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15 Slep-Tone Entertainment Corporation

16 UNITED STATES DISTRICT COURT

17 DISTRICT OF NEVADA

18 SLEP-TONE ENTERTAINMENT
19 CORPORATION,

20 Plaintiffs,

21 v.

22 ELLIS ISLAND CASINO & BREWERY;
23 FAME OPERATING COMPANY, INC.;
24 HOT SHOTS BAR AND GRILL (a/k/a
25 KELLEY’S PUB); THE PUB, LLC; JOE;
DAN; BIG NAILS, LLC; BEAUTY BAR;
CAFÉ MODA; CAFÉ MODA, LLC;
WILLIAM CARNEY; LAS VEGAS DJ
SERVICE; JOHNNY VALENTI; E
STRING GRILL & POKER BAR; PCA
TRAUTH, LLC; KARAOKE LAS VEGAS;
JACK GREENBACK; BILL’S GAMBLIN’
HALL & SALOON; CORNER
INVESTMENT COMPANY, LLC;
IMPERIAL PALACE HOTEL & CASINO;
HARRAH’S IMPERIAL PALACE
CORPORATION; ROLL ‘N’ MOBILE
DJ’S AND KARAOKE TOO; KENNY
ANGEL; PT’S PLACE; GOLDEN-PT’S

Case No.:

COMPLAINT FOR:

**(1) TRADEMARK INFRINGEMENT
15 U.S.C. § 1114**

**(2) LANHAM ACT UNFAIR
COMPETITION
15 U.S.C. § 1125**

Jury Trial Demanded

1 PUB CHEYENNE-NELLIS 5, LLC; PT'S
2 PUB; GOLDEN-PT'S PUB WEST
3 SAHARA 8, LLC; PT'S GOLD; GOLDEN-
4 PT'S PUB CENTENNIAL 32, LLC;
5 GOLDEN-PT'S PUB STEWART-NELLIS
6 2, LLC; GOLDEN TAVERN GROUP,
7 LLC; STEVE & RAY KARAOKE; STEVE;
8 RAY; LEGENDS CASINO; PUGDAWGS,
9 LLC; STARMAKER KARAOKE; DEBBIE
10 HARMS; DECATUR RESTAURANT &
11 TAVERN; DDRT, LLC; PUTTERS;
12 LISA/CARRISON LTD; DJ TARA KING
13 PRODUCTIONS; TARA KING; KIXX
14 BAR; BOULDER STATION CASINO; NP
15 BOULDER, LLC; NPPALACE, LLC;
16 PALACE STATION; DANSING
17 KARAOKE; KIRK; GILLEY'S LAS
18 VEGAS; TREASURE ISLAND;
19 TREASURE ISLAND, LLC; HALF SHELL
20 SEAFOOD AND GAMING; HALF
21 SHELL, LLC; JAMES BELLAMY;
22 MEGA-MUSIC PRODUCTIONS; MR. D'S
23 SPORTS BAR; SPORTS BAR, LLC; RICK
24 DOMINGUEZ; SOUND SELECT;
25 ISLAND GRILL; OFFICE 7 LOUNGE &
RESTAURANT, INC.; JAKE'S BAR;
DOC, G. & G., INC.; MIKE CORRAL;
DAVE CORRAL; SHOWTYME
KARAOKE & DJ; CALICO JACK'S
SALOON; MIKE R. GORDON; RED
LABEL LOUNGE; RED LABEL BAR,
INC.; TERRY CICCI; TERRY-OKE
KARAOKE; KJ'S BAR & GRILL; L.T.
BOND, INC.; TIM MILLER; VISION &
SOUND ENTERTAINMENT;
THUNDERBIRD LOUNGE AND BAR;
ARUBA HOTEL AND SPA; IRVINGTON
PROPERTIES, LLC; THUNDERBIRD
BAR & LOUNGE, LLC; AUDIO
THERAPY DJ; MATTE McNULTY (a/k/a
"DJ Matte"); AUDIO THERAPY; GSTI
HOLDINGS, LLC; GOLD SPIKE HOTEL
& CASINO; GOLD SPIKE HOLDINGS,
LLC; MARDI GRAS LOUNGE – BEST
WESTERN; THE NEVADIAN, LLC;
BEST WESTERN MARDI GRAS INN;

1 J.P.P.J. OF NEVADA, INC.; HARRAH'S
2 LAS VEGAS; CAESAR'S
3 ENTERTAINMENT CORPORATION;
4 TJ'S ALL-STAR KARAOKE; JOHN
MENNITI; and JOHN DOES NOS. 1-10
INCLUSIVE, IDENTITIES UNKNOWN,

5 Defendants.

6
7 The Plaintiff, SLEP-TONE ENTERTAINMENT CORPORATION ("SLEP-TONE"), by
8 its undersigned counsel, complains of the Defendants and for its complaint alleges as follows:

9 **JURISDICTION AND VENUE**

10 1. This is an action for trademark infringement and unfair competition arising under
11 §§ 32 and 43 of the Trademark Act of 1946, 15 U.S.C. §§ 1114 and 1125. This Court has
12 exclusive jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, in that
13 this is a civil action arising under the laws of the United States. This Court also has jurisdiction
14 pursuant to 28 U.S.C § 1338(a), in that this civil action arises under an Act of Congress relating
15 to trademarks, and, as to the Plaintiff's Lanham Act unfair competition claim, pursuant to 28
16 U.S.C. § 1338(b), in that the claim is joined with a substantial and related claim under the
17 trademark laws of the United States.

18 2. Venue is proper in this District in that all defendants reside in Nevada and at least
19 one defendant resides in this District. Venue is also proper in this District because a substantial
20 part of the events or omissions giving rise to the claim occurred in this District.

21 **THE PLAINTIFF**

22 3. Plaintiff SLEP-TONE is a North Carolina corporation having its principal place
23 of business at 14100 South Lakes Drive, Charlotte, North Carolina.

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THE DEFENDANTS

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2 4. Defendants ELLIS ISLAND CASINO & BREWERY and FAME OPERATING
3 COMPANY, INC. have their principal business address in Las Vegas, Nevada and operate eating
4 and drinking establishment(s) at which karaoke entertainment is provided.

5 5. Defendants THE PUB, LLC and HOT SHOTS BAR AND GRILL (a/k/a
6 KELLEY'S PUB) and Defendants JOE and DAN have their principal business address in Las
7 Vegas, Nevada, and operate eating and drinking establishment(s) at which karaoke entertainment
8 is provided by Defendants JOE and DAN.

9 6. Defendants BIG NAILS, LLC and BEAUTY BAR have their principal business
10 address in Las Vegas, Nevada and operate eating and drinking establishment(s) at which karaoke
11 entertainment is provided.

12 7. Defendants CAFÉ MODA, CAFÉ MODA, LLC and WILLIAM CARNEY have
13 their principal business address in Las Vegas, Nevada and operate eating and drinking
14 establishment(s) at which karaoke entertainment is provided.

15 8. Defendants LAS VEGAS DJ SERVICE and JOHNNY VALENTI (a/k/a "Johnny
16 V") have their principal business address in Las Vegas, Nevada and are engaged in the business
17 of providing karaoke entertainment at multiple venues in this State using multiple karaoke
18 systems.

19 9. Defendants E STRING GRILL & POKER BAR and PCA TRAUTH, LLC have
20 their principal place of business in Las Vegas, Nevada and operate eating and drinking
21 establishment(s) at which karaoke entertainment is provided.

22 10. Defendants KARAOKE LAS VEGAS and JACK GREENBACK have their
23 principal business address in Las Vegas, Nevada and are engaged in the business of providing
24 karaoke entertainment at multiple venues in this State using multiple karaoke systems.
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1 11. Defendants BILL'S GAMBLIN' HALL & SALOON and CORNER
2 INVESTMENT COMPANY, LLC have their principal place of business in Las Vegas, Nevada
3 and operate eating and drinking establishment(s) at which karaoke entertainment is provided.

4 12. Defendants IMPERIAL PALACE HOTEL & CASINO and HARRAH'S
5 IMPERIAL PALACE CORPORATION have their principal place of business in Las Vegas,
6 Nevada and operate eating and drinking establishment(s) at which karaoke entertainment is
7 provided.

8 13. Defendants ROLL 'N' MOBILE DJ'S AND KARAOKE TOO and KENNY
9 ANGEL have their principal business address in Las Vegas, Nevada and are engaged in the
10 business of providing karaoke entertainment at multiple venues in this State using multiple
11 karaoke systems.

