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10 UNITED STATES DISTRICT COURT
 11 DISTRICT OF ARIZONA

12 Randy Mazick,

13 Plaintiff,

14 v.

15 Chris Daughtry; Lukasz Gootwald a/k/a
 16 Dr. Luke d/b/a Kasz Money Publishing;
 17 Martin Karl Sandberg a/k/a Max Martin
 18 d/b/a Maratone AB; Sheppard
 19 Solomon; Bertelsmann Music Group,
 20 LLC, a Delaware Corporation d/b/a
 21 RCA Records; Apple, Inc.,

22 Defendants.

No. _____

**COMPLAINT FOR COPYRIGHT
 INFRINGEMENT**

JURY TRIAL DEMANDED

23 Plaintiff alleges:

24 1. This case arises from the smash hit song “FEELS LIKE TONIGHT”
 25 performed and recorded by defendant CHRIS DAUGHTRY on his album “Daughtry.”
 26 Measured by chart position, sales and other uses, the song— purportedly written by
 defendants LUKASZ GOTTWALD, MARTIN KARL SANDBERG and SHEPPARD
 SOLOMON—has achieved worldwide success and notoriety since its release in
 November 2006. The problem is that the song’s hook is a copy of the copyrighted song
 “TONIGHT” written by plaintiff RANDY MAZICK, and first publicly performed by his

1 band, The Asphalt, in early 2005.

2 **JURISDICTION AND VENUE**

3 2. This Court has subject matter jurisdiction over this action pursuant to 28
4 U.S.C. § 1338(a). Defendants have caused the alleged events to occur within the District
5 of Arizona and are subject to jurisdiction in this District.

6 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), (c) & (d).

7 **THE PARTIES**

8 4. Plaintiff is a musician and songwriter residing in Lake Havasu, Arizona.

9 5. Defendant CHRIS DAUGHTRY is a musician and songwriter who, on
10 information and belief, resides in North Carolina.

11 6. Defendant LUKASZ GOTTWALD is a musician, producer and songwriter
12 who, on information and belief, resides in Los Angeles, California and New York, New
13 York. Gottwald is also known in the music business as “DR. LUKE.”

14 7. Defendant KASZ MONEY PUBLISHING is a music publishing company
15 which is a dba of GOTTWALD, and which does business throughout the State of Arizona
16 and the world.

17 8. Defendant MARTIN KARL SANDBERG is a musician and songwriter
18 who, on information and belief, resides in Sweden. SANDBERG is also known in the
19 music business as “MAX MARTIN.”

20 9. Defendant MARATONE AB is, on information and belief, a music
21 publishing company which is a dba of SANDBERG, and which does business throughout
22 the State of Arizona and the world.

23 10. Defendant SHEPPARD SOLOMON is a musician and songwriter who, on
24 information and belief, resides in New York and California.

25 11. Defendant BERTELSMANN MUSIC GROUP LLC, a Delaware limited
26 liability company, with its principal place of business in New York City, is “doing

1 business as” RCA RECORDS. RCA RECORDS does business throughout the State of
2 Arizona and the world.

3 12. Defendant APPLE, INC., is a California corporation with its principal place
4 of business in Cupertino, California, and does business throughout the State of Arizona
5 and the world.

6 13. Plaintiff alleges, on information and belief, that each Defendant named in
7 this complaint is responsible for the damages alleged and was acting, at least at times, as
8 the agent, servant, partner, alter ego and/or employee of the other defendants, and within
9 the course and scope of his or her or its authority as such agent, servant, partner, and/or
10 employee with the permission and consent of the other defendants. Further, all acts herein
11 alleged were approved of and ratified by each and every other defendant.

12 **CLAIM FOR COPYRIGHT INFRINGEMENT**

13 **(Against All Defendants)**

14 14. Plaintiff incorporates herein by this reference each and every allegation
15 contained in paragraphs 1 through 13 above.

16 15. In or about January 2005, plaintiff authored the musical composition
17 “TONIGHT.” The song is original to plaintiff and is copyrightable subject matter under
18 U.S. law.

19 16. On April 17, 2008, the copyright in the song was registered with the U.S.
20 Copyright Office, registration number PA0001596143. Plaintiff is the sole owner of all
21 right, title and interest in and to the foregoing copyright. The song has been published,
22 performed and otherwise exploited by Plaintiff, or by others under Plaintiff’s authority or
23 license, in conformity with the Act.

24 17. The song has been widely performed throughout the southwest United
25 States by The Asphalt, a Lake Havasu, Arizona based rock band of which Plaintiff is a
26 member, from early 2005 to the present.

1 18. Starting in or about November 2006, and from time to time thereafter,
 2 defendants, and each of them, infringed Plaintiff’s copyright by, among other things,
 3 publishing, reproducing, distributing and publicly performing a musical composition
 4 entitled “FEELS LIKE TONIGHT.” This song, purportedly written by Defendants
 5 GOTTWALD, SANDBERG and SOLOMON, was released as a single and as one of the
 6 tracks embodied on the best-selling album entitled “DAUGHTRY,” featuring Defendant
 7 CHRIS DAUGHTRY. CHRIS DAUGHTRY performs the song on this recording.

8 19. The album DAUGHTRY and the single FEELS LIKE TONIGHT were
 9 released and distributed for sale by RCA RECORDS.

10 20. APPLE, INC. has distributed copies of FEELS LIKE TONIGHT through its
 11 website service, iTunes.

12 21. Defendants continue to infringe Plaintiff’s copyright by, among other
 13 things, creating and distributing phonorecords in various formats, including but not
 14 limited to compact discs and digital downloads, embodying or incorporating performances
 15 of the infringing work. At no time has Plaintiff authorized Defendants, or any of them, to
 16 republish, perform, create derivative works based on or otherwise exploit all or any
 17 portion of his song.

18 22. As a direct and proximate result of the infringement by Defendants, Plaintiff
 19 is entitled to damages and to Defendants’ profits in amounts to be proven at trial, which
 20 are not currently ascertainable.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays for judgment as follows:

- 23 A. Plaintiff’s damages and defendants' profits in an amount to be ascertained at
- 24 trial;
- 25 B. Plaintiff’s reasonable costs of suit;
- 26 C. Prejudgment interest on any monetary award; and

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D. Such other and further relief as this Court may deem just.

JURY DEMAND

Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

DATED this 17th day of September, 2008.

FENNEMORE CRAIG, P.C.

By s/Ray K. Harris
Ray K. Harris
Attorneys for Plaintiff Randy Mazick