

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

DAVID FORD,
Plaintiff,

v.

ANTHONY L. RAY, p/k/a
SIR MIX-A-LOT,
Defendant.

COMPLAINT FOR A
DECLARATION OF JOINT
COPYRIGHT OWNERSHIP

JURY TRIAL DEMANDED

COMES NOW Plaintiff David Ford, by and through counsel, and hereby complains of Defendant(s) as follows:

SUMMARY OF ACTION

This is an action brought under federal copyright law seeking a declaratory judgment that Plaintiff David Ford is a co-author of a number of joint works for which Defendant Anthony L. Ray p/k/a Sir Mix-A-Lot registered copyrights at various times beginning in or about 1992, and that Mr. Ford is entitled to receive an accounting of any revenue derived from the exploitation of the joint works.

THE PARTIES

1. Plaintiff Mr. David Ford is an individual residing in White Center, Washington.

1 Upon information and belief, Defendant Mr. Anthony Ray is an
2 American MC, rapper, and producer having an address at 16727 SE Lake
3 Holm Rd, Auburn, Washington 98092.

4 **JURISDICTION AND VENUE**

5 3. This is an action seeking a declaratory judgment, pursuant to 28
6 U.S.C. §2201, declaring Plaintiff Mr. Ford a co-author and co-owner of
7 several copyrighted works falsely registered by Defendant as Defendant's
8 own individual works.

9 4. This Court has original subject matter jurisdiction over this matter
10 under 28 U.S.C. §1338(a) because it seeks declaratory relief concerning
11 questions of federal law arising under the U.S. Copyright Act, 17 U.S.C.
12 §101 et seq.

13 5. This Court has supplemental jurisdiction over any claims arising
14 under state law pursuant to 28 U.S.C. § 1367 as they are so related to
15 claims in the action within the original jurisdiction of this Court that they
16 form part of the same case or controversy.

17 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and
18 1400 because Defendant either resides or conducts business within this
19 judicial district, he or his agents or affiliates can be found in this judicial
20 district, and acts giving rise to this complaint are believed to have occurred
21 within this judicial district.

22 **FACTS**

23 **Summary**

24 7. This dispute revolves around the ownership of certain musical works
25 that were created in the late 1980s and early 1990s. More specifically,
26 Plaintiff Ford collaborated with Defendant Ray on several musical works
27 during that period. Plaintiff Ford recently learned that Defendant Ray

appears to dispute Plaintiff Ford's contributions to those works, and hereby seeks a judicial declaration of Plaintiff Ford's contributions.

Background

8. What later became known as hip-hop music began emerging on the streets of New York City in the late 1970s and early 1980s. Beginning in about 1984, Mr. Ford began listening to mixtapes that came from New York and developed interest in the musical style. Accordingly, he began teaching himself to recreate the sound created by those early New York artists; a technique the music community dubbed "DJ-ing," "scratching," or "scratch DJ-ing."

9. Around that time, Mr. Ford also gained interest in the emerging dance trend that was becoming known as "break dancing." As with most artists of the day, Mr. Ford began teaching himself, and he developed substantial skill as a break dancer. By the summer of 1984, Mr. Ford had won accolades as a break dancer with a local break dancing group called "The West Side Crew."

10. Mr. Ford spent the ensuing years honing his craft as both a break dancer and developing a reputation as a talented DJ. A typical set-up Mr. Ford used to produce music was two Technic 1200's along with a Numark or Gemini mixer and an Akai MPC-60 Sampling Drum Machine or SP-1200 Emu Mixing Machine. Mr. Ford generally stored the music that he produced on 3.5" floppy diskettes.

11. By the latter 1980s, Mr. Ford was marketing himself under the stage name "DJ Total Chaos," and he joined a mobile DJ group called Audio Concepts in Seattle, Washington. In the summer of 1986, Audio Concepts played its first gig at the Omni nightclub in Kent, Washington, and Mr. Ford began programming music and recording his own "mixes" (now known

1 as “mash ups”). Mr. Ford began regularly DJ-ing at the Omni nightclub
2 under the stage name “DJ Total Kaos.” From that time on, Mr. Ford
3 concentrated on improving his skills as a scratch DJ.

4 12. It was Mr. Ford’s belief that hip hop music, which was common in
5 that day, had a tempo that was too slow for break dancing. Mr. Ford began
6 programming music with a slightly faster beat, which was much better
7 suited to break dancing. Much of Mr. Ford’s interest in producing music
8 was influenced by his desire to develop better break dancing music.

