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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 NOTORIOUS B.I.G. LLC, a Delaware
15 limited liability company,

16 Plaintiff,

17 vs.

18 LEE HUTSON, an individual, d/b/a
19 SILENT GIANT PUBLISHING
20 COMPANY,

21 Defendant.

CASE NO.

COMPLAINT FOR:

- (1) DECLARATORY JUDGMENT –
COPYRIGHT NON-INFRINGEMENT
- (2) DECLARATORY JUDGMENT –
FAIR USE
- (3) DECLARATORY JUDGMENT –
COPYRIGHT MISUSE
- (4) DECLARATORY JUDGMENT –
LACHES
and
- (5) DECLARATORY JUDGMENT –
STATUTE OF LIMITATIONS

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COMPLAINT

1 Plaintiff Notorious B.I.G. LLC ("Plaintiff") hereby files this Complaint and
2 alleges as follows:

3 **SUMMARY OF ACTION**

4 1. Plaintiff is the legal representative of the late Christopher George
5 Latore Wallace ("Mr. Wallace"), a recording artist professionally known as "The
6 Notorious B.I.G.," "Biggie," and "Biggie Smalls." Mr. Wallace's recordings are
7 well-known and beloved the world over; *Rolling Stone* has published material
8 declaring him "the greatest rapper that ever lived."

9 2. On September 13, 1994, Mr. Wallace released his first album, "*Ready*
10 *to Die*" (the "Album"), through Bad Boy Entertainment, Inc., d/b/a/ Bad Boy
11 Records ("Bad Boy"). To date, the Album has sold over four million copies,
12 having been certified as "quadruple platinum" by the Recording Industry
13 Association of America. In 2006, *Time* named the Album to their list of the
14 "greatest and most influential musical compilations since 1954."

15 3. The Album contains a recording entitled "*The What*" (the
16 "Recording"). Starting in August 2012 – ~~eighteen~~ **years** after the Album was
17 published – Defendant Lee Hutson, d/b/a Silent Giant Publishing Company
18 ("Defendant" or "Mr. Hutson") began a campaign of accusations against Plaintiff,
19 claiming that the Recording violated his alleged copyright in "*Can't Say Enough*
20 *About Mom*" ("*Can't Say Enough*").

21 4. Defendant's accusations are without basis. On information and belief,
22 the Recording merely samples two non-sequential tones from *Can't Say Enough*,
23 and it has been adapted, modified, and supplemented substantially from its original
24 form. The use has not violated any valid copyright interest held by Defendant, and
25 it is both *de minimis* and fair use. Moreover, any claim made by Defendant is
26 barred by the statute of limitations on copyright claims and the doctrine of laches.
27 Finally, Defendant has misused his alleged copyright by threatening action while
28 knowing that no infringement exists.

1 5. Therefore, spurred on by Defendant's ongoing, intensifying, and
2 ultimately baseless accusations, Plaintiff now respectfully files this civil action for
3 declaratory relief in order to assert and protect its rights.

4 **PARTIES**

5 6. Plaintiff, a Delaware limited liability company, is the corporate entity
6 that controls and manages the intellectual property rights of Mr. Wallace's estate.
7 It is managed by Mr. Wallace's widow, Faith Evans, an individual residing in the
8 state of California, and by Mr. Wallace's mother, Voletta Wallace, an individual
9 residing in the commonwealth of Pennsylvania.

10 7. On information and belief, Defendant is an individual residing and
11 operating a business in Miami-Dade County, Florida.

12 **JURISDICTION AND VENUE**

13 8. This Court has original jurisdiction over the subject matter of this
14 action pursuant to 28 U.S.C. §§ 1331 and 1338, as this case arises under the
15 Copyright Act, 17 U.S.C. §§ 101, *et. seq.* This court also has jurisdiction under the
16 Declaratory Judgment Act, 28 U.S.C. § 2201-2202.

17 9. Venue is proper in this judicial district under 28 U.S.C. § 1391.