12 14. Defendants PT'S PLACE and GOLDEN-PT'S PUB CHEYENNE-NELLIS 5,
13 LLC have their principal place of business in Las Vegas, Nevada and operate eating and drinking
14 establishment(s) at which karaoke entertainment is provided.

15 15. Defendants PT'S PUB and GOLDEN-PT'S PUB WEST SAHARA 8, LLC have
16 their principal place of business in Las Vegas, Nevada and operate eating and drinking
17 establishment(s) at which karaoke entertainment is provided.

18 16. Defendants PT'S GOLD and GOLDEN-PT'S PUB CENTENNIAL 32, LLC have
19 their principal place of business in Las Vegas, Nevada and operate eating and drinking
20 establishment(s) at which karaoke entertainment is provided.

21 17. Defendants PT'S PLACE and GOLDEN-PT'S PUB STEWART-NELLIS 2, LLC
22 have their principal place of business in Las Vegas, Nevada and operate eating and drinking
23 establishment(s) at which karaoke entertainment is provided.

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1 18. Defendants PT'S PUB and GOLDEN TAVERN GROUP, LLC have their
2 principal place of business in Las Vegas, Nevada and operate eating and drinking
3 establishment(s) at which karaoke entertainment is provided.

4 19. Defendants STEVE & RAY KARAOKE and STEVE and RAY have their
5 principal business address in Las Vegas, Nevada and are engaged in the business of providing
6 karaoke entertainment at multiple venues in this State using multiple karaoke systems.

7 20. Defendants LEGENDS CASINO and PUGDAWGS, LLC have their principal
8 place of business in Las Vegas, Nevada and operate eating and drinking establishment(s) at
9 which karaoke entertainment is provided.

10 21. Defendants STARMAKER KARAOKE and DEBBIE HARMS have their
11 principal business address in Las Vegas, Nevada and are engaged in the business of providing
12 karaoke entertainment at multiple venues in this State using multiple karaoke systems.

13 22. Defendants DECATUR RESTAURANT & TAVERN and DDRT, LLC have their
14 principal place of business in Las Vegas, Nevada and operate eating and drinking
15 establishment(s) at which karaoke entertainment is provided.

16 23. Defendants PUTTERS and LISA/CARRISON LTD have their principal place of
17 business in Las Vegas, Nevada and operate eating and drinking establishment(s) at which
18 karaoke entertainment is provided.

19 24. Defendants DJ TARA KING PRODUCTIONS and TARA KING have their
20 principal business address in Las Vegas, Nevada and are engaged in the business of providing
21 karaoke entertainment at multiple venues in this State using multiple karaoke systems.

22 25. Defendants KIXX BAR, BOULDER STATION CASINO and NP BOULDER,
23 LLC have their principal place of business in Las Vegas, Nevada and operate eating and drinking
24 establishment(s) at which karaoke entertainment is provided.

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1 26. Defendants JACK’S IRISH PUB, NP PALACE, LLC and PALACE STATION
2 have their principal place of business in Las Vegas, Nevada and operate eating and drinking
3 establishment(s) at which karaoke entertainment is provided.

4 27. Defendants DANSING KARAOKE and KIRK (a/k/a “The Urban Cowboy – DJ”
5 and “DJ Captain Kirk”) have their principal business address in Las Vegas, Nevada and are
6 engaged in the business of providing karaoke entertainment at multiple venues in this State using
7 multiple karaoke systems.

8 28. Defendants GILLEY’S LAS VEGAS, TREASURE ISLAND and TREASURE
9 ISLAND, LLC have their principal place of business in Las Vegas, Nevada and operate eating
10 and drinking establishment(s) at which karaoke entertainment is provided.

11 29. Defendants HALF SHELL SEAFOOD AND GAMING and HALF SHELL, LLC
12 have their principal place of business in Las Vegas, Nevada and operate eating and drinking
13 establishment(s) at which karaoke entertainment is provided.

14 30. Defendants JAMES BELLAMY and MEGA-MUSIC PRODUCTIONS have their
15 principal business address in Las Vegas, Nevada and are engaged in the business of providing
16 karaoke entertainment at multiple venues in this State.

17 31. Defendants MR. D’S SPORTS BAR and SPORTS BAR, LLC have their
18 principal place of business in Las Vegas, Nevada and operate eating and drinking
19 establishment(s) at which karaoke entertainment is provided.

20 32. Defendants RICK DOMINGUEZ (a/k/a “Rick D”) and SOUND SELECT are
21 engaged in the business of providing karaoke entertainment at multiple venues in this State.

22 33. Defendants ISLAND GRILL and OFFICE 7 LOUNGE & RESTAURANT, INC.
23 have their principal place of business in Las Vegas, Nevada and operate eating and drinking
24 establishment(s) at which karaoke entertainment is provided.

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1 34. Defendants JAKE'S BAR and DOC, G. & G., INC. have their principal place of
2 business in Las Vegas, Nevada and operate eating and drinking establishment(s) at which
3 karaoke entertainment is provided.

4 35. Defendants MIKE CORRAL, DAVE CORRAL (a/k/a "Crazy Dave" and "Mad
5 Mike"), and SHOWTYME KARAOKE & DJ have their principal business address in Las
6 Vegas, Nevada and are engaged in the business of providing karaoke entertainment at venue(s)
7 in this State.

8 36. Defendants CALICO JACK'S SALOON and MIKE R. GORDON have their
9 principal place of business in Las Vegas, Nevada and operate eating and drinking
10 establishment(s) at which karaoke entertainment is provided.

11 37. Defendants RED LABEL LOUNGE and RED LABEL BAR, INC. have their
12 principal place of business in Las Vegas, Nevada and operate eating and drinking
13 establishment(s) at which karaoke entertainment is provided.

14 38. Defendants TERRY CICCI and TERRY-OKE KARAOKE have their principal
15 business address in Las Vegas, Nevada and are engaged in the business of providing karaoke
16 entertainment at multiple venues in this State.

17 39. Defendants KJ'S BAR & GRILL AND L.T. BOND, INC. have their principal
18 place of business in Las Vegas, Nevada and operate eating and drinking establishment(s) at
19 which karaoke entertainment is provided.

20 40. Defendants TIM MILLER (a/k/a "Diamond Tim") and VISION & SOUND
21 ENTERTAINMENT have their principal business address in Las Vegas, Nevada and are
22 engaged in the business of providing karaoke entertainment at venue(s) in this State.

23 41. Defendants THUNDERBIRD LOUNGE AND BAR; ARUBA HOTEL AND
24 SPA; IRVINGTON PROPERTIES, LLC and THUNDERBIRD BAR & LOUNGE, LLC have
25

1 their principal place of business in Las Vegas, Nevada and operate eating and drinking
2 establishment(s) at which karaoke entertainment is provided.

3 42. Defendants AUDIO THERAPY and MATTE McNULTY (a/k/a “DJ Matte”)
4 have their principal business address in Las Vegas, Nevada and are engaged in the business of
5 providing karaoke entertainment at multiple venues in this State using multiple karaoke systems.

6 43. Defendants GOLD SPIKE HOTEL AND CASINO, GOLD SPIKE HOLDINGS,
7 LLC and GSTI HOLDINGS, LLC have their principal place of business in Las Vegas, Nevada
8 and operate eating and drinking establishment(s) at which karaoke entertainment is provided.

9 44. Defendants MARDI GRAS LOUNGE – BEST WESTERN and THE
10 NEVADIAN, INC. have their principal place of business in Las Vegas, Nevada and operate
11 eating and drinking establishment(s) at which karaoke entertainment is provided.

12 45. Defendants BEST WESTERN MARDI GRAS INN and J.P.P.J. OF NEVADA,
13 INC. have their principal place of business in Las Vegas, Nevada and operate eating and
14 drinking establishment(s) at which karaoke entertainment is provided.

15 46. The true names and capacities, whether individual, corporate, associate, partner or
16 otherwise of Defendants named herein as Does 1 through 10 inclusive, are unknown to Plaintiff
17 at this time, and Plaintiff therefore sues these Defendants by such fictitious names. Plaintiff will
18 amend this Complaint to allege their true names and capacities when ascertained.

19 **BACKGROUND FACTS**

20 47. Slep-Tone is the manufacturer and distributor of karaoke accompaniment tracks
21 sold under the name “Sound Choice.” Slep-Tone was founded 25 years ago by Kurt and Derek
22 Slep, two brothers with a vision to nurture the development of karaoke in America as a
23 participatory entertainment phenomenon.

