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8 Attorney for Plaintiff, Lela Weems by her
9 Attorney in Fact, Ubiquity Recordings Inc.

10 **UNITED STATES DISTRICT COURT FOR THE**
11 **CENTRAL DISTRICT OF CALIFORNIA**

13 Lela Weems by her) CASE NO:
14 Attorney in Fact)
15 Ubiquity Recordings Inc.) JUDGE:
16 Plaintiff,) DEPT:
17 vs.)
18)
19 Odd Future Records, LLC) **COMPLAINT FOR**
20 a California Limited) **COPYRIGHT INFRINGEMENT**
21 Liability Company aka)
22 Odd Future Records,)
23 Tyler Gregory Okonma,)
24 aka Tyler The Creator,)
25 Sony Music, Sony ATV)
26 Music Publishing, Golf)
27 Wang Steak Sauce)
28 BMI, MTV, Sony Red)
Records and)
Does 1 to 10)
Defendants.

1 _____
2 Plaintiff, Lela Weems by her attorney in fact
3 UBIQUITY RECORDINGS INC., is the successor in interest
4
5 by operation of law to the estate of Herman Lee Weems
6 (deceased), and the sole owner of all rights, titles and
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8 interest in the copyright which is the subject of this
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10 action and has been the sole owner of all copyrights
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12 which is the subject of this action prior to and during
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14 all copyright violations and infringements which are
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16 alleged in this action. Allegations are on information
17
18 and belief, except as to the allegations regarding
19
20 Plaintiff and the rights she asserts herein alleges as
21
22 follows:

23 **INTRODUCTION**

24 A. Plaintiff, UBIQUITY RECORDINGS INC., is the
25
26 attorney in fact to the authorized successor-in-interest
27
28 to the copyright owner and administrator for publishing
of the musical composition which is the subject of this
action and has a beneficial interest in and to the
copyright which is the subject of this action. By

1 bringing this action for Copyright Infringement,
2 Plaintiff seeks relief against an ongoing pervasive and
3 willful theft of its copyrighted composition by the
4 Defendants. The Defendants have deliberately distributed
5 and made unauthorized copies of Plaintiff's copyrighted
6 musical composition, and has incorporated the
7 unauthorized musical composition in their sound
8 recordings, videos, streaming, downloads, live
9 performances and musical compositions. Despite
10 Plaintiff's request, the Defendants have refused and
11 continue to refuse to stop this ongoing infringement.
12 The Plaintiff seeks declaratory and injunctive relief,
13 damages and statutory damages for willful Copyright
14 Infringement.
15

16 B. Plaintiff is ignorant of the true names and
17 capacities of Defendants sued herein as Does 1 to 10,
18 inclusive, and therefore sues these Defendants by such
19 fictitious names. Plaintiff will amend this Complaint
20 to allege their true names and capacities when
21 ascertained. Plaintiff is informed and believes and
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1 thereon alleges that each of the fictitiously named
2 Defendants is responsible and in some manner for the
3 occurrences herein alleged, and that Plaintiff's damages
4 as herein alleged were proximately caused by their
5 conduct.
6

7
8 **NATURE OF THE CASE**

9 1. Plaintiff brings this action seeking
10 declaratory, injunctive and monetary relief against
11 Defendants, Odd Future Records, LLC a California
12 Limited Liability Company aka Odd Future Records, Tyler
13 Gregory Okonma, aka Tyler The Creator, Sony Music, Sony
14 ATV Music Publishing, Golf Wang Steak Sauce BMI, MTV,
15 Sony Red Distribution and Columbia Records, (hereinafter
16 Defendants), which commercially sells and distributes
17 sound recordings including musical works by CDs, videos,
18 live performances, streaming and downloading from the
19 Internet.
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24 2. In order to commercially sell and distribute the
25 musical works, the Defendants have made unauthorized
26 copies of the copyrighted works specified below,
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1 ("Copyrighted Works"), onto CDs, phonorecords, videos,
2 live performances, streaming and Internet downloading
3 which willfully infringes on Plaintiffs Copyrights in
4 violation of the Copyright Act, 17 U.S.C. § 101 et Seq.
5 ("Copyright Act"): The Plaintiff has the exclusive
6 right, among other things, to make reproductions of it's
7 Copyrighted musical composition in all forms. This is
8 the most sacrosanct of rights afforded copyright owners.
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11

