

Nicholas A. Carlin, State Bar No. 112532  
 David M. Given, State Bar No. 142375  
 PHILLIPS, ERLEWINE & GIVEN LLP  
 50 California Street, 35th Floor  
 San Francisco, CA 94111  
 Tel: 415-398-0900  
 Fax: 415-398-0911  
 Email: nac@phillaw.com  
 dmg@phillaw.com

Elliot P. Cahn, State Bar No. 99419  
 LAW OFFICES OF ELLIOT CAHN  
 1035 7<sup>th</sup> Street, Ste. 1  
 Oakland, CA 94607  
 Tel: (510) 652-1615  
 Fax: (510) 550-2770  
 Email: cahnman@aol.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

TOM LUCE, BRIAN KROLL, MATT  
 BLACKETT, LAWRENCE RIGGS

Plaintiffs,

vs.

SELENA GOMEZ, SELENA GOMEZ &  
 THE SCENE, LINDY ROBBINS, TOBY  
 GAD, HOLLYWOOD RECORDS, INC., a  
 California Corporation, HEY KIDDO  
 MUSIC, GAD SONGS, LLC, a Limited  
 Liability Company, APPLE, INC., a  
 California Corporation, EMI APRIL MUSIC,  
 INC., a Connecticut Corporation, and  
 KOBALT MUSIC SERVICES AMERICA,  
 INC., a Delaware Corporation.

Defendants.

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 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 FOR THE DISTRICT OF CALIFORNIA

CV 12 2063

LB

Case No:

**COMPLAINT FOR COPYRIGHT  
 INFRINGEMENT**

**JURY TRIAL DEMANDED**

1 Plaintiffs allege:

2 1. This case arises from the hit song "A YEAR WITHOUT RAIN" performed and  
3 recorded by pop star SELENA GOMEZ and her band SELENA GOMEZ AND THE SCENE.  
4 Measured by chart position, sales and other uses, the song—purportedly written by defendants  
5 LINDY ROBBINS and TOBY GAD - has achieved enormous worldwide success since its  
6 release in 2010. The problem is that the song is an infringement of the copyrighted song "BUY  
7 A DOG" written by songwriters TOM LUCE, BRIAN KROLL, MATT BLACKETT AND  
8 LAWRENCE RIGGS and originally performed by the band "Luce."

9 **JURISDICTION AND VENUE**

10 2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §  
11 1338(a). The alleged unlawful acts and violations described below were in part conceived,  
12 carried out and made effective within the Northern District of California. All of the defendants  
13 named herein transact or have transacted business within this District.

14 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) (2) & (3) as well  
15 as pursuant to 28 U.S.C. § 1391(c).

16 **THE PARTIES**

17 4. Plaintiff TOM LUCE is an individual residing in Sausalito, California.

18 5. Plaintiff BRIAN KROLL is an individual residing in Alamo, California.

19 6. Plaintiff MATT BLACKETT is an individual residing in Oakland, California.

20 7. Plaintiff LAWRENCE RIGGS is an individual residing in Oakland, California.

21 8. Defendant LINDY ROBBINS is an individual who, on information and belief,  
22 resides in Los Angeles, California and, at all relevant times herein, was doing business  
23 throughout the State of California.

24 9. Defendant TOBY GAD is an individual who, on information and belief, resides  
25 in Los Angeles, California and, at all relevant times herein, was doing business throughout the  
26 State of California.

1           10. Defendant SELENA GOMEZ is an individual who, on information and belief,  
2 resides in Los Angeles, California and, at all relevant times herein, was doing business  
3 throughout the State of California.

4           11. Defendant SELENA GOMEZ AND THE SCENE is a business entity, form  
5 unknown at this time, which, on information and belief, at all relevant times herein, was doing  
6 business throughout the State of California.

7           12. Defendant HOLLYWOOD RECORDS, INC. is a California Corporation with its  
8 principal place of business in Burbank, California and which, at all relevant times herein, was  
9 doing business throughout the State of California.

10           13. Defendant HEY KIDDO MUSIC is a business entity, form unknown at this time,  
11 which, on information and belief, at all relevant times herein, was doing business throughout  
12 the State of California.

13           14. Defendant GAD SONGS, LLC is a Limited Liability Company, domicile  
14 unknown at this time, which, on information and belief, at all relevant times herein, was doing  
15 business throughout the State of California.

16           15. Defendant APPLE, INC. is a California Corporation with its principal place of  
17 business in Cupertino, California and which, at all relevant times herein, was doing business  
18 throughout the State of California.