18 **FACTUAL BACKGROUND**

19 **Defendant's Alleged Copyright in *Can't Say Enough***

20 10. On information and belief, *Can't Say Enough* was written as a joint
21 composition between Defendant and another individual, Michael Hawkins.

22 11. On information and belief, in 1973, a copyright in *Can't Say Enough*
23 was allegedly issued jointly to Aopa Publishing Company ("Aopa") and
24 Defendant. On information and belief, in 1974, the sound recording at issue of
25 *Can't Say Enough* was published by Curtom Records ("Curtom") of Atlanta,
26 Georgia, which, on information and belief, was owned solely by musician Curtis
27 Mayfield ("Mr. Mayfield") at the time. On information and belief, pursuant to a
28 contract between Defendant, Mr. Hawkins, and Curtom, Curtom was given sole

1 ownership of the master recording of *Can't Say Enough*.

2 12. On information and belief, on March 16, 1989, Mr. Mayfield signed a
3 document (the "Alleged Conveyance") stating that, as "... sole owner of Curtom
4 Records ..." he wished to "return and convey back to [Defendant], ownership of
5 all of his master sound recordings along with all rights, title, & interest thereto to
6 sell, assign, convey, transfer, exploit, and license to whomever and in whatever
7 manner [Defendant] sees fit." The Alleged Conveyance did not identify *Can't Say*
8 *Enough* by name.

9 13. Plaintiff is unaware of any such contract between Curtom and Mr.
10 Hawkins, and indeed, Defendant has informed Plaintiff that "Michael Hawkins had
11 no dealings of any kind with Mr. Mayfield."

12 **The Creation of the Recording**

13 14. The Recording was written by Mr. Wallace, Osten Harvey, Jr. ("Mr.
14 Harvey"), professionally known as "Easy Mo Bee," and Clifford Smith ("Mr.
15 Smith"), professionally known as "Method Man." Harvey served as producer,
16 creating the Recording's "beat," while Mr. Wallace and Mr. Smith wrote and
17 performed the song's lyrics.

18 15. On information and belief, Mr. Harvey began constructing the
19 Recording by composing an original snare and bass drum rhythm. On information
20 and belief, in order to add instrumentation, Mr. Harvey composed original bass and
21 guitar lines, which he "looped" to create a low-register musical track. On
22 information and belief, Mr. Harvey also composed an additional organ track,
23 which he inserted intermittently throughout the Recording. On information and
24 belief, Mr. Harvey then carefully and purposefully combined all of these elements
25 to create a backing track for the Recording.

26 16. Finally, on information and belief, Mr. Harvey sampled two faint
27 tones (the "Sample") from the final 1.9 seconds (i.e. the "fade out") of *Can't Say*
28 *Enough*. On information and belief, these tones were created by (1) a guitar

1 playing a single Ebm9 chord, which was run through a guitar pedal effects unit;
2 and (2) a fading “back-up” vocal.

3 17. In *Can’t Say Enough*, the Sample presents as an extremely faint “wah-
4 wah” sound, which appears to oscillate between high and low frequencies. Other
5 than the “fade out,” the Sample is not part of any sustained pattern in *Can’t Say*
6 *Enough*.

7 18. On information and belief, Mr. Harvey then significantly modified
8 and fragmented the Sample. On information and belief, Mr. Harvey began by
9 transposing the Sample to match the “pitch center” of E-Flat minor that he had
10 selected for the Recording. On information and belief, Mr. Harvey next removed
11 the lowest frequencies of the Sample, leaving behind only the higher-end
12 frequencies of the “wah-wah” sound (the “Base Tone”). On information and
13 belief, Mr. Harvey then modified the length of the higher end frequencies, creating
14 a shortened, “chopped” version of the same (the “Short Tone”). Finally, on
15 information and belief, to create his desired end-product, Mr. Harvey created an
16 original musical pattern comprised of the Short Tone, followed by the Base Tone, a
17 rest, and then the Base Tone twice again, in rapid succession (the “New Pattern”).
18 On information and belief, Mr. Harvey then wove the New Pattern into the backing
19 track, creating a new and original compositional expression within the Recording.