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1 48. Sound Choice is recognized as one of the leading producers of high quality
2 karaoke accompaniment tracks. The company has invested over \$18 million to re-record and
3 replicate the authentic sound of popular music across different eras and genres of music.

4 49. Slep-Tone's dedication to producing music of the highest quality and the most
5 authentic character led to its music becoming the staple of almost every karaoke show in the
6 country. As karaoke grew in popularity, Sound Choice became the brand that nearly every
7 karaoke fan wanted to sing and that nearly every karaoke jockey ("KJ") wanted in his or her
8 library.

9 50. KJs play karaoke songs using compact disks containing files written in one of two
10 special encoded formats, either "CD+G" ("compact disk plus graphics") or "MP3G" ("MP3
11 plus graphics"), in which the disk contains the music and the lyrics, which will display on a
12 screen.

13 51. In recent years, computer technology, cheap file memory devices, and the internet
14 have made it possible for karaoke disks to be decoded and "ripped" (copied) to a user's hard
15 drive and easily copied and distributed between KJs. This technology has proven irresistible to
16 KJs, many of who have used this opportunity to copy one purchased disk to several different
17 computer based systems, copy a singer's personal disks if they use them during a show, "swap"
18 song files among each other, download them from illegal file sharing sites and build libraries of
19 tens of thousands of karaoke songs without paying for them.

20 52. Whereas in the past a KJ would buy multiple copies of an original disk if he or
21 she desired to operate multiple systems, now they simply "clone" their songs for multiple
22 commercial systems or even their entire karaoke song libraries to start a new operation.

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24
25 ¹ MP3 is an acronym standing for "Moving Picture Experts Group Audio Layer 3." MP3G is a far newer format than
CD+G and is significantly more portable than CD+G. The Plaintiff has only recently begun distributing its karaoke tracks in this
format, and only under tight contractual controls that require user registration and audits, confine possession to professional
karaoke operators, include serialization of licensed disks, and prohibit file sharing under pain of forfeiture of license rights.

1 Additionally, many KJs or operators starting in the business simply buy computer drives pre-
2 loaded with thousands of illegally copied songs.

3 53. These practices have become so widespread that Slep-Tone has been driven
4 nearly out of business. At its peak, the Sound Choice family of companies employed 75
5 individuals and produced as many as 5 new karaoke disks per month. Today, the enterprise
6 employs fewer than 10 individuals.

7 54. Sound Choice Studios, Inc. which was SLEP-TONE's sister company, was
8 responsible for recording new music for Karaoke. Sound Choice Studios, Inc. lost money on
9 every recent new karaoke disk and was driven out of business because it could no longer
10 profitably produce new music as illegally copying of its products has skyrocketed. The most
11 recent new disk did not produce enough revenue even to cover the production and licensing costs
12 associated with it—yet the songs from that disk can be found on as many as 30,000 karaoke
13 systems around the United States. In the future, SLEP-TONE will have to subcontract to ex-
14 employees of Sound Choice Studios, Inc. who purchased its assets, if/when it is able to profitably
15 release new titles again.

16 55. For KJs, karaoke is a commercial enterprise.

17 56. Karaoke entertainment is provided as part of, and/or in conjunction with, the
18 commercial enterprise of those persons and entities named herein who own and/or operate eating
19 and drinking establishment(s).

20 57. KJs who legitimately acquired all of their music at great cost are being forced by
21 illicit competition to produce shows for lower and lower fees. Illegitimate competitors offer
22 libraries of tens of thousands of songs, which would have cost \$50,000 to \$100,000 or more to
23 acquire legitimately, but produce shows for one-third the rates a legitimate KJ can offer. The
24 result is significant financial pressure on once-legitimate KJs to skirt or ignore the law and
25 become pirates, simply to stay in business.

1 58. Slep-Tone has been forced to undertake this litigation in order to ensure that it
2 survives and continues to produce the high-quality karaoke music its fans demand and to level
3 the playing field for the legitimate KJs.

4 59. The term “karaoke” means “empty orchestra” in Japanese. Karaoke entertainment
5 has grown into a multi-million dollar business in the United States.

6 60. Karaoke compact disk plus graphics or MP3 plus graphics recordings contain re-
7 created arrangements of popular songs for use as “accompaniment tracks.” Typically, the lead
8 vocal tracks in an accompaniment track are omitted so that a karaoke participant can sing along,
9 as though he or she were the lead singer. In other situations, the lead vocal track by a sound-alike
10 artist might be included, and some formats allow the lead vocal to be selectively muted upon
11 playback so that the accompaniment track may be listened to either with or without the lead
12 vocals.

13 61. The “graphics” portion of a karaoke recording refers to the encoding of the
14 recording with data to provide a contemporaneous video display of the lyrics to the song, in
15 order to aid the performer.

16 62. This graphics data is also utilized to mark the accompaniment tracks with the
17 Sound Choice trademarks and to cause the Sound Choice trademarks to be displayed upon
18 playback.

19 63. Entertainers who provide karaoke services in bars, restaurants, and other venues
20 are known as karaoke jockeys (“KJs”), karaoke hosts, or karaoke operators. The services
21 provided by KJs typically include providing the karaoke music and equipment for playback,
22 entertaining the assembled crowd for warm-up purposes, and organizing the karaoke show by
23 controlling access to the stage, setting the order of performance, and operating the karaoke
24 equipment.

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1 64. Typically, a KJ will maintain a catalog of songs available for performance in
2 order to aid participants in selecting a song to sing.

3 65. Legitimate KJs purchase equipment and purchase or license compact disks
4 containing accompaniment tracks and charge for the above-mentioned karaoke services.

5 66. Many KJs, such as some of the present Defendants, obtain, copy, share, distribute
6 and/or sell media-shifted copies of the accompaniment tracks via pre-loaded hard drives, USB
7 drives, CD-R's, or the Internet.

8 67. Some KJs copy the accompaniment tracks from compact discs to computer hard
9 drives or other media, an activity known as "media-shifting."

10 68. In many cases, media-shifting also involves converting the compact disc files to a
11 different format, such as from CD+G format to MP3G format or WAV+G format; this is referred
12 to as "format-shifting."

13 69. Both media-shifting and format-shifting involve the creation of copies of the
14 original materials stored on the compact discs.

15 70. Upon information and belief, and based upon investigation of their activities, the
16 present Defendants are in possession of, and/or have used, authorized, or benefitted from the use
17 and display of unauthorized media-shifted and format-shifted copies of karaoke accompaniment
18 tracks which have been marked falsely with SLEP-TONE's federally registered trademarks.

19 71. Neither SLEP-TONE nor any of its associated companies has ever authorized
20 media-shifting or format-shifting of its accompaniment tracks for any commercial purpose.
21 SLEP-TONE does, however, tolerate media-shifting and format-shifting under very specific
22 conditions.

23 72. SLEP-TONE's conditions for tolerance of media-shifting and format-shifting
24 include, without limitation, that (a) that each media-shifted or format-shifted track must have
25 originated from an original, authentic Sound Choice compact disc; (b) that the tracks from the

1 original, authentic Sound Choice compact disc be shifted to one, and only one, alternative
2 medium at a time; (c) that the KJ maintain ownership and possession of the original, authentic
3 Sound Choice compact disc for the entire time that the media-shifted or format-shifted tracks are
4 in existence; (d) that the original, authentic Sound Choice compact disc not be used for any
5 commercial purpose while its content has been shifted to the alternative medium; and (e) that the
6 KJ notify SLEP-TONE that he or she intends to conduct or has conducted a media-shift or
7 format-shift, and submits to a verification by a SLEP-TONE representative of adherence to
8 SLEP-TONE's policy.

9 73. Media-shifting or format-shifting that occurs outside the conditions of tolerance
10 described above is entirely without authorization or tolerance.

11 74. Each of the Defendants has used media-shifted and/or format-shifted karaoke
12 accompaniment tracks marked with the SLEP-TONE's registered trademarks for commercial
13 purposes.

14 75. Without exception, the Defendants' media-shifting activities have been
15 undertaken outside the conditions of tolerance described above.

16 76. A karaoke accompaniment track that exists outside the conditions of tolerance
17 described above and that has been marked with SLEP-TONE's federally registered trademarks is
18 a counterfeit.

19 77. The copying, sharing, distribution, and selling of media-shifted and/or format-
20 shifted copies is not accompanied by the payment of any royalty to SLEP-TONE, nor authorized
21 by any license agreement.