12 3. Plaintiff seeks a declaration that the
13 Defendants unauthorized copying of Plaintiff's
14 copyrighted musical composition by the Defendants
15 willfully infringes on Plaintiff's copyrights in
16 violation of the Copyright Act. Plaintiff further seeks
17 injunctive relief prohibiting the Defendants from
18 continuing to use or allowing any other service to use
19 any infringing reproduction of Plaintiff's copyrighted
20 musical composition. Plaintiff prays also for statutory
21 damages for willful Copyright Infringement in the amounts
22 specified in § 504 of the Copyright Act.
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1 4. This Civil Action is seeking declaratory,
2 injunctive and monetary relief for infringement under
3 the Copyright Laws of the United States "17 U.S.C. § 101
4 et Seq.". The Court has jurisdiction over the subject
5 matter of the action under 28 U.S.C. § 1331 and § 1338
6 (a). The Court has venue under 28 U.S.C. § 1391 (b) and
7 (c) and 1400 (a).

10 5. The Court has personal jurisdiction over the
11 Defendants because Defendants are doing business in this
12 State and within this district by selling and offering
13 its infringing reproduction of Plaintiff's copyrighted
14 musical sound recordings and composition to the
15 residences of this state in this district.

18 6. Plaintiff, Lela Weems is an individual, c/o
19 UBIQUITY RECORDINGS INC. is a corporation duly organized
20 and existing under the Laws of the State of California,
21 with its principal place of business at 1010 W. 17th
22 Street, Costa Mesa, California 92627.

25 7. Defendants Odd Future, LLC aka Odd Future
26 Records is located at 10960 Wilshire Blvd, 5th Floor,
27
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1 Los Angeles, California 90024; Tyler Gregory Okonma aka
2 Tyler the Creator is an individual doing business in the
3 State of California, County of Los Angeles; Sony Music
4 is an entity unknown to this Plaintiff doing business at
5 9830 Wilshire Blvd, Beverly Hills, Los Angeles County,
6 California; Sony ATV Music Publishing is an entity
7 unknown to Plaintiff doing business at 10635 Santa
8 Monica Blvd, Ste 300, Los Angeles, California 90025;
9 Golf Wang Steak Sauce BMI is an entity unknown to this
10 Plaintiff doing business in Los Angeles County
11 California with its principal place of business located
12 at 8 Music SQ W, Nashville, TN 37203; MTV is an entity
13 unknown to this Plaintiff doing business at 1575 North
14 Gower, Los Angeles California; Sony Red Distribution is
15 an entity unknown to this Plaintiff doing business in
16 Los Angeles County California; Columba Records is an
17 entity unknown to this Plaintiff doing business in Los
18 Angeles County California with its principal place of
19 business at 550 Madison Ave, New York, NY 10022.
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COPYRIGHTED WORKS

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2 8. UBIQUITY RECORDINGS INC. is the attorney in fact
3 for the music publisher for the Copyrights in the
4 musical composition "**Why Can't There Be Love**" written
5 and composed by Herman Weems for which the register of
6 Copyrights duly issued registration certificate No.Eu
7 203345 for the words and music.
8

9
10 9. Plaintiff is the owner of the exclusive rights
11 under section 106 and 115 of the Copyright Act to the
12 copyright with respect to the musical compositions and
13 sound recordings embodied in their phonorecords,
14 musical sounds and compositions which sound recordings
15 and compositions are protected by Copyright.
16
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19 **DEFENDANTS INFRINGING ACTIVITIES**