20 19. On July 19, 1994, prior to the release of the Recording on the Album,
21 Mr. Wallace and Mr. Harvey entered into a contract (the “Producer Agreement”)
22 wherein Mr. Harvey warranted and represented that “no materials furnished by
23 [Mr. Harvey] hereunder, or any use thereof, will violate any law or infringe upon
24 or violate the rights of any third party.” Mr. Harvey then further agreed that he
25 would “indemnify, save and hold [Mr. Wallace], Bad Boy, and any other
26 distributor(s) and their respective officers shareholders and assigns harmless from
27 any and all loss and damage (including court costs and reasonable attorneys’ fees)
28 arising out of, connected with or as a result of any inconsistency with, failure of, or

1 breach or threatened breach by [Mr. Harvey] of any warranty, representation,
2 agreement, undertaking, or covenant contained in t[he] Producer Agreement,
3 including, without limitation, any claim by any third party in connection with the
4 foregoing.”

5 **Defendant’s Long Delay and Ongoing Campaign of Harassment**

6 20. For *eighteen years*, as the Album sold millions of copies and gained
7 critical accolades, and as the Recording enjoyed wide-spread radio play around the
8 world, Defendant took no action to declare any rights in the Recording, nor did he
9 accuse Plaintiff, Mr. Harvey, Mr. Smith, or Bad Boy of copyright infringement in
10 regards to *Can’t Say Enough*.

11 21. Eventually, *eighteen years* after the release of the Recording on the
12 Album, on information and belief, in or around July 2012, Defendant hired Larry
13 Zerner, Esq. (“Mr. Zerner”), a California attorney, to serve as his legal
14 representative. On August 1, 2012, Mr. Zerner sent a letter to Bad Boy, in which
15 Defendant accused Bad Boy, Mr. Wallace, Atlantic Records, Warner Music Group,
16 and “all of the other parties responsible” of allegedly infringing *Can’t Say Enough*
17 through publication of the Recording. In concluding the letter, Mr. Zerner
18 cautioned Bad Boy that if he did not receive a response by August 8, 2012,
19 Defendant would have “no choice but to proceed to litigation.”

20 22. On January 13, 2013, citing “little progress,” Defendant personally
21 contacted Bad Boy, informing it that “Attorney Larry Zerner no longer represents
22 us in this matter.” In the letter, Defendant insisted he was owed a settlement
23 agreement “that I can accept and [that] will not be an insult.”

24 23. The same day, Defendant sent out a “Cease and Desist” letter to Bad
25 Boy, once again insisting that the Recording had infringed his alleged copyright.
26 In concluding the letter, Defendant stated that if Bad Boy failed to reply or comply
27 with its demands, he would “retain litigation counsel to institute an action for
28 willful copyright infringement” against Plaintiff.

1 24. On January 30, 2013, roughly two weeks later, Defendant again
2 personally contacted Bad Boy, informing it that he had retained Alan S. Clarke,
3 Esq. ("Mr. Clarke"), a Georgia attorney, to represent his alleged interest in *Can't*
4 *Say Enough*.

5 25. On March 27, 2013, Mr. Clarke sent a letter to Bad Boy, Plaintiff
6 Universal Music Group ("Universal"), EMI Music Publishing ("EMI"), BMI, and
7 ASCAP, demanding that a "legal hold" be placed on "all royalties of [the
8 Recording]," including a stop to "all distribution" of the Album "within seven days
9 of this correspondence." In supporting Defendant's accusation of copyright
10 infringement, Mr. Clarke claimed as supporting evidence that Wikipedia had
11 identified Defendant as the author of the Sample, before admitting that Defendant
12 owned only a "portion" of *Can't Say Enough*.