22 78. SLEP-TONE and its affiliated companies pay statutory and negotiated royalties to
23 the owners of copyright in the underlying musical works for their activities in legitimately
24 creating, copying, distributing, and selling compact disks containing karaoke accompaniment
25 tracks.

1 79. Those persons, including the Defendants, who illegitimately obtain, copy, share,
2 distribute, and/or sell media-shifted copies of the Plaintiff's accompaniment tracks do not pay
3 royalties to the owners of copyright in the underlying musical works.

4 80. SLEP-TONE and its affiliated companies have spent millions of dollars building
5 and maintaining studios, hiring artists, building a distribution facility, paying royalties to
6 copyright owners, building a company that is capable of reliably producing high-quality karaoke
7 versions of current and historical musical hits, and building a brand that is one of the pre-eminent
8 brands in the industry.

9 81. The widespread creation of counterfeit copies of SLEP-TONE's karaoke disks has
10 denied SLEP-TONE the benefit of its investments.

11 82. These counterfeits include SLEP-TONE's registered trademarks, such that to the
12 consumers of the illegitimate KJs' services, the counterfeits are virtually indistinguishable from
13 genuine Sound Choice materials.

14 83. For each of the several recent releases of new karaoke music by SLEP-TONE,
15 dozens of illegitimate copies of the contents of the disk have been created, on average, for each
16 legitimate copy sold. SLEP-TONE, its affiliated companies, and its licensors have lost a
17 considerable amount of money due to this widespread piracy.

18 84. Such widespread illegal copying of music has been made possible by improving
19 and ever cheaper computer technology and memory devices and the easy distribution of digital
20 content over the internet.

21 85. Widespread pirating of songs has contributed to the loss of more than sixty jobs at
22 the Plaintiff's location in Charlotte, North Carolina, as well as several consecutive years of
23 operating losses, as revenues do not cover fixed costs.

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1 86. Legitimate KJs spend thousands of dollars acquiring SLEP-TONE's
2 accompaniment tracks, an irreducible overhead cost that must be recovered over a significant
3 number of engagements.

4 87. Illegitimate KJs, who acquire the songs in their libraries illegally, have an unfair
5 advantage over legitimate KJs, because the illegitimate KJs are able to provide karaoke services
6 with a considerably lower overhead cost and significantly more songs through the pirating of
7 SLEP-TONE's tracks.

8 88. Piracy therefore unfairly increases the profits of illegitimate KJs and unfairly
9 decreases the profits of legitimate KJs, a condition that pressures legitimate KJs to either commit
10 piracy instead of doing business with SLEP-TONE and other karaoke music producers or lose
11 their shows to KJs offering more songs at cheaper prices to the same venues.

12 89. Because of piracy, it is nearly impossible for legitimate KJs to compete against
13 illegal KJs, who are able to provide less expensive karaoke services and a greater number of
14 tracks due to their lower overhead costs.

15 90. Even when illegitimate KJs have been forced through legal action or agreement to
16 destroy their counterfeit copies of the Plaintiff's tracks, the illegitimate KJs continue to engage in
17 unfair competition using pirated materials belonging to other manufacturers.

18 91. This unfair competition harms the Plaintiff, despite the elimination of counterfeit
19 copies of the Plaintiff's tracks, because the continuing piracy of other manufacturers' tracks
20 exerts continuing pressure upon the Plaintiff's customers and potential customers to commit
21 piracy of Plaintiff's tracks. Further the greater number of tracks on pirate systems makes it more
22 difficult for legal hosts to get hired and thus have the revenue to purchase Plaintiff's products.

23 92. In order to build a large library of SLEP-TONE's accompaniment tracks, a
24 legitimate KJ could expect to spend approximately \$25,000 for each karaoke system upon which
25

1 that library would be used. For a comprehensive library of SLEP-TONE's accompaniment
2 tracks, that figure would rise to \$40,000 or more.

3 93. Venues such as those operated by the Defendants can enjoy significant savings by
4 turning a blind eye to the actions of the illegitimate KJs they hire.

5 94. These venues benefit from piracy because unfair competition from pirate KJs
6 pressures legitimate KJs to accept lower compensation from the venues to obtain new business or
7 retain old business. By decreasing the fixed cost of entertainment, the Defendants' operations
8 become more profitable.

9 **THE RIGHTS OF THE PLAINTIFF**

10 95. Plaintiff SLEP-TONE is the owner of U.S. Trademark Registration No. 1,923,448
11 for the trademark SOUND CHOICE.

12 96. Plaintiff SLEP-TONE is also the owner of U.S. Trademark Registration No.
13 2,000,725, for a display trademark as follows:



18 97. Plaintiff Slep-Tone has, for the entire time its marks ("the Sound Choice Marks")
19 have been federally registered, provided the public, including the Defendants, with notice of its
20 federal registrations through the consistent display of the symbol ® with its marks as used.

21 **ACTIVITIES OF DEFENDANTS**

22 98. SLEP-TONE's investigators observed each of the Defendants possessing, using,
23 or authorizing or benefiting from unauthorized counterfeit copies of at least one work bearing the
24 Sound Choice Marks.

25

1 99. Defendants ELLIS ISLAND CASINO & BREWERY and FAME OPERATING
2 COMPANY, INC. operate a karaoke system to produce a karaoke show at their eating and
3 drinking establishment in which counterfeit copies of SLEP-TONE's accompaniment tracks
4 were observed being used. In connection with that show, Defendant ELLIS ISLAND CASINO
5 & BREWERY and FAME OPERATING COMPANY, INC. repeatedly displayed the Sound
6 Choice Marks without right or license.

7 100. Defendant ELLIS ISLAND CASINO & BREWERY and FAME OPERATING
8 COMPANY, INC. has advertised or otherwise indicated that it is in possession of a library
9 containing more than 100,000 tracks stored on its karaoke system.

10 101. Defendants HOT SHOTS BAR AND GRILL (a/k/a KELLEY'S PUB), THE
11 PUB, LLC and Defendants JOE and DAN operate a karaoke system to produce a karaoke show
12 at their eating and drinking establishment in which counterfeit copies of SLEP-TONE's
13 accompaniment tracks were observed being used. In connection with that show, Defendants
14 HOT SHOTS BAR AND GRILL (a/k/a KELLEY'S PUB), THE PUB, LLC and Defendants JOE
15 and DAN repeatedly displayed the Sound Choice Marks without right or license.

16 102. Defendants HOT SHOTS BAR AND GRILL (a/k/a KELLEY'S PUB), THE
17 PUB, LLC and Defendants JOE and DAN have advertised or otherwise indicated that they are in
18 possession of a library containing more than 100,000 tracks stored on their karaoke system.

19 103. Defendants BIG NAILS, LLC and BEAUTY BAR operate a karaoke system to
20 produce a karaoke show at its eating and drinking establishment in which counterfeit copies of
21 SLEP-TONE's accompaniment tracks were observed being used.

22 104. Upon information and belief, the karaoke system described in the preceding
23 paragraph is directly owned by Defendants BIG NAILS, LLC and BEAUTY BAR.

24 105. In connection with that show, Defendants BIG NAILS, LLC and BEAUTY BAR
25 repeatedly displayed the Sound Choice Marks without right or license.

1 106. Defendants BIG NAILS, LLC and BEAUTY BAR have advertised or otherwise
2 indicated that they are in possession of a library containing more than 50,000 tracks stored on
3 their karaoke system.

4 107. Defendants CAFÉ MODA, CAFÉ MODA, LLC and WILLIAM CARNEY
5 operate a karaoke system to produce a karaoke show at their establishment in which counterfeit
6 copies of SLEP-TONE's accompaniment tracks were observed being used.

7 108. Upon information and belief, the karaoke system described in the preceding
8 paragraph is directly owned by Defendants CAFÉ MODA, CAFÉ MODA, LLC and WILLIAM
9 CARNEY.

10 109. In connection with that show, Defendants CAFÉ MODA, CAFÉ MODA, LLC
11 and WILLIAM CARNEY repeatedly displayed the Sound Choice Marks without right or license.

12 110. Defendants LAS VEGAS DJ SERVICE and JOHNNY VALENTI (a/k/a "Johnny
13 V"), operate karaoke systems to produce karaoke shows at multiple eating and drinking
14 establishments in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks
15 were observed being used.

16 111. In connection with those shows, Defendants LAS VEGAS DJ SERVICE and
17 JOHNNY VALENTI repeatedly displayed the Sound Choice Marks without right or license.

