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Attorneys for Plaintiffs,
 11 KONSTANTINE PANAGIOTIS LOIS, and
 12 SHANE JARRET WILLIAMS

13 **UNITED STATES DISTRICT COURT**
CENTRAL DISTRICT OF CALIFORNIA

14
 15 KONSTANTINE PANAGIOTIS LOIS,
 and SHANE JARRET WILLIAMS,

Case No. 2:21-cv-4305

16 Plaintiffs,

**COMPLAINT FOR COPYRIGHT
 INFRINGEMENT**

17 v.

DEMAND FOR JURY TRIAL

18 BENJAMIN JOSEPH LEVIN p/k/a
 19 BENNY BLANCO; ASHLEY
 NICOLETTE FRANGIPANE p/k/a
 20 HALSEY; NATHAN PEREZ p/k/a
 HAPPY PEREZ; KHALID DONNEL
 21 ROBINSON p/k/a KHALID; EDWARD
 CHRISTOPHER SHEERAN; FRIENDS
 22 KEEP SECRETS, INC.; UMG
 RECORDINGS, INC. d/b/a
 23 INTERSCOPE RECORDS; and DOES 1
 through 10, inclusive,

24 Defendants.

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JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act, 17 U.S.C. § 101 *et seq.*

2. This Court has subject matter jurisdiction over Plaintiffs’ claims for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

3. This Court has personal jurisdiction over Defendants because Defendants conduct business and/or reside within this judicial district, Defendants’ acts of infringement complained of herein occurred in this judicial district, and Defendants caused injury to Plaintiffs within this judicial district.

4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred. Alternatively, venue is also proper pursuant to 28 U.S.C. § 1400(b) because the Defendants reside and/or have regular and established places of business in this judicial district.

PARTIES

5. Plaintiff Konstantine Panagiotis Lois (“Lois”) is an individual residing in the state of California.

6. Plaintiff Shane Jarret Williams (“Williams”) is an individual residing in the state of California.

7. Defendant Benjamin Joseph Levin p/k/a Benny Blanco (“Blanco”) is an individual who, on information and belief, resides in the state of California.

8. Defendant Ashley Nicolette Frangipane p/k/a Halsey (“Halsey”) is an individual who, on information and belief, resides in California.

9. Defendant Nathan Perez p/k/a Happy Perez (“Happy Perez”) is an individual who, on information and belief, resides in the state of Texas.

10. Defendant Khalid Donnel Robinson p/k/a Khalid (“Khalid”) is an individual who, on information and belief, resides in the state of Texas.

11. Defendant Edward Christopher Sheeran (“Sheeran”) is an individual

1 who, on information and belief, resides in the United Kingdom.

2 12. Defendant Friends Keep Secrets, Inc. (“Friends Keep Secrets”) is a
3 Delaware corporation.

4 13. Defendant UMG Recordings, Inc. d/b/a Interscope Records
5 (“Interscope”) is a Delaware corporation.

6 14. Plaintiffs Lois and Williams (“collectively, “Plaintiffs”) are unaware of
7 the true names and capacities of the Defendants sued herein as DOES 1 through 10,
8 inclusive, and for that reason, sues such Defendants under such fictitious names.
9 Plaintiffs are informed and believe and, on that basis, allege that such fictitiously
10 named Defendants are responsible in some manner for the occurrences herein
11 alleged, and that Plaintiffs’ damages as herein alleged were proximately caused by
12 the conduct of said Defendants. Plaintiffs will seek to amend the complaint when the
13 names and capacities of such fictitiously named Defendants are ascertained through
14 discovery or otherwise. As alleged herein, “Defendant” shall mean all named
15 Defendants and all fictitiously named Defendants.

16 **STATEMENT OF FACTS**

17 ***“Loveless” by American XO***

18 15. Williams is a professional musician and the creative force behind the
19 band American XO. Hailing from Los Angeles, American XO combines ethereal
20 pop and alternative music with west coast and Americana themes.

