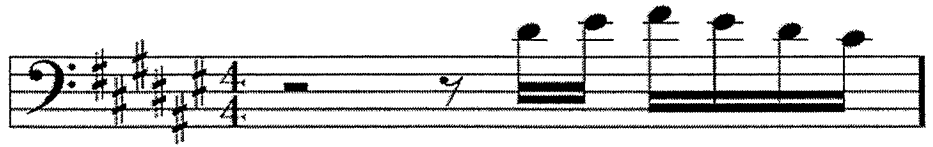
Reverence by Nathan Filby

(1) When closely examined one bar at a time the melodic similarities are plain to see. First, the pickup notes leading to the first bar of music in the Defendants' work are an identical replication of the pickup notes in Filby's composition that has merely been transposed from the key of G minor to D# minor. Both begin on the root note of the key and follow identically up to the minor third and back down to the minor seventh by way of stepwise diatonic passing tones.

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Excerpt of What You Know by T.I.

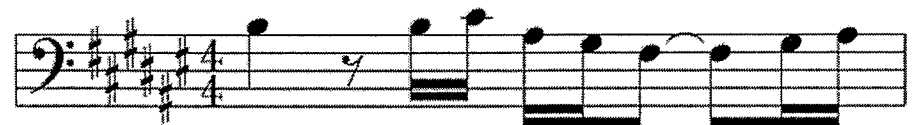


Excerpt of Reverence by Filby



- (2) Turning next to the first bar of music, both the Defendants' and Filby's works begin with a quarter note on the root, followed by an eighth note rest and two sixteenth note neighboring tones. The third and fourth beats of both works are comprised of almost identical melodic lines. Specifically, both begin on the chord tone of a major third, progress down to the root of the chord, briefly pause and then work back up to the major third.

Excerpt of What You Know by T.I.



Excerpt of Reverence by Filby



(3) The second bars of each work are perhaps the most demonstrative of the misappropriation of Filby's musical composition. It is in this bar that it becomes apparent that both works make use of the compositional tool of a modulating sequence.⁵ In reiterating the melodic architecture of bar 1 in bar 2, both works do so with the substitution of the diatonic pitch anticipated to be on beat 3 for a pitch raised by one half-step. Namely, the B[#] present in "What You Know" acts as the major third in G[#] major – a chord borrowed from D[#] minor's relative major key. Precisely the same borrowing from the relative major key appears in Filby's work as an E natural, the major third in C major. In light of this, selecting to alter the diatonic tendency of this chord from minor to major by way of the B[#] indicates a truly uncanny degree of similarity between the works.

Excerpt of What You Know by T.I.



Excerpt of Reverence by Filby

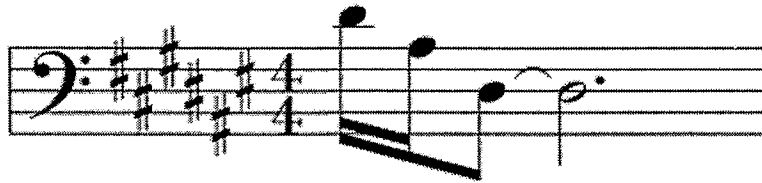


(4) The third bars of music also exhibit substantial similarity. While Filby's work maintains a whole note on the tonic, the Defendants'

⁵ A modulating sequence occurs when a pattern is repeated strictly in its second instantiation,

1 work utilizes a simple arpeggiation of the I chord. Both function
2 in the same way as a resolution from the preceding figures with
3 the only difference being the Defendants' inclusion of
4 harmonically neutral rhythmic flourish.

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6 *Excerpt of What You Know by T.I.*



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11 *Excerpt of Reverence by Filby*

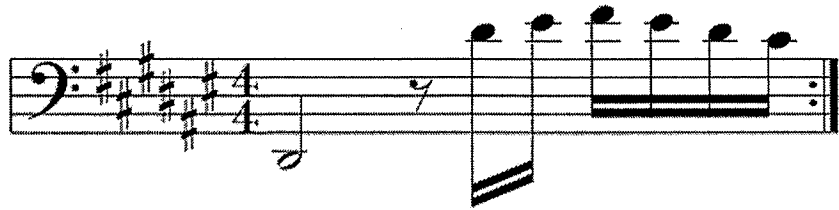


- 15
16 (5) Finally, the fourth bars of each piece very closely resemble the
17 pickup notes addressed herein above. The Defendants' fourth bar
18 is an identical replication of Filby's composition merely
19 transposed from the key of G minor to D# minor. Both begin with
20 a half note on the root of the key, an eighth note rest, then leap up
21 one octave and follow identically from there up to the minor third
22 and back down to the minor seventh by way of stepwise diatonic
23 passing tones.

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28 irrespective of a work's governing key, in the same voice but beginning on a different pitch class.

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Excerpt of What You Know by T.I.