13 26. On March 28, 2013, Mr. Clarke sent an additional letter to Bad Boy
14 and Plaintiff, once again claiming that the Recording infringed a copyright
15 allegedly held by Defendant. In compensation for Plaintiff's alleged
16 infringement, Defendant demanded 50% ownership of the Recording, 50% of all
17 income attributable to the Recording, and attorneys' fees up to that date. The letter
18 concluded by informing Bad Boy and Plaintiff that if they failed to meet the
19 letter's demands, Mr. Clarke would advise Defendant to file "an action against
20 [Bad Boy and Plaintiff] for copyright infringement in the United States Court for
21 the Northern District of Georgia."

22 27. In early April 2013, Plaintiff contacted Defendant in order to address
23 Mr. Hutson's accusations. Plaintiff and Defendant agreed to engage in dialogue
24 regarding Defendant's claims of copyright infringement.

25 28. To that end, in a letter sent by Plaintiff on May 15, 2013, Plaintiff
26 posed a series of questions to Mr. Clarke in regards to Defendant's accusations.
27 These questions concerned, *inter alia*, the ownership of Aopa, the ownership share
28 of Michael Hawkins, the assignment from Mr. Mayfield, and other related issues.

1 29. On May 15, 2013, Mr. Clarke again contacted Plaintiff. In doing so,
2 he once more threatened to advise Mr. Hutson to pursue litigation against Plaintiff.

3 30. On June 4, 2013, Mr. Clarke provided short, cursory answers to
4 Plaintiff's May 15, 2013 questions before furthering Hutson's threat of litigation,
5 stating that Hutson was ready to file a civil action against Plaintiff unless a
6 resolution was achieved by June 21, 2013.

7 31. On June 21, 2013, Plaintiff contacted Mr. Clarke, informing him that
8 Plaintiff had identified an expert to assist Plaintiff in analysis and comparison of
9 the Recording and *Can't Say Enough*. Plaintiff further stated that it would update
10 Defendant once "the required analysis [is] completed."

11 32. On June 24, 2013, Mr. Clarke dismissed Plaintiff's need to engage in
12 analysis and comparison of Recording and *Can't Say Enough*. In an e-mail to
13 Plaintiff, Mr. Clarke stated that Defendant would "only entertain a reasonable offer
14 of settlement from [Plaintiff] if it is submitted by the end of business on Friday of
15 this week." Mr. Clarke then concluded his letter by informing Plaintiff that he
16 would be "moving forward with drafting the complaint next week and filing
17 expeditiously thereafter."

18 33. The same day, Plaintiff's counsel returned Mr. Clarke's e-mail,
19 informing him that it "c[ould] not advise Plaintiff to make any settlement offer
20 without independently verifying [Defendant's] allegations."

21 34. On July 10, 2013, Mr. Clarke repeated Defendant's threats of
22 litigation, specifying that "[Defendant] has instructed me to file" and that
23 Defendant anticipated "fil[ing] in the Southern District of New York . . . if I am
24 unable to resolve this matter with you by 5:00 pm this Friday, July 12."

25 35. On November 19, 2013, Plaintiff's counsel sent a letter to Mr.
26 Hutson's new counsel, Kendall A. Minter ("Mr. Minter"), a New York and
27 Georgia attorney. The letter summarized and shared the findings of Plaintiff's
28 expert, in regards to the limited use of *Can't Say Enough* in the Recording.

1 Plaintiff's counsel also provided Defendant with relevant case law demonstrating
2 that Defendant's pursuit of Plaintiff was in vain; similar, and, indeed, even greater
3 uses of copyrighted material had been determined to be non-infringing by Federal
4 courts in the past. Finally, Plaintiff's counsel expressed that it "would be happy to
5 examine a report" from an expert provided by Defendant.

6 36. On November 21, 2013, over one year after the initial communication
7 to Plaintiff, Mr. Minter contacted Plaintiff to once again threaten Plaintiff with
8 litigation over the Recording. In doing so, Mr. Minter rejected the findings of
9 Plaintiff's expert, stating in effect that without *Can't Say Enough*, "there would be
10 no [Recording]."

11 37. On November 22, 2013, a teleconference took place between
12 Defendant's counsel, Defendant, and Plaintiff's counsel, during which Plaintiff's
13 counsel made a good-faith effort to address Defendant's concerns and refute
14 Defendant's accusations.