21 16. Lois is a professional musician and producer. His music has also been
22 featured on over 91 TV series and 225 different episodes on NBC, ABC, CBS,
23 FOX, CW, PBS, Disney, Discovery, Nickelodeon, Hallmark, Hulu, Netflix and
24 more.

25 17. In 2015, Williams and Lois wrote the song “Loveless,” which was
26 released as part of American XO’s 2016 album “Pacific Coast Bloody Nose.”

27 18. Williams and Lois registered “Loveless” with the United States
28 Copyright office under registration SR 826-800.

1 19. Since its release, “Loveless” has received wide distribution having
2 been continuously available to the public through major streaming platforms
3 including iTunes, Apple Music, Amazon Music, Spotify, Tidal, and SoundCloud.

4 ***“Eastside” by Benny Blanco***

5 20. Blanco is an award-winning songwriter, music producer, and musical
6 artist.

7 21. Blanco has co-written and produced numerous hit songs with artists
8 such as Justin Bieber, Katy Perry, Maroon 5, Britney Spears, Rihanna, and more.

9 22. Regarding his sources of inspiration for writing songs, in an interview
10 with VIBE, Blanco stated,

11 “I draw inspiration from everyone. I listen to every type of music. I try to
12 expose myself to 10, 12 new artists every day. I’m listening to everything. ...
13 I try to spread it around because you never know. There could be something
in one of those songs that gives me an idea to do something like this or
something like that.”

14 See [https://www.vibe.com/features/editorial/benny-blanco-talks-being-inspired-nas-
15 working-wiz-khalifa-and-advice-producers-103865/](https://www.vibe.com/features/editorial/benny-blanco-talks-being-inspired-nas-working-wiz-khalifa-and-advice-producers-103865/).

16 23. Blanco stated in an interview with Sound on Sound that “I probably
17 download 100 songs a day” and that “if something catches my ear, I’ll listen to the
18 whole song.” See www.soundonsound.com/people/benny-blanco.

19 24. In July of 2018, Blanco released his debut single “Eastside” co-written
20 and performed by co-defendants Sheeran, Halsey, and Khalid, and Happy Perez.

21 25. “Eastside” was a smash hit both domestically and internationally,
22 having been certified 4x platinum by the RIAA and spending a record-tying 45
23 weeks on Billboard’s Pop Songs radio airplay chart.

24 26. On information and belief, “Eastside” was released and distributed
25 through co-defendants Interscope and Friends Keep Secrets.

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The Substantial Similarity Between “Loveless” And “Eastside”

27. In music terminology a “bar” is a segment of music that holds a certain number of beats.

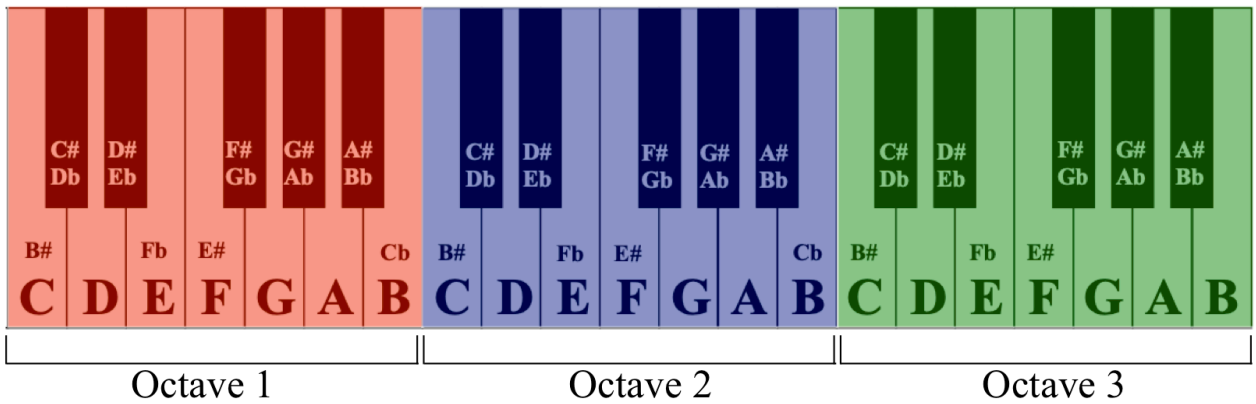
28. Four beats per bar is colloquially known as “common time”. Most pop songs are composed in common time.

