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12 ASSOCIATED PRODUCTION MUSIC LLC

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

15 ASSOCIATED PRODUCTION
16 MUSIC LLC, a New York limited
17 liability company,

18 Plaintiff,

19 vs.

20 JOHNSON & JOHNSON, a New
21 Jersey Corporation;

22 Defendant.

CASE NO. 2:24-cv-7579

COMPLAINT FOR:

- 23 **1. DIRECT COPYRIGHT**
- 24 **INFRINGEMENT**
- 25 **2. CONTRIBUTORY COPYRIGHT**
- 26 **INFRINGEMENT**
- 27 **3. VICARIOUS COPYRIGHT**
- 28 **INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Associated Production Music LLC (“APM” or “Plaintiff”), by and
2 through its undersigned attorneys, brings this complaint (the “Complaint”) against
3 Johnson & Johnson, a New Jersey Corporation (“Defendant”) upon knowledge and
4 belief as to itself and as to all other matters upon information and belief of its
5 undersigned attorneys.

6 **NATURE OF THE ACTION**

7 1. This is an action for copyright infringement in connection with the
8 United States terms of copyright (the “Copyrights”) in the sound recordings listed
9 on **Exhibit 1** to the Complaint (the “Recordings”) and incorporated herein.

10 **PLAINTIFF**

11 2. Plaintiff APM is a New York limited liability company with its
12 principal place of business located in Hollywood, California.

13 **DEFENDANT**

14 3. Defendant Johnson & Johnson is a corporation organized under the
15 laws of New Jersey, with its principal place of business in New Brunswick, New
16 Jersey. It is the parent company of many subsidiaries, spin-offs, and related brands.

17 **JURISDICTION AND VENUE**

18 4. Subject matter jurisdiction is appropriate to this Court under 28 U.S.C.
19 §§ 1331 and 1338 because this action arises under the Copyright Laws of the
20 United States (17 U.S.C. §§ 101 et seq.), and this Court has supplemental
21 jurisdiction over any related state law claims under 28 U.S.C. § 1367.

22 5. This Court has personal jurisdiction over Defendant in that, among
23 other things, Defendant’s conduct caused injury to APM and its intellectual
24 property within the State of California through exploitation of the Recordings on
25 YouTube, X (formerly Twitter), Instagram, and Facebook, all California-based
26 companies, accessible to California-based consumers. Additionally, Defendant: (a)
27 regularly does business or solicits business in the State of California, (b) engages in
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1 a persistent course of conduct in the State of California, (c) derives substantial
2 revenue from consumers located in the State of California, (d) expects or should
3 reasonably expect its acts to have consequences in the State of California, and (e)
4 derives substantial revenue from interstate commerce.

5 6. Venue is appropriate under 28 U.S.C. §§ 1391 and 1400 because a
6 substantial part of the events giving rise to the claims occurred in Los Angeles
7 County, and Defendant's actions caused injury in Los Angeles County.

8 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

9 7. APM is the leading production music company in North America.
10 Production music is the name given to recorded music that is intended to be
11 licensed to customers for use in film, television, radio, and other media. With more
12 than one million tracks, APM's production music catalog is the largest, deepest,
13 and broadest music collection in the production music industry. Indeed, APM's
14 catalog consists of over 50 diverse and in-demand production music libraries,
15 including KPM Music, Bruton, Sonoton, Cezame, and Kosinus. Some of APM's
16 most well-known tracks are "Heavy Action" (a.k.a. The Theme for *Monday Night*
17 *Football*), "The Big One" (a.k.a. The Theme for *The People's Court*), and "Sweet
18 Victory" (from the *SpongeBob SquarePants* episode "Band of Geeks"). APM's
19 music has also been synchronized on major entertainment properties such as
20 *GLOW*, *This is Us*, *Westworld*, *The Americans*, *Stranger Things*, *Atlanta*, *Game of*
21 *Thrones*, *SpongeBob SquarePants*, *The Ren & Stimpy Show*, *Lady Bird*, *Mudbound*,
22 *The Disaster Artist*, *The Big Sick*, *The Shape of Water*. *Call of Duty: Infinite*
23 *Warfare*, *Tom Clancy's Ghost Recon Wildlands*, the *Saints Row* series, and *MLB:*
24 *The Show*.

25 8. As the North American subpublisher of its highly valuable catalog,
26 which includes the Copyrights to the Recordings, APM possesses the exclusive
27 rights to record, reproduce, distribute, advertise, and otherwise exploit such
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1 copyrighted works, as well as to license others to do so in exchange for the payment
2 of royalties or fees customarily associated with the issuance of such licenses.

3 9. Defendant Johnson & Johnson is the parent company of numerous
4 entities operating throughout the United States. Johnson & Johnson operates its
5 own YouTube, Instagram, Facebook, and X (formerly Twitter) channels on which it
6 posts numerous promotions and advertisements for its and its subsidiaries'
7 products. Some of these brands and subsidiaries are held by a recently created
8 Johnson & Johnson spinoff or subsidiary, Kenvue, Inc.