18 112. Defendants LAS VEGAS DJ SERVICE and JOHNNY VALENTI regularly
19 perform karaoke shows in multiple eating and drinking establishments simultaneously.

20 113. Defendants LAS VEGAS DJ SERVICE and JOHNNY VALENTI have
21 advertised or otherwise indicated that they are in possession of a library containing more than
22 200,000 tracks stored on their karaoke systems.

23 114. Defendant E STRING GRILL & POKER BAR and PCA TRAUTH, LLC operate
24 a karaoke system to produce a karaoke show at their eating and drinking establishment in which
25 counterfeit copies of SLEP-TONE's accompaniment tracks were observed being used.

1 115. In connection with those shows, Defendants E STRING GRILL & POKER BAR
2 and PCA TRAUTH, LLC repeatedly displayed the Sound Choice Marks without right or license.

3 116. Defendants E STRING GRILL & POKER BAR and PCA TRAUTH, LLC have
4 advertised or otherwise indicated that they are in possession of a library containing more than
5 200,000 tracks stored on their karaoke systems.

6 117. Defendants KARAOKE LAS VEGAS and JACK GREENBACK operate a
7 karaoke system to produce a karaoke show at multiple eating and drinking establishments in this
8 State in which counterfeit copies of SLEP-TONE's accompaniment tracks were observed being
9 used.

10 118. In connection with those shows, Defendants KARAOKE LAS VEGAS and JACK
11 GREENBACK repeatedly displayed the Sound Choice Marks without right or license.

12 119. Upon information and belief, Defendants KARAOKE LAS VEGAS and JACK
13 GREENBACK perform regular karaoke shows in multiple eating and drinking establishments in
14 this State using multiple karaoke systems. Defendants KARAOKE LAS VEGAS and JACK
15 GREENBACK regularly perform karaoke shows in separate eating and drinking establishments
16 simultaneously.

17 120. Defendants BILL'S GAMBLIN' HALL & SALOON and CORNER
18 INVESTMENT COMPANY, LLC operate a karaoke system to produce a karaoke show at their
19 eating and drinking establishment in which counterfeit copies of SLEP-TONE's accompaniment
20 tracks were observed being used.

21 121. In connection with those shows, Defendants BILL'S GAMBLIN' HALL &
22 SALOON and CORNER INVESTMENT COMPANY, LLC repeatedly displayed the Sound
23 Choice Marks without right or license.

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1 122. Defendants BILL'S GAMBLIN' HALL & SALOON and CORNER
2 INVESTMENT COMPANY, LLC have advertised or otherwise indicated that they are in
3 possession of a library containing more than 200,000 tracks stored on their karaoke systems.

4 123. Defendants IMPERIAL PALACE HOTEL & CASINO and HARRAH'S
5 IMPERIAL PALACE CORPORATION operate a karaoke system to produce a karaoke show at
6 their eating and drinking establishment in which counterfeit copies of SLEP-TONE's
7 accompaniment tracks were observed being used.

8 124. In connection with those shows, Defendants IMPERIAL PALACE HOTEL &
9 CASINO and HARRAH'S IMPERIAL PALACE CORPORATION repeatedly displayed the
10 Sound Choice Marks without right or license.

11 125. Defendants IMPERIAL PALACE HOTEL & CASINO and HARRAH'S
12 IMPERIAL PALACE CORPORATION have advertised or otherwise indicated that they are in
13 possession of a library containing more than 200,000 tracks stored on their karaoke systems.

14 126. Defendants ROLL 'N' MOBILE DJ'S AND KARAOKE TOO and KENNY
15 ANGEL were observed operating, through an employee or contractor known as "Sean
16 McDonald", a karaoke system to produce karaoke shows at multiple eating and drinking
17 establishments in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks
18 were being used.

19 127. In connection with those shows, Defendants ROLL 'N' MOBILE DJ'S AND
20 KARAOKE TOO and KENNY ANGEL repeatedly displayed the Sound Choice Marks without
21 right or license.

22 128. Defendants ROLL 'N' MOBILE DJ'S AND KARAOKE TOO and KENNY
23 ANGEL regularly perform karaoke shows in separate eating and drinking establishments
24 simultaneously.

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1 129. Upon information and belief, Defendants ROLL ‘N’ MOBILE DJ’S AND
2 KARAOKE TOO and KENNY ANGEL are in possession of a library containing more than
3 36,000 karaoke accompaniment tracks stored on their karaoke system.

4 130. Defendants PT’S PLACE and GOLDEN-PT’S PUB CHEYENNE-NELLIS 5,
5 LLC operate a karaoke system to produce a karaoke show at their eating and drinking
6 establishment in which counterfeit copies of SLEP-TONE’s accompaniment tracks were
7 observed being used.

8 131. In connection with those shows, Defendants PT’S PLACE and GOLDEN-PT’S
9 PUB CHEYENNE-NELLIS 5, LLC repeatedly displayed the Sound Choice Marks without right
10 or license.

11 132. Defendants PT’S PUB and GOLDEN-PT’S PUB WEST SAHARA 8, LLC
12 operate a karaoke system to produce a karaoke show at their eating and drinking establishment in
13 which counterfeit copies of SLEP-TONE’s accompaniment tracks were observed being used.

14 133. In connection with those shows, Defendants PT’S PUB and GOLDEN-PT’S
15 PUB WEST SAHARA 8, LLC repeatedly displayed the Sound Choice Marks without right or
16 license.

17 134. Defendants PT’S GOLD and GOLDEN-PT’S PUB CENTENNIAL 32, LLC
18 operate a karaoke system to produce a karaoke show at their eating and drinking establishment in
19 which counterfeit copies of SLEP-TONE’s accompaniment tracks were observed being used.

20 135. In connection with those shows, Defendants PT’S GOLD and GOLDEN-PT’S
21 PUB CENTENNIAL 32, LLC repeatedly displayed the Sound Choice Marks without right or
22 license.

23 136. Defendants PT’S PLACE and GOLDEN-PT’S PUB STEWART-NELLIS 2, LLC
24 operate a karaoke system to produce a karaoke show at their eating and drinking establishment in
25 which counterfeit copies of SLEP-TONE’s accompaniment tracks were observed being used.

1 137. In connection with those shows, Defendants PT'S PLACE and GOLDEN-PT'S
2 PUB STEWART-NELLIS 2, LLC repeatedly displayed the Sound Choice Marks without right
3 or license.

4 138. Defendants PT'S PUB and GOLDEN TAVERN GROUP, LLC operate a karaoke
5 system to produce a karaoke show at their eating and drinking establishment in which counterfeit
6 copies of SLEP-TONE's accompaniment tracks were observed being used.

7 139. In connection with those shows, Defendants PT'S PUB and GOLDEN TAVERN
8 GROUP repeatedly displayed the Sound Choice Marks without right or license.

9 140. Defendants STEVE & RAY KARAOKE and STEVE and RAY were observed
10 operating a karaoke system to produce karaoke shows at multiple venues in this State in which
11 counterfeit copies of SLEP-TONE's accompaniment tracks were being used.

12 141. In connection with those shows, Defendants STEVE & RAY KARAOKE and
13 STEVE and RAY repeatedly displayed the Sound Choice Marks without right or license.

14 142. Upon information and belief, Defendants STEVE & RAY KARAOKE and
15 STEVE and RAY perform regular karaoke shows at multiple eating and drinking establishments
16 in this State.

17 143. Defendants STEVE & RAY KARAOKE and STEVE and RAY have advertised
18 or otherwise indicated that they are in possession of a library containing more than 200,000
19 tracks stored on their karaoke system.

20 144. Defendants LEGENDS CASINO and PUGDAWGS, LLC operate a karaoke
21 system to produce a karaoke show at their eating and drinking establishment in which counterfeit
22 copies of SLEP-TONE's accompaniment tracks were observed being used.

23 145. In connection with those shows, Defendants LEGENDS CASINO and
24 PUGDAWGS, LLC repeatedly displayed the Sound Choice Marks without right or license.

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1 146. Defendants LEGENDS CASINO and PUGDAWGS, LLC have advertised or
2 otherwise indicated that they are in possession of a library containing more than 200,000 tracks
3 stored on their karaoke systems.

4 147. Defendants STARMAKER KARAOKE and DEBBIE HARMS were observed
5 operating a karaoke system to produce multiple karaoke shows at multiple venues in this State in
6 which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.