29. Each beat in a bar of music can be subdivided, with musical notes being played on a beat or subdivision of a beat. For example, when composing a song in common time, a whole note indicates that the musical note is to be held for all four beats of a bar, a half note indicates that the musical note is to be held for two beats of a bar, a quarter note indicates that the musical note is to be played for one beat of the bar, and so on.

30. The term “tempo” is used to describe the speed or pace of a piece of music. Musical tempo is typically measured in the number of beats per minute.

31. The term “octave” refers to the distance between one musical note (for example the note “C”) and the next musical note bearing its same name.

32. Visualized on a piano keyboard beginning at the note “C”, octaves would look like this:



33. A “scale” is an ordered sequence of notes in an octave. The sequence of notes in a scale is determined by the “interval” or distance between each note in the scale.

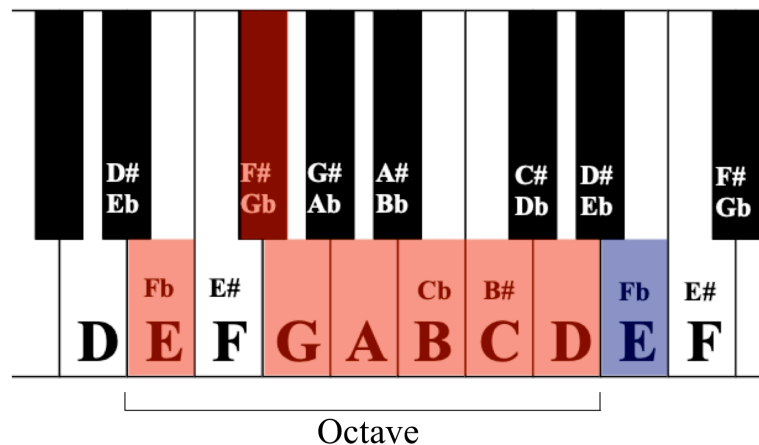
34. Most pop songs are written using a “major” or “minor” scale, which

1 comprises of seven notes of the scale contained in an octave with the eighth and
2 final note being the original note of the scale, but one octave higher.

3 35. A “key” is the scale around which a piece of music revolves.

4 36. For example a song composed in the key of “E Minor” would use the
5 notes found in a minor scale starting on the “E” note.

6 37. Visualized on a piano keyboard, the “E Minor” scale would look like
7 this:



15 38. Because the interval between the notes of a particular type of scale are
16 the same regardless of the beginning note, a song originally written in one key can
17 be easily “transposed” into a different key by simply utilizing the same note
18 intervals of the particular scale.

19 39. In order to give a musical composition more variety, musicians often
20 play multiple notes simultaneously. When multiple notes are played simultaneously
21 it forms a “chord.”

22 40. A “dyad” is a two-note chord.

23 41. On a guitar, the strings are typically tuned to the following notes of the
24 scale, proceeding from the lowest to the highest: E, A, D, G, B, E. The lowest string
25 is normally referred to as the sixth string, and the other strings are numbered
26 accordingly from lowest to highest.

27 42. In normal play, multiple strings are strummed together to form chords,
28 the strumming finger normally running from the lowest to the highest string played.

1 43. The fingers of the opposite hand depress various of the strings at
 2 different points on the neck of the guitar to form the individual notes of the chord.

3 44. "Loveless" is written in the key of E minor and played in common
 4 time at a tempo of 64 beats per minute.

5 45. "Loveless" begins with a two bar guitar riff containing a series of two
 6 note dyads ("Loveless Riff").

7 46. In order to perform the "Loveless Riff" on a guitar, the two note dyads
 8 are formed by having the player concurrently place his or her index finger on fifth
 9 string of the guitar and his or her ring finger second string of the guitar.