20 10. Defendants without authorization sampled, copied
21 and reproduced Plaintiff's copyright musical
22 composition into Defendants commercial sound
23 recordings, CDs, phonorecords, videos, live
24 performances, streaming, and made available for
25 downloading and streaming, in various audio and audio-
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1 visual formats of Defendant's musical sound recordings
2 containing Plaintiff's musical composition over the
3 Internet and in all forms of media, without Plaintiff's
4 authorization for the "Copyrighted Works" in this
5 Complaint.
6

7
8 11. Defendants failed to enter into any agreement
9 with Plaintiff for the composition licenses for the
10 Copyrighted Works. However, on and after April 13,
11 2015, Defendants made unauthorized use of the
12 Copyrighted Works in their sound recordings, musical
13 composition, phonorecords, CDs and Internet downloading
14 and streaming of Plaintiff's copyrighted works in
15 Defendants work known as "Deathcamp" and further
16 infringement in Defendant's album entitled "Cherry
17 Bomb" and further in the instances of violations:
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21 Album Release Dates:

22 CD/Digital - 04/13/15

23 Vinyl - 11/24/15

24 Digital single for Deathcamp released 04/09/15

25 Spotify:

26 <https://open.spotify.com/album/621OhgnZJ7Pz8iUazct1In>

27 (digital streaming released 04/13/15)
28

1 iTunes: [https://itunes.apple.com/us/album/cherry-](https://itunes.apple.com/us/album/cherry-bomb/id983056044)
2 [bomb/id983056044](https://itunes.apple.com/us/album/cherry-bomb/id983056044) (digital download + streaming released
3 04/13/15)

4 Amazon: [https://www.amazon.com/Cherry-Bomb-Explicit-](https://www.amazon.com/Cherry-Bomb-Explicit-Creator-Tyler/dp/B00VXOM348/ref=sr_1_1?s=dmusic&ie=UTF8&qid=1501876193&sr=1-1-mp3-albums-bar-strip-0&keywords=tyler+the+creator+cherry+bomb)
5 [Creator-](https://www.amazon.com/Cherry-Bomb-Explicit-Creator-Tyler/dp/B00VXOM348/ref=sr_1_1?s=dmusic&ie=UTF8&qid=1501876193&sr=1-1-mp3-albums-bar-strip-0&keywords=tyler+the+creator+cherry+bomb)
6 [Tyler/dp/B00VXOM348/ref=sr_1_1?s=dmusic&ie=UTF8&qid=1501](https://www.amazon.com/Cherry-Bomb-Explicit-Creator-Tyler/dp/B00VXOM348/ref=sr_1_1?s=dmusic&ie=UTF8&qid=1501876193&sr=1-1-mp3-albums-bar-strip-0&keywords=tyler+the+creator+cherry+bomb)
7 [876193&sr=1-1-mp3-albums-bar-strip-](https://www.amazon.com/Cherry-Bomb-Explicit-Creator-Tyler/dp/B00VXOM348/ref=sr_1_1?s=dmusic&ie=UTF8&qid=1501876193&sr=1-1-mp3-albums-bar-strip-0&keywords=tyler+the+creator+cherry+bomb)
8 [0&keywords=tyler+the+creator+cherry+bomb](https://www.amazon.com/Cherry-Bomb-Explicit-Creator-Tyler/dp/B00VXOM348/ref=sr_1_1?s=dmusic&ie=UTF8&qid=1501876193&sr=1-1-mp3-albums-bar-strip-0&keywords=tyler+the+creator+cherry+bomb) (digital
9 download + streaming released 04/13/15)

10 Google Play:
11 [https://play.google.com/store/music/album/Tyler_The_Crea](https://play.google.com/store/music/album/Tyler_The_Creator_Cherry_Bomb?id=Bwlhgrgtnuvlcjqvdb2ymxws5p4&hl=en)
12 [tor_Cherry_Bomb?id=Bwlhgrgtnuvlcjqvdb2ymxws5p4&hl=en](https://play.google.com/store/music/album/Tyler_The_Creator_Cherry_Bomb?id=Bwlhgrgtnuvlcjqvdb2ymxws5p4&hl=en)
13 (digital download released 04/13/15)