Excerpt of Reverence by Filby



23. As demonstrated above, the more closely the Defendants' work is examined, the more substantially similar it proves to be. Each and every bar of the work "What You Know" has reproduced substantial amounts of protected compositional material authored by Filby and present in "Reverence."

24. The substantial similarities shown above, as well as all other similarities, rise to the level of striking similarity thereby imputing access to the allegedly infringed work.

25. Being that the entirety of "What You Know" is comprised of the same four bar phrase repeated throughout, the fact that said phrase is strikingly similar to "Reverence" indicates that the infringing work amounts to nothing more than a thinly veiled version of Filby's work with a new rap vocal component.

26. In addition, access to "Reverence" occurred via its publication on Myspace.com on and through Filby's direct distribution of copies of "Reverence" to an agent of Relentless Management who is an associate of Defendant Harris and/or his agents, among others.

1 27. Defendants have directly, vicarious and/or contributorily infringed upon
2 Filby's rights to "Reverence" by incorporating its protected elements into the unauthorized
3 reproductions and/or derivative versions of the infringing work, "What You Know."

4 28. Defendants included the allegedly infringing work on Harris's album *King*, as
5 well as released it as a single, included it on various compilation albums, authorized its
6 synchronization to the film *ATL*, and, on information and belief, released other infringing
7 derivative works, such as ringtones. Defendants have therefore willfully infringed, and
8 unless enjoined, will continue to infringe Filby's copyright to "Reverence" by knowingly
9 reproducing, distributing and utilizing for purposes of trade and promotion unauthorized
10 copies and/or derivative versions of the copyrighted work of Filby and the copyrighted
11 elements embodied therein.

12 29. Defendants have received substantial benefits in connection with the
13 unauthorized reproduction, distribution and utilization for purposes of trade, and promotion
14 of reproductions and/or derivative versions of the copyrighted work of Filby. For example,
15 Defendants have made available, and continue to make available, the allegedly infringing
16 album *King* and the "What You Know" single for purchase on numerous websites,
17 including <http://www.amazon.com> and Apple's iTunes Music Store.

18 30. All of the Defendants' acts herein described were performed and continue to
19 be performed without the permission, license or consent of Filby.

20 31. The said wrongful acts of Defendants have caused, and are causing, great
21 injury to Filby, for which damages cannot be accurately computed. Unless this Court
22 restrains Defendants from further commission of said acts, Filby will suffer irreparable
23 injury for which he is without an adequate remedy at law. Accordingly, Filby seeks a
24 declaration that Defendants are infringing Filby's copyrights and an order under 17 U.S.C.
25 § 502 enjoining Defendants from any further infringement of Filby's copyrights.

26 32. As a result of the acts of Defendants alleged herein, Filby has suffered and is
27 suffering substantial damage to his business in the form of diversion of trade, loss of
28 profits, injury to goodwill and reputation, and the dilution of the value of his rights, all of

1 which are not yet fully ascertainable. Unless enjoined, Defendants will continue to infringe
2 Filby's copyrights by reproducing, distributing and utilizing for purposes of trade,
3 unauthorized copies and/or derivatives of "Reverence" in violation of 17 U.S.C. § 501 *et*
4 *seq.*

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff requests judgment against Defendants as follows:

7 1. Defendants, their officers, agents, servants, employees, representatives, and
8 attorneys, and all persons in active concert or participation with them, be permanently
9 enjoined from reproducing, displaying, performing, promoting, advertising, distributing, or
10 selling, or any other form of dealing or transaction in, any and all products and services that
11 infringe, contributorily infringe, or vicariously infringe upon Plaintiff Filby's copyrights.

12 2. A seizure order be entered directing the U.S. Marshall to seize and impound
13 all items possessed, owned or under the control of Defendants, their officers, agents,
14 servants, employees, representatives and attorneys, and all persons in active concert or
15 participation with them, which infringe upon Plaintiff Filby's copyrights, including but not
16 limited to any products and services that infringe, contributorily infringe, or vicariously
17 infringe upon Plaintiff Filby's copyrights.

18 3. Defendants be held liable to Plaintiff for actual damages and disgorgement of
19 all profits derived by Defendants from their acts of copyright infringement pursuant to 17
20 U.S.C. §§ 504 (a)(1) & (b).

21 4. Attorneys' fees, cost of suit and prejudgment interest.

22 5. That Plaintiff be awarded any such other and further relief as the Court may
23 deem just and appropriate.

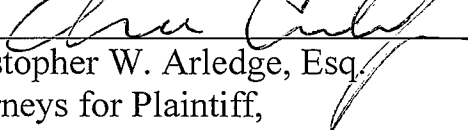
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1 Dated: January 21, 2009

2 PETER R. AFRASIABI
3 CHRISTOPHER W. ARLEDGE
4 JOHN TEHRANIAN
5 ONE LLP

6 By: 
7 Christopher W. Arledge, Esq.
8 Attorneys for Plaintiff,
9 NATHAN FILBY

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