7 148. In connection with those shows, Defendants STARMAKER KARAOKE and
8 DEBBIE HARMS repeatedly displayed the Sound Choice Marks without right or license.

9 149. Upon information and belief, Defendants STARMAKER KARAOKE and
10 DEBBIE HARMS perform regular karaoke shows in multiple venues in this State using multiple
11 karaoke systems.

12 150. Defendants STARMAKER KARAOKE and DEBBIE HARMS regularly perform
13 karaoke shows in separate venues simultaneously.

14 151. Defendants STARMAKER KARAOKE and DEBBIE HARMS have advertised
15 or otherwise indicated that they are in possession of a library containing more than 200,000
16 tracks stored on their karaoke systems.

17 152. Defendants DECATUR RESTAURANT & TAVERN and DDRT, LLC operate a
18 karaoke system to produce a karaoke show at their eating and drinking establishment in which
19 counterfeit copies of SLEP-TONE's accompaniment tracks were observed being used.

20 153. In connection with those shows, Defendants DECATUR RESTAURANT &
21 TAVERN and DDRT, LLC repeatedly displayed the Sound Choice Marks without right or
22 license.

23 154. Defendants DECATUR RESTAURANT & TAVERN and DDRT, LLC have
24 advertised or otherwise indicated that they are in possession of a library containing more than
25 200,000 tracks stored on their karaoke systems.

1 155. Defendants PUTTERS and LISA/CARRISON LTD, LLC operate a karaoke
2 system to produce a karaoke show at their eating and drinking establishment in which counterfeit
3 copies of SLEP-TONE's accompaniment tracks were observed being used.

4 156. In connection with those shows, Defendants PUTTERS and LISA/CARRISON
5 LTD repeatedly displayed the Sound Choice Marks without right or license.

6 157. Defendants PUTTERS and LISA/CARRISON LTD have advertised or otherwise
7 indicated that they are in possession of a library containing more than 200,000 tracks stored on
8 their karaoke systems.

9 158. Defendants DJ TARA KING PRODUCTIONS and TARA KING were observed
10 operating a karaoke system to produce multiple karaoke shows at multiple venues in this State in
11 which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.

12 159. In connection with those shows, Defendants DJ TARA KING PRODUCTIONS
13 and TARA KING repeatedly displayed the Sound Choice Marks without right or license.

14 160. Upon information and belief, Defendants DJ TARA KING PRODUCTIONS and
15 TARA KING perform regular karaoke shows at multiple venues in this State using multiple
16 karaoke systems.

17 161. Defendants DJ TARA KING PRODUCTIONS and TARA KING regularly
18 perform karaoke shows at multiple separate eating and drinking establishments simultaneously.

19 162. Defendants DJ TARA KING PRODUCTIONS and TARA KING have advertised
20 or otherwise indicated that they are in possession of a library containing more than 200,000
21 tracks stored on their karaoke systems.

22 163. Defendants KIXX BAR, BOULDER STATION CASINO, and NP BOULDER,
23 LLC operate a karaoke system to produce a karaoke show at their eating and drinking
24 establishment in which counterfeit copies of SLEP-TONE's accompaniment tracks were
25 observed being used.

1 164. In connection with those shows, Defendants KIXX BAR, BOULDER STATION
2 CASINO, and NP BOULDER, LLC repeatedly displayed the Sound Choice Marks without right
3 or license.

4 165. Defendants KIXX BAR, BOULDER STATION CASINO, and NP BOULDER,
5 LLC have advertised or otherwise indicated that they are in possession of a library containing
6 more than 200,000 tracks stored on their karaoke systems.

7 166. Defendants NPPALACE, LLC and PALACE STATION operate a karaoke
8 system to produce a karaoke show at their eating and drinking establishment in which counterfeit
9 copies of SLEP-TONE's accompaniment tracks were observed being used.

10 167. In connection with those shows, Defendants NPPALACE, LLC and PALACE
11 STATION repeatedly displayed the Sound Choice Marks without right or license.

12 168. Defendants NPPALACE, LLC and PALACE STATION have advertised or
13 otherwise indicated that they are in possession of a library containing more than 200,000 tracks
14 stored on their karaoke systems.

15 169. Defendants DANSING KARAOKE and KIRK (a/k/a "The Urban Cowboy – DJ"
16 and "DJ Captain Kirk") were observed operating a karaoke system to produce multiple karaoke
17 show at multiple eating and drinking establishments in this State in which counterfeit copies of
18 SLEP-TONE's accompaniment tracks were being used.

19 170. In connection with those shows, Defendants DANSING KARAOKE and KIRK
20 repeatedly displayed the Sound Choice Marks without right or license.

21 171. Upon information and belief, Defendants DANSING KARAOKE and KIRK
22 perform regular karaoke shows at multiple venues in this State using multiple karaoke systems.

23 172. Defendants DANSING KARAOKE and KIRK regularly perform karaoke shows
24 at multiple separate eating and drinking establishments simultaneously.

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1 173. Defendants DANSING KARAOKE and KIRK have advertised or otherwise
2 indicated that they are in possession of a library containing more than 200,000 tracks stored on
3 their karaoke systems.

4 174. Defendants GILLEY'S LAS VEGAS, TREASURE ISLAND, and TREASURE
5 ISLAND, LLC operate a karaoke system to produce a karaoke show at their eating and drinking
6 establishment in which counterfeit copies of SLEP-TONE's accompaniment tracks were
7 observed being used.

8 175. In connection with those shows, Defendants GILLEY'S LAS VEGAS,
9 TREASURE ISLAND, and TREASURE ISLAND, LLC repeatedly displayed the Sound Choice
10 Marks without right or license.

11 176. Defendants GILLEY'S LAS VEGAS, TREASURE ISLAND, and TREASURE
12 ISLAND, LLC have advertised or otherwise indicated that they are in possession of a library
13 containing more than 200,000 tracks stored on their karaoke systems.

14 177. Defendants HALF SHELL SEAFOOD AND GAMING and HALF SHELL, LLC
15 operate a karaoke system to produce a karaoke show at their eating and drinking establishment in
16 which counterfeit copies of SLEP-TONE's accompaniment tracks were observed being used.

17 178. In connection with those shows, Defendants HALF SHELL SEAFOOD AND
18 GAMING and HALF SHELL, LLC repeatedly displayed the Sound Choice Marks without right
19 or license.

20 179. Defendants HALF SHELL SEAFOOD AND GAMING and HALF SHELL, LLC
21 have advertised or otherwise indicated that they are in possession of a library containing more
22 than 200,000 tracks stored on their karaoke systems.

23 180. Defendants MEGA-MUSIC PRODUCTIONS and JAMES BELLAMY were
24 observed operating a karaoke system to produce multiple karaoke shows at multiple eating and
25

1 drinking establishments in this State in which counterfeit copies of SLEP-TONE's
2 accompaniment tracks were being used.

3 181. In connection with those shows, Defendants MEGA-MUSIC PRODUCTIONS
4 and JAMES BELLAMY repeatedly displayed the Sound Choice Marks without right or license.

5 182. Defendants MEGA-MUSIC PRODUCTIONS and JAMES BELLAMY have
6 advertised or otherwise indicated that they are in possession of a library containing more than
7 135,000 tracks stored on their karaoke system.

8 183. Upon information and belief, Defendants MEGA-MUSIC PRODUCTIONS and
9 JAMES BELLAMY perform regular karaoke shows at multiple venues in this State.

10 184. Defendants MR. D'S SPORTS BAR and SPORTS BAR, LLC operate a karaoke
11 system to produce a karaoke show at their eating and drinking establishment in which counterfeit
12 copies of SLEP-TONE's accompaniment tracks were observed being used.

13 185. In connection with those shows, Defendants MR. D'S SPORTS BAR and
14 SPORTS BAR, LLC repeatedly displayed the Sound Choice Marks without right or license.

15 186. Defendants MR. D'S SPORTS BAR and SPORTS BAR, LLC have advertised or
16 otherwise indicated that they are in possession of a library containing more than 135,000 tracks
17 stored on their karaoke systems.

18 187. Defendants SOUND SELECT and RICK DOMINGUEZ (a/k/a "Rick D"), were
19 observed operating a karaoke system to produce multiple karaoke shows at multiple eating and
20 drinking establishments in this State in which counterfeit copies of SLEP-TONE's
21 accompaniment tracks were being used.

22 188. In connection with those shows, Defendants SOUND SELECT and RICK
23 DOMINGUEZ repeatedly displayed the Sound Choice Marks without right or license.