14 Pandora:
15 [https://www.pandora.com/artist/tyler-the-creator/cherry-](https://www.pandora.com/artist/tyler-the-creator/cherry-bomb-explicit/ALrprlKJmKt9lZw)
16 [bomb-explicit/ALrprlKJmKt9lZw](https://www.pandora.com/artist/tyler-the-creator/cherry-bomb-explicit/ALrprlKJmKt9lZw) (digital streaming
17 released 04/13/15)

18 Youtube:
19 <https://www.youtube.com/watch?v=Yk1HipdhdCU> - audio
20 track hosted by Sony released 04/14/15

21 <https://www.youtube.com/watch?v=SCcVrLcGD7k> - official
22 music video - 2 song medley comprised of "Fucking Young"
23 and "Deathcamp" (released 04/09/15 and violates both
24 audio and synchronization usage as no license was
25 issued)

26 Physical Album (Vinyl+CD)
27 [https://www.discogs.com/TylerCreator-Cherry-](https://www.discogs.com/TylerCreator-Cherry-Bomb/master/825518)
28 [Bomb/master/825518](https://www.discogs.com/TylerCreator-Cherry-Bomb/master/825518) (includes listing of all physical
formats available)

[https://www.amazon.com/Cherry-Bomb-Tyler-](https://www.amazon.com/Cherry-Bomb-Tyler-Creator/dp/B00VV5YOJG)
[Creator/dp/B00VV5YOJG](https://www.amazon.com/Cherry-Bomb-Tyler-Creator/dp/B00VV5YOJG) (release date 04/13/15)

Sync Placements:

1 [https://www.tunefind.com/show/sweetvicious/season-](https://www.tunefind.com/show/sweetvicious/season-1/38733#songs)
2 [1/38733#songs](https://www.tunefind.com/show/sweetvicious/season-1/38733#songs) - MTV show "Sweet Vicious" Season 1
Episode 10 titled "Sweet Heroine" 01/24/17 air date

3 12. Plaintiff has on multiple occasions advised
4 Defendants that the copying of its Copyrighted Works
5 onto Defendants' musical works, phonorecords, CDs,
6 videos, streaming and Internet downloading violates the
7 exclusive statutory rights of the Plaintiff under the
8 Copyright Act. Plaintiff has urged Defendants to stop
9 its infringing activities. Defendants have refused to do
10 so and continue to make unauthorized use of Plaintiff's
11 Copyrighted Works.
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17 **COUNT I**

18 **(FOR COPYRIGHT INFRINGEMENT BY DEFENDANTS)**

19 13. Plaintiff repeats and re-alleges the allegations
20 contained in paragraphs 1-12 as fully setforth herein.
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23 14. The unauthorized use of Plaintiff's Copyrighted
24 Works in Defendants' musical works, phonorecords, CDs,
25 videos, live performances, streaming and downloading
26 from the Internet infringes on Plaintiff's exclusive
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1 rights under the Copyright Act. Defendants have
2 willfully and with full knowledge of Plaintiff's
3 Copyrights made infringing reproduction and use of
4 Plaintiff's Copyrighted musical composition for the
5 purpose of making musical works, phonorecords, CDs,
6 sound recordings, videos, live performances, streaming
7 and Internet downloading in order to market Defendants
8 services and products.
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11
12 15. As a direct and approximate result of the
13 foregoing acts of infringement by the Defendants,
14 Plaintiff has been and will continue to be irreparably
15 injured.
16

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18 16. Defendants infringement of the Copyrights in the
19 Copyrighted Works has been and continues to be
20 intentional, willful, and with full knowledge of
21 Plaintiff's Copyrights.
22

23
24 17. As a direct and approximate result of the
25 foregoing acts of infringement by Defendant, Plaintiff
26 is entitled to damages and profits under § 504 of the
27 Copyright Act, including statutory damages for willful
28

1 infringement in an amount that is to be established at
2 Trial but not less than \$150,000.00 for each
3 infringement.
4