9 13. In or about 1988, Mr. Ford met a man named Nester Rodrigues, who
10 went by the stage name “Nasty Nes.” Nasty Nes was then the manager of a
11 record store named Music Menu in Seattle, Washington, as well as a radio
12 DJ, promoter, and mix DJ. Through his involvement in the local music
13 community, Nasty Nes became known to many area artists, including Mr.
14 Anthony Ray. Mr. Ray was then and continues to be a rapper, producer,
15 and MC. Mr. Ray is known professionally as “Sir Mix-A-Lot.”

16 14. Nasty Nes and Sir Mix-A-Lot launched a new record label which they
17 called Nasty Mix Records, Inc. Through Nasty Mix Records, the two
18 became well known to other area artists.

19 15. By about 1989, Mr. Ford had made a name for himself as a talented
20 scratch DJ, and had begun promoting himself under the new stage name
21 “DJ Punish.” At that time, Sir Mix-A-Lot was looking for a new DJ to
22 collaborate with his group, so Nasty Nes introduced him to DJ Punish
23 (Ford). Sir Mix-A-Lot asked DJ Punish to collaborate with him on some
24 new music, and almost immediately the two began developing several new
25 musical works.

16. The first song DJ Punish scratched on for Sir Mix-A-Lot was “Flow Show,” which appeared on the album “Seminar” in 1989. That song was featured on the B-side of another record entitled “I got game.”

17. By 1991, Sir Mix-A-Lot had left Nasty Mix Records and had signed with Def American Records. After moving to Def American Records, DJ Punish continued to collaborate with Sir Mix-A-Lot.

18. By about 1991, Sir Mix-A-Lot started working on a new album which would be titled “Mack Daddy.” While Sir Mix-A-Lot was producing that album, DJ Punish had independently programmed several new drum tracks (or “beats”) that DJ Punish believed would make the foundation for good songs. The beats that DJ Punish programmed reflected the faster tempo which he preferred because of his break dancing interest. DJ Punish provided several of those beats to Sir Mix-A-Lot on a 3.5 diskette.

19. One of the beats that DJ Punish provided to Sir Mix-A-Lot was used as the basis for the song “Baby Got Back,” which became a Grammy-award winning number one hit. In addition to the beat, DJ Punish provided “scratching” for the chorus of the song. As the song was evolving, Sir Mix-A-Lot received feedback from Mr. Rick Rubin, executive producer of the “Mack Daddy” album, instructing Sir Mix-A-Lot to include more of DJ Punish’s scratching, including as a solo in the song. No other DJ scratched on “Baby Got Back.”

20. When “Baby Got Back” became successful, DJ Punish participated in a music video for the song in which he can be seen scratching at numerous times, including during the solo. In addition, DJ Punish joined Sir Mix-A-Lot on numerous occasions where the group was asked to perform.

21. For several years, Mr. Ford continued to collaborate with Sir Mix-A-Lot on several albums, and also toured with Sir Mix-A-Lot's group to promote those albums. Mr. Ford contributed his work to songs which appeared on Sir Mix-A-Lot's "Seminar," "Mack Daddy," and "Chief Boot Knocka" albums.

22. While collaborating with Sir Mix-A-Lot, DJ Punish also continued collaborating with numerous other groups that sought his musical talent. For example, during the relevant period, DJ Punish also worked with Seoul Brothers, Mr Grimm, Yon Che, Mad Poet, Ready and Willing, E Dawg, Filthy Rich, TSK, Scott Styles, Sampson S, and Trigg, Kasy D, DJ Needles, and Chilly Uptown, to name a few.

23. After roughly seven years, DJ Punish and Sir Mix-A-Lot ceased collaborating, and each continued their own careers. At all times relevant to the instant matter, DJ Punish was an independent contractor and had no written agreement between himself and Sir Mix-A-Lot.

The Joint Works

24. DJ Punish contributed to a number of individual musical works, in addition to Baby Got Back, while he was collaborating with Sir Mix-A-Lot. Below is a list of the musical works, by title, on which Mr. Ford contributed:

<u>Title</u>	<u>Album</u>
Baby got back	Mack Daddy
Baby got back (remix)	Single
Not in our house (Seattle Super Sonics song)	Single
Checks My Bank	Chief Boot Knocka
Lockjaw	Mack Daddy

Ride	Chief Boot Knocka
Ride (remix)	Chief Boot Knocka
One time's got no case	Mack Daddy
Flow Show	Seminar
Let it Beaounce	Chief Boot Knocka
Sleepin wit my Fonk	Mack Daddy
Put Em on the glass	Chief Boot Knocka
Nasty Dog	Chief Boot Knocka
Testarossa	Mack Daddy
Boss is back	Mack Daddy
Swap meet Louie	Mack Daddy

25. Unknown to Mr. Ford, Sir Mix-A-Lot filed a number of copyright registrations for the works on which Mr. Ford had collaborated (“the Joint Works”), such as Registration No. PA0000594005 entitled “Baby Got Back.” A true and correct copy of the certificate of the Registration is attached hereto as Exhibit A. On that registration and others, Sir Mix-A-Lot wrongly identified himself as the sole-author of the work.