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1 189. Defendants SOUND SELECT and RICK DOMINGUEZ have advertised or
2 otherwise indicated that they are in possession of a library containing more than 200,000 tracks
3 stored on their karaoke systems.

4 190. Upon information and belief, Defendants SOUND SELECT and RICK
5 DOMINGUEZ perform regular karaoke shows at multiple eating and drinking establishments in
6 this State.

7 191. Defendants ISLAND GRILL and OFFICE 7 LOUNGE & RESTAURANT, INC.
8 operate a karaoke system to produce a karaoke show at their eating and drinking establishment in
9 which counterfeit copies of SLEP-TONE's accompaniment tracks were observed being used.

10 192. In connection with those shows, Defendants ISLAND GRILL and OFFICE 7
11 LOUNGE & RESTAURANT, INC. repeatedly displayed the Sound Choice Marks without right
12 or license.

13 193. Defendants ISLAND GRILL and OFFICE 7 LOUNGE & RESTAURANT, INC.
14 have advertised or otherwise indicated that they are in possession of a library containing more
15 than 200,000 tracks stored on their karaoke systems.

16 194. Defendants JAKE'S BAR and DOC, G. & G., INC. operate a karaoke system to
17 produce a karaoke show at their eating and drinking establishment in which counterfeit copies of
18 SLEP-TONE's accompaniment tracks were observed being used.

19 195. In connection with those shows, Defendants JAKE'S BAR and DOC, G. & G.,
20 INC. repeatedly displayed the Sound Choice Marks without right or license.

21 196. Defendants JAKE'S BAR and DOC, G. & G., INC. have advertised or otherwise
22 indicated that they are in possession of a library containing more than 200,000 tracks stored on
23 their karaoke systems.

24 197. Defendants SHOWTYME KARAOKE & DJ, MIKE CORRAL and DAVE
25 CORRAL (a/k/a "Crazy Dave" and "Mad Mike") were observed operating a karaoke system to

1 produce a karaoke show at a venue in this State in which counterfeit copies of SLEP-TONE's
2 accompaniment tracks were being used.

3 198. In connection with that show, Defendants SHOWTYME KARAOKE & DJ,
4 MIKE CORRAL and DAVE CORRAL repeatedly displayed the Sound Choice Marks without
5 right or license.

6 199. Defendants CALICO JACK'S SALOON and MIKE R. GORDON operate a
7 karaoke system to produce a karaoke show at their eating and drinking establishment in which
8 counterfeit copies of SLEP-TONE's accompaniment tracks were observed being used.

9 200. In connection with those shows, Defendants CALICO JACK'S SALOON and
10 MIKE R. GORDON repeatedly displayed the Sound Choice Marks without right or license.

11 201. Defendants RED LABEL LOUNGE and RED LABEL BAR, INC. operate a
12 karaoke system to produce a karaoke show at their eating and drinking establishment in which
13 counterfeit copies of SLEP-TONE's accompaniment tracks were observed being used.

14 202. In connection with those shows, Defendants RED LABEL LOUNGE and RED
15 LABEL BAR, INC. repeatedly displayed the Sound Choice Marks without right or license.

16 203. Defendants TERRY-OKE KARAOKE and TERRY CICCI were observed
17 operating a karaoke system to produce multiple karaoke shows at multiple eating and drinking
18 establishments in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks
19 were being used.

20 204. In connection with those shows, Defendants TERRY-OKE KARAOKE and
21 TERRY CICCI repeatedly displayed the Sound Choice Marks without right or license.

22 205. Defendants KJ'S BAR & GRILL and L.T. BOND, INC. operate a karaoke system
23 to produce a karaoke show at their eating and drinking establishment in which counterfeit copies
24 of SLEP-TONE's accompaniment tracks were observed being used.

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1 206. In connection with those shows, Defendants BAR & GRILL and L.T. BOND,
2 INC. repeatedly displayed the Sound Choice Marks without right or license.

3 207. Defendants VISION & SOUND ENTERTAINMENT and TIM MILLER (a/k/a
4 “Diamond Tim”) were observed operating a karaoke system to produce a karaoke show at an
5 eating and drinking establishment in this State in which counterfeit copies of SLEP-TONE’s
6 accompaniment tracks were being used.

7 208. In connection with that show, Defendants VISION & SOUND
8 ENTERTAINMENT and TIM MILLER repeatedly displayed the Sound Choice Marks without
9 right or license.

10 209. Defendants VISION & SOUND ENTERTAINMENT and TIM MILLER have
11 advertised or otherwise indicated that they are in possession of a library containing more than
12 365,000 tracks stored on their karaoke system.

13 210. Defendants THUNDERBIRD LOUNGE AND BAR, ARUBA HOTEL & SPA,
14 THUNDERBIRD BAR & LOUNGE, LLC and IRVINGTON PROPERTIES, LLC operate a
15 karaoke system to produce a karaoke show at their eating and drinking establishment(s) in which
16 counterfeit copies of SLEP-TONE’s accompaniment tracks were observed being used.

17 211. In connection with those shows, Defendants THUNDERBIRD LOUNGE AND
18 BAR, ARUBA HOTEL & SPA, THUNDERBIRD BAR & LOUNGE, LLC, and IRVINGTON
19 PROPERTIES, LLC repeatedly displayed the Sound Choice Marks without right or license.

20 212. Defendants THUNDERBIRD LOUNGE AND BAR, ARUBA HOTEL & SPA,
21 IRVINGTON PROPERTIES, LLC and THUNDERBIRD BAR & LOUNGE, LLC have
22 advertised or otherwise indicated that they are in possession of a library containing more than
23 365,000 tracks stored on their karaoke systems.

24 213. Defendants AUDIO THERAPY DJ, AUDIO THERAPY and MATTE
25 McNULTY were observed operating, through employees or contractors known as “DJ Matte &

1 Jaz”, a karaoke system to produce a karaoke show at an eating and drinking establishment in this
2 State in which counterfeit copies of SLEP-TONE’s accompaniment tracks were being used.

3 214. In connection with those shows, Defendants AUDIO THERAPY DJ, AUDIO
4 THERAPY and MATTE McNULTY repeatedly displayed the Sound Choice Marks without
5 right or license.

6 215. Upon information and belief, Defendants AUDIO THERAPY DJ, AUDIO
7 THERAPY and MATTE McNULTY perform regular karaoke shows at multiple eating and
8 drinking establishments in this State using multiple karaoke systems.

9 216. Defendants AUDIO THERAPY DJ, AUDIO THERAPY and MATTE
10 McNULTY have advertised or otherwise indicated that they are in possession of a library
11 containing more than 100,000 tracks stored on their karaoke systems.

12 217. Defendants GOLD SPIKE HOTEL AND CASINO, GOLD SPIKE HOLDINGS,
13 LLC and GSTI HOLDINGS, LLC operate a karaoke system to produce a karaoke show at their
14 eating and drinking establishment(s) in which counterfeit copies of SLEP-TONE’s
15 accompaniment tracks were observed being used.

16 218. In connection with those shows, Defendants GOLD SPIKE HOTEL AND
17 CASINO, GOLD SPIKE HOLDINGS, LLC and GSTI HOLDINGS, LLC repeatedly displayed
18 the Sound Choice Marks without right or license.

19 219. Defendants GOLD SPIKE HOTEL AND CASINO, GOLD SPIKE HOLDINGS,
20 LLC and GSTI HOLDINGS, LLC have advertised or otherwise indicated that they are in
21 possession of a library containing more than 100,000 tracks stored on their karaoke systems.

22 220. Defendants MARDI GRAS LOUNGE-BEST WESTERN and THE NEVADIAN,
23 INC. operate a karaoke system to produce a karaoke show at their eating and drinking
24 establishment in which counterfeit copies of SLEP-TONE’s accompaniment tracks were
25 observed being used.

1 221. In connection with those shows, Defendants MARDI GRAS LOUNGE-BEST
2 WESTERN and THE NEVADIAN, INC. repeatedly displayed the Sound Choice Marks without
3 right or license.

4 222. Defendants MARDI GRAS LOUNGE-BEST WESTERN and THE NEVADIAN,
5 INC. have advertised or otherwise indicated that they are in possession of a library containing
6 more than 100,000 tracks stored on their karaoke systems.

7 223. Defendants BEST WESTERN MARDI GRAS INN and J.P.P.J. OF NEVADA,
8 INC. operate a karaoke system to produce a karaoke show at their eating and drinking
9 establishment in which counterfeit copies of SLEP-TONE's accompaniment tracks were
10 observed being used.