10 47. The first dyad of the Loveless Riff is held for the length of one half
 11 note.

12 48. The second dyad of the Loveless Riff is held for the duration of one
 13 quarter note. The guitar player then continues to depress the fifth and second strings
 14 while simultaneously sliding his or her index and ring fingers up the neck of the
 15 guitar in to the position of the third dyad, which is also held for the duration of one
 16 quarter note.

17 49. The fourth dyad is then played on the first beat of the second bar, after
 18 which the sound of guitar feedback can be heard.

19 50. Transcribed into musical notation, the "Loveless Riff" would look like
 20 this:

Loveless Riff

The musical notation for the "Loveless Riff" is presented in a standard format. At the top, four chord diagrams are shown for Em, D, G, and C. The Em diagram shows the 2nd, 3rd, 4th, and 5th strings fretted at the 2nd, 3rd, 4th, and 5th positions respectively. The D diagram shows the 2nd, 3rd, and 4th strings fretted at the 2nd, 3rd, and 4th positions, with the 1st and 5th strings muted (marked with 'x'). The G diagram shows the 2nd, 3rd, and 4th strings fretted at the 3rd, 2nd, and 3rd positions. The C diagram shows the 2nd, 3rd, and 4th strings fretted at the 3rd, 2nd, and 3rd positions, with the 1st and 5th strings muted. Below the diagrams is a tempo marking of ♩ = 64. The main notation consists of a treble clef staff with a key signature of one sharp (F#) and a 4/4 time signature. The first bar contains two half notes: a G4 (5th string, 2nd fret) and a D4 (2nd string, 3rd fret). The second bar contains two quarter notes: a G4 (5th string, 2nd fret) and a D4 (2nd string, 3rd fret), followed by a whole note G4 (5th string, 2nd fret). The guitar tablature below the staff shows the fretting for the T (Treble), A (Acoustic), and B (Bass) strings. The T string has frets 8, 7, 12, and 5. The A string has frets 4 and 4. The B string has frets 7, 5, 10, and 3. A small '7' is written below the tablature.

1 51. Eastside is written in the key of F# minor and performed in common
2 time at a tempo of 88 beats per minute.

3 52. The instrumental portion of the song “Eastside” comprises solely of a
4 two bar, looped guitar riff containing a series of two note dyads that repeat without
5 variation for the duration of the song (“Eastside Riff”).

6 53. The finger positions, note intervals, and beat required to perform the
7 Eastside Riff on a guitar is identical to that of the Loveless Riff.

8 54. For example, on the Eastside Riff the two note dyads are formed by
9 having the player concurrently place his or her index finger on fifth string of the
10 guitar and his or her ring finger second string of the guitar— the identical finger
11 position required to play the Loveless Riff.

12 55. Identical to the Loveless Riff, the first dyad of the Eastside Riff is held
13 for the length of one half note.

14 56. Identical to the Loveless Riff, the second dyad of the Eastside Riff is
15 held for the duration of one quarter note.

16 57. Identical to the Loveless Riff, the Eastside Riff requires the guitar
17 player to depress the fifth and second strings while simultaneously sliding his or her
18 index and ring fingers up the neck of the guitar in to the position of the third dyad,
19 which, identical to the Loveless Riff, is also held for the duration of one quarter
20 note.

21 58. Identical to the Loveless Riff, the fourth dyad of the Eastside Riff is
22 then played on the first beat of the second bar, after which the sound of guitar
23 feedback can be heard.

24 59. The Eastside Riff is repeated on a loop for the entirety of the song and
25 is the only instrumental accompaniment present in “Eastside.”