9 10. There are numerous Johnson & Johnson channels solely dedicated to
10 specific subsidiaries, brands and affiliates on YouTube, Instagram, Facebook and X
11 (formerly Twitter).

12 11. In or about 2024, APM became aware that defendant, Johnson &
13 Johnson, and its affiliated and/or wholly owned subsidiaries' and brands' social
14 media channels, have engaged, and are currently engaging in, rampant infringement
15 of the Recordings by exploiting them in connection with numerous promotional
16 postings as listed on **Exhibit 1** to the Complaint and incorporated by reference
17 herein.

18 12. At no point did Defendant ever obtain APM's license, authorization, or
19 consent to synchronize the Recordings with the Videos. Moreover, despite being
20 repeatedly contacted by APM regarding Defendant's unlicensed uses of the
21 Recordings, Defendant has refused to obtain proper licenses or admit wrongdoing.

22 **FIRST CAUSE OF ACTION**

23 **DIRECT COPYRIGHT INFRINGEMENT**

24 13. Plaintiff hereby incorporates the allegations set forth above in
25 paragraphs 1 through 12, as though fully set forth herein.

26 14. Without Plaintiff's authorization, license, or consent, Defendant
27 reproduced, distributed, and/or publicly performed the Recordings as part of the
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1 Videos, thereby infringing Plaintiff's exclusive rights of copyright to the
2 Recordings under the Copyright Act, 17 U.S.C. §§ 106, 501.

3 15. On information and belief, Defendant has authorized the reproduction,
4 distribution, and/or public performance of the Recordings by synchronizing the
5 Recordings with the Videos on YouTube, and by further distributing the Videos on
6 platforms such as Facebook, Instagram, and X (formerly known as Twitter).

7 16. Each unauthorized reproduction, distribution, and/or public
8 performance of the Videos constitutes a separate and distinct act of copyright
9 infringement of the Recordings.

10 17. Defendant's conduct has been intentional, willful and with full
11 knowledge of Plaintiff's copyrights in the Recordings and the direct infringement
12 thereof.

13 18. Pursuant to 17 U.S.C. § 504(b), as a direct and proximate result of
14 Defendant's direct infringement of Plaintiff's copyrights, Plaintiff is entitled to
15 recover its actual damages, including Defendant's profits from infringement, as will
16 be proven at trial. Alternatively, pursuant to 17 U.S.C. § 504(c), Plaintiff is entitled
17 to recover up to \$150,000 in statutory damages per work infringed.

18 19. Plaintiff is also entitled to recover its attorneys' fees and costs pursuant
19 to 17 U.S.C. § 505, and prejudgment interest according to law.

20 20. Defendant is causing, and unless enjoined by the Court, will continue
21 to cause, Plaintiff irreparable harm for which Plaintiff has no adequate remedy at
22 law. Plaintiff is entitled to an injunction under 17 U.S.C. § 502, prohibiting the
23 continued infringement of the Recordings and an order under 17 U.S.C. § 503
24 directing the impoundment, destruction or other reasonable disposition of all
25 infringing works, including the Videos.

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1 **SECOND CAUSE OF ACTION**

2 **CONTRIBUTORY COPYRIGHT INFRINGEMENT**

3 21. Plaintiff hereby incorporates the allegations set forth above in
4 paragraphs 1 through 20, as though fully set forth herein.

5 22. Through their conduct alleged herein, Defendant knowingly and
6 systematically induced, caused, materially contributed to and participated in
7 infringing distribution by third parties of the Recordings, including, without
8 limitation, by way of reproduction, distribution, and/or public performance through
9 the YouTube platform. Specifically, by licensing to YouTube the right to
10 reproduce, distribute, and/or publicly perform the Videos, Defendant induced and
11 encouraged YouTube, Instagram, X (formerly known as Twitter), and Facebook to
12 directly infringe Plaintiff's Copyrights.

13 23. Defendant's conduct has been and continues to be intentional, willful
14 and with full knowledge of Plaintiff's copyrights in the Recordings, and the
15 contributory infringement thereof.

16 24. Pursuant to 17 U.S.C. § 504(b), as a direct and proximate result of
17 Defendant's contributory infringement of Plaintiff's copyrights, Plaintiff is entitled
18 to recover its actual damages, including Defendant's profits from infringement, as
19 will be proven at trial. Alternatively, pursuant to 17 U.S.C. § 504(c), Plaintiff is
20 entitled to recover up to \$150,000 in statutory damages per work infringed.

21 25. Plaintiff is also entitled to recover its attorneys' fees and costs pursuant
22 to 17 U.S.C. § 505, and prejudgment interest according to law.

