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JEROME H. WICKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WDB

TOMMY DUNBAR and JAMES
GANGWER,

Plaintiffs,

vs.

LUCASZ GOTTWALD (aka Dr. Luke),
AVRIL LAVIGNE, KASZ MONEY
PUBLISHING, AVRIL LAVIGNE
PUBLISHING LLC, ALMO MUSIC CORP.
RCA RECORDS, and APPLE, INC.,

Defendants.

C Case No. **07-2758**

**COMPLAINT FOR DAMAGES FOR
COPYRIGHT INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiffs allege:

1. This is a civil action, for which a jury trial is demanded, for damages for copyright infringement in connection with defendants' unauthorized copying and subsequent use, performance and exploitation of protected elements of plaintiffs' copyright.

JURISDICTION AND VENUE

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

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

3 **THE PARTIES**

4 4. Plaintiff TOMMY DUNBAR is an individual residing in Sacramento, California.

5 5. Plaintiff JAMES GANGWER is an individual residing in Richmond, California.

6 6. Defendant LUCASZ GOTTWALD (aka "Dr. Luke") is an individual who, on
7 information and belief, resides in New York City and, at all relevant times herein, was doing
8 business throughout the State of California.

9 7. Defendant AVRIL LAVIGNE is an individual who, on information and belief,
10 resides in Los Angeles, California and, at all relevant times herein, was doing business
11 throughout the State of California.

12 8. Defendant KASZ MONEY PUBLISHING is a business entity, whose form and
13 place of organization is unknown to plaintiffs at this time which, at all relevant times herein, was
14 doing business throughout the State of California.

15 9. Defendant AVRIL LAVIGNE PUBLISHING LLC is a Nevada limited liability
16 company which, at all relevant times herein, was doing business throughout the State of
17 California.

18 10. At all times relevant herein, defendant ALMO MUSIC CORP. was, and still is, a
19 "doing business as" designation of Universal Music Group, Inc., a Delaware corporation, with
20 its principal place of business in Santa Monica, California. At all relevant times herein, ALMO
21 MUSIC CORP. was doing business throughout the State of California.

22
23 11. At all times relevant herein, defendant RCA RECORDS was, and still is, a
24 "doing business as" designation of Bertelsmann Music Group LLC, a Delaware limited liability
25 company, with its principal place of business in New York City. At all relevant times herein,
26 RCA RECORDS was doing business throughout the State of California.

27 12. At all times relevant herein, defendant APPLE, INC. was, and still is, a California
28 corporation with its principal place of business in Cupertino, California.

1 13. Plaintiffs are informed and believe, and thereon allege, that each defendant
2 named in this complaint is in some manner responsible for the wrongs and damages as alleged
3 below, and in so acting was functioning, at least at times, as the agent, servant, partner, alter ego
4 and/or employee of the other defendants, and in doing and/or not doing the actions mentioned
5 below was acting within the course and scope of his or her or its authority as such agent, servant,
6 partner, and/or employee with the permission and consent of the other defendants. Further, all
7 acts herein alleged were approved of and ratified by each and every other defendant.

8 **CLAIM FOR COPYRIGHT INFRINGEMENT**

9 **(Against All Defendants)**

10 14. In or about 1979, plaintiffs jointly authored the musical composition "I Wanna
11 Be Your Boyfriend." The composition is original to plaintiffs and is copyrightable subject
12 matter under U.S. law.

13 15. In 1979, the copyright in "I Wanna Be Your Boyfriend" was registered with the
14 U.S. Copyright Office, registration number PA-36-223.

15 16. Plaintiffs are the sole owners of all right, title and interest in and to the foregoing
16 copyright. The composition has been published, performed and otherwise exploited by
17 plaintiffs, or by others under plaintiffs' authority or license, in conformity with the Act.

18 17. At no time have Plaintiffs authorized defendants, or any of them, to republish,
19 perform, create derivative works based on or otherwise exploit all or any portion of "I Wanna
20 Be Your Boyfriend."

21 18. In or about April 2007, defendants, and each of them, infringed plaintiffs'
22 copyright in "I Wanna Be Your Boyfriend" by, *inter alia*, publishing and widely releasing a
23 musical composition entitled "Girlfriend," as a single and as one of the tracks embodied on a
24 phonorecord entitled AVRIL LAVIGNE – THE BEST DAMN THING. "Girlfriend" was
25 copied in part from Plaintiffs' copyrighted composition "I Wanna Be Your Boyfriend."

26 19. Defendants continue to infringe plaintiffs' copyright by, *inter alia*, creating and
27 distributing phonorecords in various formats, including but not limited to compact discs and
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1 digital downloads, embodying or incorporating performances of the infringing work
2 "Girlfriend."

3 **PRAYER FOR RELIEF**

4 WHEREFORE, plaintiffs pray for judgment as follows:

- 5 1. Plaintiffs' damages and defendants' profits in an amount to be ascertained or, in
- 6 the alternative, statutory damages against defendants and each of them in the amount of
- 7 \$150,000 for each infringement;
- 8 2. Plaintiffs' reasonable attorneys' fees and costs of suit;
- 9 3. Prejudgment interest on any monetary award; and
- 10 4. Such other and further relief as this Court may deem just.

11 Dated: May 25, 2007

PHILLIPS, ERLEWINE & GIVEN LLP

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13 By: 

Nicholas A. Carlin
Attorneys for Plaintiffs

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16 **JURY DEMAND**

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

19 Dated: May 25, 2007

PHILLIPS, ERLEWINE & GIVEN LLP

20
21 By: 

Nicholas A. Carlin
Attorneys for Plaintiffs

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