11 224. In connection with those shows, Defendants BEST WESTERN MARDI GRAS
12 INN and J.P.P.J. OF NEVADA, INC. repeatedly displayed the Sound Choice Marks without
13 right or license.

14 225. Defendants BEST WESTERN MARDI GRAS INN and J.P.P.J. OF NEVADA,
15 INC. have advertised or otherwise indicated that they are in possession of a library containing
16 more than 100,000 tracks stored on their karaoke systems.

17 226. Defendants TJ'S ALL-STAR KARAOKE and JOHN MENNITI were observed
18 operating a karaoke system to produce a karaoke show at a venue in this State in which
19 counterfeit copies of SLEP-TONE's accompaniment tracks were being used.

20 227. In connection with that show, Defendants TJ'S ALL-STAR KARAOKE and
21 JOHN MENNITI repeatedly displayed the Sound Choice Marks without right or license.

22 228. Defendants HARRAH'S LAS VEGAS and CAESAR'S ENTERTAINMENT
23 CORPORATION operate a karaoke system to produce a karaoke show at their eating and
24 drinking establishment(s) in which counterfeit copies of SLEP-TONE's accompaniment tracks
25 were observed being used.

1 229. In connection with those shows, Defendants HARRAH'S LAS VEGAS and
2 CAESAR'S ENTERTAINMENT CORPORATION repeatedly displayed the Sound Choice
3 Marks without right or license.

4 230. Each of the Defendants has possessed, used, or authorized or benefited from the
5 use and display of unauthorized counterfeit goods bearing the Sound Choice Marks, or has
6 provided, advertised, or authorized or benefited from the provision of services in connection with
7 the Sound Choice Marks.

8 231. Upon information and belief, each of those karaoke systems has a library
9 containing a minimum of 8,500 tracks stored thereon, to facilitate their use simultaneously at
10 separate venues or events.

11 232. Based upon the popularity of SLEP-TONE's music and the size of the
12 Defendants' respective libraries, which vary between 8,500 and 365,000 songs, operating in
13 many cases with multiple karaoke systems, the Plaintiff has a good-faith belief that discovery
14 will show that each of the Defendants (a) is in possession of unauthorized counterfeit goods
15 bearing the Sound Choice Marks, or (b) knowingly benefits from and/or has the capacity to
16 control the infringing conduct of others.

17 233. Each of the Defendants is accused of committing acts of infringement, unfair
18 competition, and deceptive and unfair trade practices in substantially the same way, namely,
19 through the use of counterfeit karaoke tracks to perform karaoke-related services.

20 234. Though created through unauthorized duplication, the counterfeit karaoke tracks
21 obtained or made by the Defendants all originated, directly or indirectly in an unbroken
22 sequence, from the same ultimate source, namely, from compact discs sold by the Plaintiff and
23 made from master recordings belonging to the Plaintiff.

24 235. As such, the Plaintiff's right to relief, as stated in the paragraphs below, ultimately
25 arises out of the same series of transactions and occurrences.

1 236. This action raises substantial questions of law and fact common to all of the
2 defendants hereto.

3
4 **FIRST CLAIM FOR RELIEF**
5 **TRADEMARK INFRINGEMENT**

6 237. Plaintiff SLEP-TONE realleges each and every allegation set forth in the
7 foregoing paragraphs, as though fully set forth herein, and incorporates them herein by reference.

8 238. Each of the Defendants used, or authorized or directly benefited from the use of, a
9 reproduction, counterfeit, or copy of the Sound Choice Marks in connection with the provision of
10 services including karaoke services, by manufacturing or acquiring the reproduction, counterfeit,
11 or copy of the Sound Choice Marks and by displaying the reproduction, counterfeit, or copy of
12 the Sound Choice Marks during the provision of those services.

13 239. The Defendants' use of the Sound Choice Marks was "in commerce" within the
14 meaning of the Trademark Act of 1946 as amended.

15 240. Plaintiff SLEP-TONE did not license any of the Defendants to manufacture or
16 acquire reproductions, counterfeits, or copies, or to use the Sound Choice Marks in connection
17 with the provision of their services.

18 241. The Defendants' use of the Sound Choice Marks is likely to cause confusion, or
19 to cause mistake, or to deceive the Defendants' customers and patrons into believing that the
20 Defendants' services are being provided with the authorization of the Plaintiff and that the
21 Defendants music libraries contain bona fide Sound Choice accompaniment tracks.

22 242. The acts of each of the Defendants were willful.

23 243. Unless enjoined by the Court, the Defendants' infringing activities as described
24 above will continue unabated and will continue to cause harm to the Plaintiff.

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SECOND CLAIM FOR RELIEF
UNFAIR COMPETITION UNDER 15 U.S.C. § 1125(a)

244. Plaintiff SLEP-TONE realleges each and every allegation set forth in paragraphs 1-236 and 238-243, as though fully set forth herein, and incorporates them herein by reference.

245. On each occasion when they caused a SLEP-TONE accompaniment track to be played during a karaoke show, the Defendants displayed the Sound Choice Marks in connection with the Defendants' karaoke services.

246. The display of the Sound Choice Marks is likely to cause confusion, or to cause mistake, or to deceive those present during the display, in that those present are likely to be deceived into believing, falsely, that SLEP-TONE sponsored or approved the Defendants' services and commercial activities.

247. The display of the Sound Choice Marks is also likely to cause confusion, or to cause mistake, or to deceive those present during the display, in that those present are likely to be deceived into believing, falsely, that the works being performed were sold by SLEP-TONE and purchased by the Defendants.

248. The Defendants' use of the Sound Choice Marks in this fashion would have inured to the benefit of the Plaintiff if the Defendants had legitimately acquired genuine Sound Choice disks instead of counterfeiting them or acquiring counterfeit copies, in that the Plaintiff would have received revenue from such sales.

249. Because SLEP-TONE has been denied this revenue, it has been damaged by the Defendants' uses.

250. Unless enjoined by the Court, the Defendants' unfair competition activities as described above will continue unabated and will continue to cause harm to the Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff SLEP-TONE demands trial by jury and prays for judgment against each of the Defendants severally and that the Court:

- 1 A. Find that each of the Defendants has, directly and/or vicariously through the contractors
2 they hired, committed acts of trademark infringement, including, but not limited to,
3 counterfeiting of the federally registered Sound Choice Marks;
- 4 B. Find that each of the Defendants has engaged in unfair competition against Plaintiff
5 SLEP-TONE in violation of 15 U.S.C. § 1125(a);
- 6 C. Find that each of the Defendants has committed deceptive and unfair trade practices
7 under Nevada law;
- 8 D. Enter judgment against each of the Defendants and in favor of SLEP-TONE;
- 9 E. Find the that Defendants' activities were in all respects conducted willfully and for profit;
- 10 F. Award to SLEP-TONE the Defendants' profits and the damages sustained by SLEP-
11 TONE because of the Defendants' conduct in infringing the Sound Choice Marks, or, in
12 the alternative, statutory damages per trademark infringed by counterfeiting in an amount
13 of \$2,000,000 per trademark infringed, per Defendant;
- 14 G. Award to SLEP-TONE the Defendants' profits and the damages sustained by SLEP-
15 TONE because of the Defendants' acts of unfair competition under 15 U.S.C. § 1125(a),
16 plus reasonable attorneys' fees and costs of suit;
- 17 H. Award to SLEP-TONE treble, punitive, or otherwise enhanced damages, as available, for
18 the Defendants' acts of willful infringement;
- 19 I. Order the seizure of all computer disks, drives, or other media belonging to any of the
20 Defendants, which media contain illegal counterfeits of registered trademarks;
- 21 J. Grant SLEP-TONE preliminary and permanent injunctive relief against further
22 infringement of the Sound Choice Marks by the Defendants;

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- 1 K. Award SLEP-TONE its costs of suit and attorney's fees, to the extent not awarded above;
2 and
3 L. Grant SLEP-TONE such other and further relief as justice may require.
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5 Dated: February 10, 2012

BORIS & ASSOCIATES

7 By: _____/s/_____

8 Donna Boris Cal. State Bar # 153033
9 donna@borislaw.com
Attorneys for Plaintiff

10
11 Dated: February 10, 2012

LAW OFFICES OF KERRY FAUGHNAN

13 By: _____/s/_____

14 Kerry Faughnan Nevada State Bar # 12204
15 kerry.faughnan@gmail.com
Attorneys for Plaintiff

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