15 38. Despite the efforts of Plaintiff's counsel, on November 26, 2013, Mr.
16 Minter sent another letter to Plaintiff, once again rejecting the findings of
17 Plaintiff's expert. In compensation for Plaintiff's alleged infringement, Mr. Minter
18 informed Plaintiff that Defendant demanded 25% ownership of the Recording,
19 25% of all income attributable to the Recording, and attorneys' fees up to that date.
20 Similar to Mr. Clarke's actions in the past, Mr. Minter set a deadline for settlement
21 of December 6, 2013, after which Defendant promised to "pursue his available
22 legal remedies."

23 39. On December 3, 2013, Plaintiff responded to Mr. Minter's letter of
24 November 26, once again denying Defendant's claim of infringement, and
25 reminding Defendant of the indemnification Agreement between Mr. Wallace and
26 Mr. Harvey, thereby making Mr. Harvey "the proper party to provide you . . .
27 resolution . . ."

28 40. On December 18, 2013, Plaintiff's counsel received a communication

1 from G. Pace Eubanks (“Mr. Eubanks”), who held himself out as “Mr. Hutson’s
2 confidant and manager of several of his various companies for more than four
3 decades.” Claiming that Defendant had given him power of attorney, Mr. Eubanks
4 declared that Defendant “fully intend[ed] to move forward with [Defendant’s]
5 lawsuit,” and set a deadline of December 23, 2013 for Plaintiff to reply and/or
6 acquiesce to Defendant’s settlement demands. Mr. Eubanks ominously ended his
7 communication by once again threatening to file “an action against Plaintiff for
8 copyright infringement in United States Federal Court (**with no additional**
9 **notification to [Plaintiff].**)”

10 41. On February 11, 2014, echoing his earlier letter of March 27, 2013,
11 Mr. Clarke sent a letter to Universal, EMI, BMI, and ASCAP, demanding that a
12 “legal hold” be placed on “all royalties for [the Recording],” including a stop to
13 “all distribution” of the Album “within seven days of this correspondence.” In
14 supporting Defendant’s accusation of copyright infringement, Mr. Clarke once
15 again stated that Wikipedia had identified Defendant as the author of the Sample
16 and repeated his earlier claim that Defendant owned only a “portion” of *Can’t Say*
17 *Enough*.

18 42. On March 18, 2014, Mr. Clarke sent a letter to both Bad Boy and
19 Plaintiff, once again raising Defendant’s demand to 50% ownership of the
20 Recording, 50% of all income attributable to the Recording, and attorneys’ fees up
21 to that date. Mr. Clarke also attached a draft complaint for copyright infringement
22 to the letter, informing Plaintiff that if it refused to acquiesce to Defendant’s
23 demands by March 28, 2014, the complaint would be filed in the United States
24 District Court for the Southern District of New York.

25 **FIRST CAUSE OF ACTION:**

26 **DECLARATORY JUDGMENT – COPYRIGHT NON-INFRINGEMENT**

27 **[17 U.S.C. 101, et. seq. and 28 U.S.C. §§ 2201-2202]**

28 43. Plaintiff realleges and incorporates herein each of the preceding

1 paragraphs as if fully set forth by this paragraph.

2 44. An actual controversy exists as to whether the limited use of *Can't*
3 *Say Enough* (in the form of the New Pattern) within the Recording infringes any
4 copyright held by Defendant.

5 45. Defendant cannot establish that the Alleged Conveyance transferred
6 ownership over the recording of *Can't Say Enough* at issue in this matter, as it does
7 not specify the works to be transferred from Mr. Mayfield to Mr. Hutson; thus,
8 Defendant lacks standing to sue for copyright infringement.

9 46. Even if Defendant can demonstrate the validity of the Alleged
10 Conveyance, Defendant cannot establish he holds greater than one-half ownership
11 over *Can't Say Enough*, as, on information and belief, at least one-half of the rights
12 belong to Mr. Hawkins.