23 Defendant is causing, and unless enjoined by the Court, will continue to cause,
24 Plaintiff irreparable harm for which Plaintiff has no adequate remedy at law.
25 Plaintiff is entitled to an injunction under 17 U.S.C. § 502 prohibiting the continued
26 contributory infringement of the Recordings and an order under 17 U.S.C. § 503
27 directing the impoundment, destruction or other reasonable disposition of all
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1 infringing works.

2 **THIRD CAUSE OF ACTION**

3 **VICARIOUS COPYRIGHT INFRINGEMENT**

4 26. Plaintiff hereby incorporated the allegations set forth in paragraphs 1-
5 25, as though fully set forth herein.

6 27. Through their conduct alleged herein, Defendant knowingly and
7 systematically induced, caused, materially contributed to and participated in
8 infringing distribution by third parties of the Recordings, including without
9 limitation, by way of reproduction, distribution, and/or public performance through
10 the various websites listed on **Exhibit 1**. Specifically, Defendant enjoyed a direct
11 financial benefit from the reproduction, distribution, and/or public performance of
12 the Videos while having the right and ability to supervise the infringing activity yet
13 failed to exercise that right and ability to prevent the infringing activity.

14 28. Defendant's conduct has been and continues to be intentional, willful
15 and with full knowledge of Plaintiff's copyrights in the Recordings, and the
16 contributory infringement thereof.

17 29. Pursuant to U.S.C. § 504(b), as a direct and proximate result of
18 Defendant's vicarious infringement of Plaintiff's copyrights, Plaintiff is entitled to
19 recover their actual damages, including Defendant's profits from infringement, as
20 will be proven at trial. Alternatively, pursuant to 17 U.S.C. § 504(c), Plaintiff is
21 entitled to recover up to \$150,000 in statutory damages per work infringed.

22 30. Plaintiff is also entitled to recover its attorneys' fees and costs pursuant
23 to 17 U.S.C. § 505, and prejudgment interest according to law.

24 31. Defendant is causing, and unless enjoined by the Court will continue
25 to cause, Plaintiff irreparable harm for which Plaintiff has no adequate remedy at
26 law. Plaintiff is entitled to an injunction under 17 U.S.C. § 502 prohibiting the
27 continued vicarious infringement of the Recordings and an order under 17 U.S.C.
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1 § 503 directing the impoundment, destruction or other reasonable disposition of all
2 infringing works.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for Judgment as follows:

5 **On the First Claim for Direct Copyright Infringement:**

- 6 1. For an award of damages, including actual damages and the disgorgement of
7 any and all gains, profits and advantages obtained by Defendant, as a result
8 of its acts of infringement in an amount according to proof at trial, or,
9 alternatively, for an award of statutory damages in an amount of up to
10 \$150,000 per work infringed, according to proof at the time of trial;
11 2. For a temporary, preliminary and permanent injunction, prohibiting the
12 continued infringement of the Recordings during the terms of copyright; and
13 3. For attorneys' fees and costs.

14 **On the Second Claim for Contributory Copyright Infringement:**

- 15 1. For an award of damages, including actual damages and the disgorgement of
16 any and all gains, profits and advantages obtained by Defendant, as a result
17 of their acts of contributory infringement in an amount according to proof at
18 trial, or, alternatively, for an award of statutory damages in an amount of up
19 to \$150,000 per work infringed, according to proof at the time of trial;
20 2. For a temporary, preliminary and permanent injunction, prohibiting the
21 continued infringement of the Recordings during the terms of copyright; and
22 3. For attorneys' fees and costs.

23 **On the Third Claim for Vicarious Copyright Infringement:**

- 24 1. For an award of damages, including actual damages and the disgorgement of
25 any and all gains, profits and advantages obtained by Defendant, as a result
26 of its acts of vicarious infringement in an amount according to proof at trial,
27 or, alternatively, for an award of statutory damages in an amount of up to
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- 1 \$150,000 per work infringed, according to proof at the time of trial;
- 2 2. For a temporary, preliminary, and permanent injunction, prohibiting the
- 3 continued infringement of the Recordings during the terms of copyright; and
- 4 3. For attorneys' fees and costs.

5 **On All Claims For Relief:**

- 6 1. For costs of suit and attorneys' fees incurred herein;
- 7 2. For prejudgment interest at the legal rate; and
- 8 3. For such other and further relief as the Court deems just and proper.

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10 Dated: September 5, 2024

JOHNSON & JOHNSON LLP

11 By /s/ Douglas L. Johnson

12 Douglas L. Johnson

13 Neville L. Johnson

14 Frank R. Trechsel

Attorneys for Plaintiff

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

Dated: September 5, 2024

JOHNSON & JOHNSON LLP

By /s/ Douglas L. Johnson
Douglas L. Johnson
Neville L. Johnson
Frank R. Trechsel
Attorneys for Plaintiff