5
6 **COUNT II**

7
8 **(Vicarious and Contributory Infringement**
9 **of Copyrights.)**

10 18. Plaintiff reincorporates herein by reference,
11 each and every allegation contained in paragraphs 1
12 through 17, inclusive.
13

14 19..At all time relevant herein, on information and
15 belief, Defendants have had the right and ability to
16 supervise and/or control the infringing conduct without
17 limitation, by preventing or terminating the use,
18 duplication, distribution, exhibition, sale or
19 reproduction of Plaintiff's copyrighted works in
20 "Deathcamp" and "Cherry Bomb" but have failed to
21 exercise such supervision and/or control. As a direct
22 and proximate result of such failure, Defendants have
23 infringed upon Plaintiff's copyrights including
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1 Plaintiff's copyrighted composition as set forth above
2 and/or elsewhere.

3
4 20. At all times relevant herein, Defendants derived
5 a financial benefit from the infringement of Plaintiff's
6 copyrights by advertising, selling, distributing,
7 showing and exhibiting Defendants' work, on and after
8 April 13, 2015 for a financial benefit. Plaintiff is
9 informed and believes a fee was charged to view
10 Defendants' work which infringed upon Plaintiff's
11 copyrighted works. Plaintiff is informed and believes
12 and on that basis states that Defendants' participation
13 in the unauthorized use, reproduction, distribution,
14 sale and exhibition of The Defendants' work containing
15 Plaintiff's musical composition which attracted
16 potential advertisers and investors for the promotion,
17 and distribution of Defendants' work for a financial
18 benefit.
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24 21. On information and belief, the foregoing acts
25 of infringement have been willful, intentional, and
26 purposeful, in disregard to the rights of the Plaintiff.
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1 22. Defendants conduct, as alleged herein,
2 constitutes a vicarious and/or contributory infringement
3 of Plaintiff's copyrights, who has the exclusive rights
4 under the Copyright Act, in violation of Sections 106,
5 115 and 501 of the Copyright Act, 17 USC §106, 115 and
6 501.
7
8

9 23. As a direct and proximate result of Defendants
10 vicarious and/or contributory infringement of
11 Plaintiff's copyrights and exclusive rights under the
12 Copyright Act, Plaintiff is entitled to damages and
13 Defendants profits pursuant to 17 USC, §504 (b) for each
14 infringement.
15
16

17 24. Alternatively, Plaintiff is entitled to the
18 maximum statutory damages in the amount of \$150,000.00
19 for each infringement, or for such other amounts as may
20 be proper under 17 USC, §504(c). Plaintiff is informed
21 and believes, and on that basis alleges, that such
22 statutory damages will exceed \$750,000.00.
23
24
25

26 25. Plaintiff further is entitled to its attorney's
27 fees and costs pursuant to 17 USC §505.
28

1 desist the infringing reproduction of Plaintiff's
2 Copyrighted Works, to destroy any infringing copies of
3 the Copyrighted Works in the possession of the
4 Defendant, including without limitation any infringing
5 copies of the cds, videos or trailers in which the
6 Copyrighted Works appear or have been used.
7
8

9
10 (c) For an award at the election of Plaintiff
11 of either (i) actual damages and the profits derived by
12 Defendants as a result of it's infringing activities,
13 pursuant to 17 U.S.C. § 504 (b), or (ii) statutory
14 damages in the maximum amount of One Hundred and Fifty
15 Thousand Dollars (\$150,000.00) for each infringement
16 with the respect to Plaintiffs Copyrighted Works
17 pursuant to 17 U.S.C. § 504 (c).
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23 (d) For an award of costs of this action
24 including reasonable attorney fees and expert witness
25 fees.
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1 (e) For such other and further relief as the
2 Court may deem just and proper.

3 Dated: March 23, 2018
4

5 Respectfully submitted by: /s/ Peter F. Musielski
6 PETER F. MUSIELSKI,
7 Bar #82486

8 Attorney for Plaintiff, Lela
9 Weems by her attorney in fact,
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