13 47. The *de minimis* use of *Can't Say Enough* (in the form of the New
14 Pattern) within the Recording is non-infringing.

15 48. Material in the Recording that does not quote any work whose
16 copyright is held by or administered by Defendant does not infringe any copyright
17 held by Defendant.

18 49. Plaintiff is entitled to a declaratory judgment that the Recording does
19 not infringe any copyright of Defendant as a matter of law.

20 **SECOND CAUSE OF ACTION:**

21 **DECLARATORY JUDGMENT – FAIR USE**

22 **[17 U.S.C. 107 and 28 U.S.C. §§ 2201-2202]**

23 50. Plaintiff realleges and incorporates herein each of the preceding
24 paragraphs as if fully set forth by this paragraph.

25 51. An actual controversy exists as to whether Plaintiff's limited use of
26 *Can't Say Enough* in the Recording falls within the fair use privilege.

27 52. Plaintiff's limited use of *Can't Say Enough* in the Recording is of
28 reasonable length to accomplish Plaintiff's goal of providing social commentary.

1 53. Plaintiff's limited use of *Can't Say Enough* in the Recording is
2 transformative because it alters *Can't Say Enough* with new expression, meaning,
3 message, and content.

4 54. Plaintiff's limited use of *Can't Say Enough* in the Recording has little
5 or no effect on the potential market for or value of *Can't Say Enough*.

6 55. Due to the purpose and nature of the Recording, Plaintiff's limited use
7 of *Can't Say Enough* should be considered presumptive fair use.

8 56. Plaintiff is entitled to a declaratory judgment that its limited use of
9 *Can't Say Enough* is non-infringing fair use.

10 **THIRD CAUSE OF ACTION:**

11 **DECLARATORY JUDGMENT – COPYRIGHT MISUSE**

12 57. Plaintiff realleges and incorporates herein each of the preceding
13 paragraphs as if fully set forth by this paragraph.

14 58. Plaintiff alleges, on information and belief, that Defendant is using
15 threats of copyright infringement to unlawfully secure an exclusive right or limited
16 monopoly not granted by the copyright laws.

17 59. Plaintiff alleges, on information and belief, that Defendant knew or
18 should have known that Plaintiff's limited use of *Can't Say Enough* in the
19 Recording is *de minimis* or is otherwise non-infringing.

20 60. Plaintiff alleges, on information and belief, that Defendant knew or
21 should have known that Plaintiff's limited use of *Can't Say Enough* in the
22 Recording constitutes a fair use of copyrighted material under 17 U.S.C. §§ 107 *et*.
23 *seq.* or is otherwise non-infringing.

24 61. Defendant engaged in the misuse of his copyright, if any, including in
25 the letters and other communications he and his counsel sent to Plaintiff, Plaintiff's
26 counsel, Bad Boy, EMI, BMI, and ASCAP, by claiming that the Recording
27 constituted copyright infringement when Defendant knew or should have known
28 that it did not.

62. Defendant engaged in the misuse of his copyright, if any, including in the letters and other communications he, his counsel, and Mr. Eubanks sent to Plaintiff and Plaintiff's counsel pursuing payment, as Defendant did so with the knowledge that Mr. Harvey is bound to indemnify Plaintiff for any infringement of third-party rights.

63. Plaintiff alleges, on information and belief, that Defendant's demands regarding *Can't Say Enough* were an effort to secure an exclusive right or limited monopoly not granted by the copyright laws.

64. Plaintiff alleges, on information and belief, that Defendant is using threats of copyright infringement to restrain Plaintiff's free speech and artistic expression in order to illegally extend the scope of Defendant's copyright.

65. Defendant engaged in the misuse of his copyright, if any, including threats of legal action in its letters and other communications to Plaintiff and Plaintiff's counsel, by claiming that the creation and dissemination of the Recording constituted copyright infringement when he knew or should have known that there was no infringement.

66. Defendant's misuse of his copyright, if any, constitutes a pattern and practice that has continued for several years.