19           16. Defendant EMI APRIL MUSIC, INC. is a Connecticut Corporation with its  
20 principal place of business in New York, NY, and which, at all relevant times herein, was doing  
21 business throughout the State of California.

22           17. Defendant KOBALT MUSIC SERVICES AMERICA, INC. is a Delaware  
23 Corporation with its principal place of business in New York, and which, at all relevant times  
24 herein, was doing business throughout the State of California.

25           18. Plaintiffs are informed and believe, and thereon allege, that each defendant  
26 named in this complaint is in some manner responsible for the wrongs and damages as alleged  
27 below, and in so acting was functioning, at least at times, as the agent, servant, partner, alter ego  
28 and/or employee of the other defendants, and in doing and/or not doing the actions mentioned

1 below was acting within the course and scope of his or her or its authority as such agent, servant,  
2 partner, and/or employee with the permission and consent of the other defendants. Further, all  
3 acts herein alleged were approved of and ratified by each and every other defendant.

4 **CLAIM FOR COPYRIGHT INFRINGEMENT**  
5 **(Against All Defendants)**

6 19. In or about 2004, plaintiffs TOM LUCE, BRIAN KROLL, MATT BLACKETT  
7 AND LAWRENCE RIGGS jointly authored the musical composition "BUY A DOG." The song  
8 is original to plaintiffs and is copyrightable subject matter under U.S. law.

9 20. Plaintiffs are the sole owners of all right, title and interest in and to the copyright  
10 in BUY A DOG. The copyright in BUY A DOG was registered or about November 18, 2010,  
11 registration number PA0001730473.

12 21. BUY A DOG has been published, performed and otherwise exploited by  
13 Plaintiffs or by others under Plaintiffs' authority or license, in conformity with the Act.

14 22. BUY A DOG was first performed and recorded by the band "Luce" in 2005.  
15 Luce's version of BUY A DOG was a #1 record on several radio stations around the United  
16 States, including WRLT in Nashville and KFOG in San Francisco, at both of which it was  
17 among the ten most played records for the entire year of 2005, and has been played on the radio,  
18 including on nationally distributed SIRIUS/XM radio, more than 4,000 times according to the  
19 highly respected Mediabase radio airplay data base. It was also heard on the USA Network TV  
20 show *Psych*.  
21

22 23. Starting in or about September 17, 2010, and from time to time thereafter,  
23 defendants, and each of them, infringed plaintiffs' copyright by, among other things, publishing  
24 and widely releasing a musical composition entitled A Year Without Rain ("RAIN"). This song,  
25 purportedly written by defendants ROBBINS and GAD was released as a single and as one of  
26 the tracks embodied on the hit album eponymously named A YEAR WITHOUT RAIN, and was  
27 also released as a single in Spanish ("Un Año Sin Lluvia").  
28

1           24.     RAIN infringes on BUY A DOG in that, among other things, the melodies in the  
2 chorus of both songs are virtually identical.

3           25.     Defendants continue to infringe plaintiffs' copyright by, among other things,  
4 creating and distributing phonorecords in various formats, including but not limited to compact  
5 discs and digital downloads, embodying or incorporating performances of the infringing work.  
6 At no time have plaintiffs authorized defendants, or any of them, to republish, perform, create  
7 derivative works based on or otherwise exploit all or any portion of their song.

8  
9                               **PRAYER FOR RELIEF**

10           WHEREFORE, plaintiffs pray for judgment as follows:

- 11           1.     Plaintiffs' damages and defendants' profits in an amount to be ascertained, but no  
12 less than \$1,000,000 or, in the alternative, to the extent available, statutory damages against  
13 defendants and each of them in the amount of \$150,000 for each infringement;
- 14           2.     Plaintiffs' reasonable attorneys' fees and costs of suit;
- 15           3.     Prejudgment interest on any monetary award; and
- 16           4.     Such other and further relief as this Court may deem just.

17     Dated: April 23, 2012

PHILLIPS, ERLEWINE & GIVEN LLP

18  
19     By: 

Nicholas A. Carlin  
Attorneys for Plaintiffs

PHILLIPS, ERLEWINE & GIVEN, LLP  
50 California Street, 35th Floor  
San Francisco, CA 94111  
(415) 398-0900

**JURY DEMAND**

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

Dated: April 23, 2012

PHILLIPS, ERLEWINE & GIVEN LLP

By: 

Nicholas A. Carlin  
Attorneys for Plaintiffs