26. Sir Mix-A-Lot filed a copyright registration, No. PA0000594009 effective November 16, 1992, entitled “Boss is Back.” A true and correct copy of the certificate of the Registration is attached hereto as Exhibit B. Mr. Ray wrongly identified himself as the sole-author of the work.

27. The two copyright registrations attached as Exhibits A and B reflect only two instances of several different copyright registrations which all wrongly exclude DJ Punish as a joint author.

Nicki Minaj’s Anaconda

28. Recently, another hip-hop artist known professionally as Nicki Minaj released a new single entitled “Anaconda.” Ms. Minaj’s Anaconda bears a

1 striking resemblance to the original “Baby Got Back” song, and includes
2 scratching contributions that were performed by DJ Punish on the original
3 “Baby Got Back” song

4 29. Ms. Minaj’s release caused Mr. Ford to investigate why his input was
5 not sought for the use of his work in another major artist’s song. In the
6 course of that investigation, Mr. Ford learned that Sir Mix-A-Lot had filed
7 copyright registrations on the Joint Works without providing Mr. Ford
8 proper attribution as a joint-author.

9 **COUNT I**

10 **(Declaratory Judgment Of Joint-Authorship)**

11 30. The Joint Works are the product of a collaboration between Plaintiff
12 Ford and Defendant Ray. As such, they are joint works pursuant to 17
13 U.S.C. § 201(a). Accordingly, Plaintiff Ford is the co-author of the Joint
14 Works as provided by the Copyright Act, 17 U.S.C. §101, *et seq.*

15 31. Plaintiff Ford has not transferred any of his rights to his separate
16 work or his contribution to any of the collective works identified as the
17 Joint Works. Accordingly, any document improperly issued by the U.S.
18 Copyright Office indicating to the contrary has no effect under 17 U.S.C. §
19 201(e).

20 32. Plaintiff Ford learned of Defendant Ray’s erroneous copyright
21 registrations on the Joint Works only through his investigation into
22 whether Nicki Minaj’s “Anaconda” would constitute an infringement of
23 Plaintiff Ford’s rights.

24 33. By virtue of the foregoing, an actual and justiciable controversy
25 exists between Plaintiff Ford and Defendant Ray concerning Plaintiff
26 Ford’s status as a co-author of the Joint Works and the accuracy of the
27 records of the U.S. Copyright Office.

34. Accordingly, Plaintiff Ford is entitled to a declaration that he is a co-author and co-owner of the Joint Works, and to a correction of the records of the U.S. Copyright Office.

COUNT II

(Accounting Of Revenue From The Joint Works)

35. Plaintiff Ford enjoys a right of accounting for revenues derived from the exploitation of any jointly-owned work.

36. To the extent Defendant Ray has received or will receive any revenues as a result of the use of the Joint Works, Defendant Ford is entitled to an accounting and satisfaction of Plaintiff Ford's share of that revenue.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- A. A declaration that Plaintiff Ford is the co-author of the Joint Works and co-owner of the copyrights in the Joint Works;
- B. An order that any certificates of U.S. copyright registrations to any one or more of the Joint Works that currently name Defendant Ray as sole author be corrected to add Plaintiff Ford as the co-author of the Joint Works;
- C. An accounting of any revenues that have been derived from the use of the Joint Works, and specifically but not exclusively, to any revenues derived from the use of Plaintiff Ford's contributions in the "Anaconda" song;
- D. An award of attorney fees and costs of the suit;
- E. An award of pre-judgment and post-judgment interest on any monies awarded by a jury in this matter; and

F. Such other and further relief as the Court deems appropriate.

JURY DEMAND

Plaintiff Ford demands a trial by jury on all issues presented in this Complaint so triable.

Dated: March 19, 2015

Respectfully submitted,



John Whitaker, WSBA No: 28868
WHITAKER LAW GROUP
1218 Third Avenue, Suite 1809
Seattle, Washington 98101
Phone (206) 436-8500
Fax (206) 693-2203
john@wlawgrp.com

Neil Juneja, WSBA No: 41440
Gleam Law, PLLC
613 19th Ave E, Suite 202
Seattle, WA 98112
Phone (206) 319-5296
Fax (206) 319-4596
neil@gleamlaw.com

Attorneys for Plaintiff David Ford

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

theJasmineBRAND.com

theJasmineBRAND.com

theJasmineBRAND.com