67. Defendant's misuse of his copyright, if any, violates the public policies underlying the copyright laws.

68. Plaintiff is entitled to a declaratory judgment that Defendant's copyright misuse prohibits copyright enforcement by Defendant against Plaintiff.

FOURTH CAUSE OF ACTION:

DECLARATORY JUDGMENT – LACHES

69. Plaintiff realleges and incorporates herein each of the preceding paragraphs as if fully set forth by this paragraph.

70. Any claim by Defendant against Plaintiff for copyright infringement is barred by the equitable doctrine of laches.

1 71. Plaintiff is entitled to a declaratory judgment that any claim by
2 Defendant against Plaintiff for copyright infringement in respect to the Recording
3 is barred by the equitable doctrine of laches.

4 **FIFTH CAUSE OF ACTION:**

5 **DECLARATORY JUDGMENT – STATUTE OF LIMITATIONS**

6 72. Plaintiff realleges and incorporates herein each of the preceding
7 paragraphs as if fully set forth by this paragraph.

8 73. Any claim by Defendant against Plaintiff for copyright infringement
9 is barred by the copyright statute of limitations, per 17 U.S.C. § 507(b).

10 74. Plaintiff is entitled to a declaratory judgment that any claim by
11 Defendant against Plaintiff for copyright infringement in respect to the Recording
12 is barred by the copyright statute of limitations.

13 **PRAYER FOR RELIEF**

14 Wherefore, Plaintiff prays for judgment as follows:

15 1. A declaratory judgment that Defendant lacks a sufficient ownership
16 interest in the master recording of *Can't Say Enough* to make a claim for copyright
17 infringement;

18 2. A declaratory judgment that Defendant lacks a sufficient ownership of
19 a valid copyright registration in *Can't Say Enough* to make a claim for copyright
20 infringement;

21 3. A declaratory judgment that Defendant lacks standing to sue for
22 infringement of copyright in *Can't Say Enough*;

23 4. A declaratory judgment that the use of *Can't Say Enough* in the
24 Recording is *de minimus*, and that therefore Plaintiff has not infringed any
25 copyright in *Can't Say Enough*;

26 5. A declaratory judgment that Plaintiff's limited use of *Can't Say*
27 *Enough* in the Recording is presumptively fair use;

28 6. A declaratory judgment that Plaintiff's transformative artistic

1 expression is a presumptively fair use of *Can't Say Enough*;

2 7. A declaratory judgment that due to Defendant's copyright misuse, he
3 cannot assert any copyright he allegedly controls against Plaintiff;

4 8. A declaratory judgment enjoining Defendant, along with its agents,
5 attorneys, and assigns, from assertion of any copyright against Plaintiff regarding
6 the Recording;

7 9. A declaratory judgment enjoining Defendant, along with its agents,
8 attorneys, and assigns, from asserting and demanding a "legal hold" on the
9 Recording's royalties and/or a stop to distribution of the Album;

10 10. A declaratory judgment that any claim brought by Defendant against
11 Plaintiff for copyright infringement of *Can't Say Enough* is barred by laches;

12 11. A declaratory judgment that any claim brought by Defendant against
13 Plaintiff for copyright infringement of *Can't Say Enough* is barred by the statute of
14 limitations;

15 12. That Plaintiff be awarded its reasonable attorneys' fees and costs; and

16 13. That Plaintiff be awarded such other relief as the Court finds just and
17 proper.

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21 Dated: March 31, 2014

FOX ROTHSCHILD LLP

By: /s/ Staci Jennifer Riordan

Staci Jennifer Riordan
Neal J. Gauger
Attorneys for Plaintiff
NOTORIOUS B.I.G. LLC

JURY DEMAND

Plaintiff hereby requests a jury trial for all issues triable by jury including, but not limited to, those issues and claims set forth in any amended complaint or consolidated action.

Dated: March 31, 2014

FOX ROTHSCHILD LLP

By: /s/ Staci Jennifer Riordan

Staci Jennifer Riordan
Neal J. Gauger
Attorneys for Plaintiff
NOTORIOUS B.I.G. LLC