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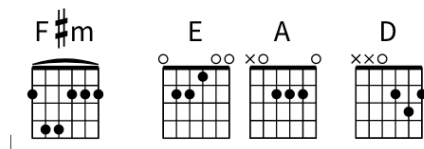
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1 60. Transcribed into musical notation, the “East Riff” would look like this:

2 **Eastside Riff**

3 F#m E A D

4 

5 ♩ = 88

6 

7

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9 **T** 10 — 9 / 14 — 7


10 **A** 9 — 7 / 12 — 5

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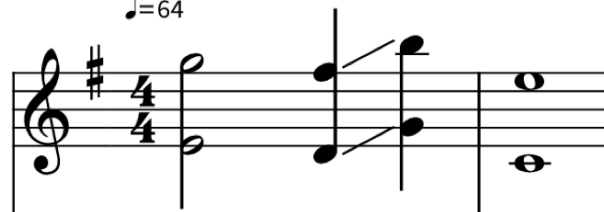
12 61. When transposed to the same key, the Loveless Riff and the Eastside Riff are musically identical:

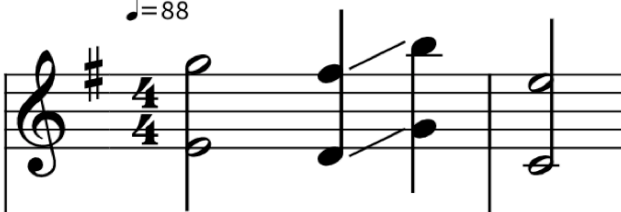
13 **Loveless Riff** **Eastside Riff**

14 Em D G C Em D G C

15 

16 ♩ = 64 ♩ = 88

17 

18 

19

20 **T** 8 — 7 / 12 — 5

21 **A** 7 — 5 / 10 — 3

22

23 62. Both the Loveless Riff and the Eastside Riff comprise of identical two note dyads of identical note intervals played over identical beats. Both Riffs are played on guitar and require identical finger positions. Both Riffs contain an identical slide of the fingers up the neck of the guitar between the second and third dyad. Both Riffs also contain guitar feedback played after the fourth dyad.

27 63. Incorporated by reference as Exhibit A is an audio comparison of the Loveless Riff and Eastside Riff available at <https://bit.ly/2TjrvtX>.

FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
17 U.S.C. § 101 *et seq.*

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3 64. Plaintiffs incorporate by reference all of the above paragraphs of this
4 Complaint as though fully stated herein.

5 65. Plaintiffs did not consent to, authorize, permit, or allow in any manner
6 the said use of Plaintiffs Loveless Riff to create the song “Eastside”.

7 66. Plaintiffs are informed and believe and thereon allege that the
8 Defendants willfully infringed upon Plaintiffs’ copyrighted work in violation of
9 Title 17 of the U.S. Code, in that they used, published, communicated, posted,
10 publicized, and otherwise held out to the public for commercial benefit, the original
11 and unique work of the Plaintiffs without Plaintiffs’ consent or authority.

12 67. As a result of Defendants’ violations of Title 17 of the U.S. Code,
13 Plaintiffs are entitled to actual damages and any profits of the Defendants that are
14 attributable to the infringement and are not taken into account in computing the
15 actual damages pursuant to 17 U.S.C. §504(b), or (if elected by Plaintiffs) statutory
16 damages in an amount up to \$150,000 pursuant to 17 U.S.C. § 504(c).

17 68. As a result of the Defendants’ violations of Title 17 of the U.S. Code,
18 the Court in its discretion may allow the recovery of full costs as well as reasonable
19 attorney’s fees and costs pursuant to 17 U.S.C § 505 from each Defendant.

20 69. Plaintiffs also seek a permanent injunction pursuant to 17 U.S.C. §
21 502.

PRAYER FOR RELIEF

22
23 **WHEREFORE**, Plaintiffs request judgment against Defendants as follows:

24 1. An accounting be made for all profits, income, receipts or other benefit
25 derived by Defendants from the improper and unlawfully infringement of Plaintiffs’
26 copyrights pursuant to 17 U.S.C. §§ 504 (a)(1) & (b);

27 2. Actual damages and disgorgement of all profits derived by Defendants
28 from its acts of copyright infringement to reimburse under 17 U.S.C. §§ 504 (a)(1),

1 or in the alternative and at Plaintiffs' election, statutory damages for copyright
2 infringement, including willful infringement, in accordance with 17 U.S.C. §§
3 504(a)(2) and (c);

4 3. Defendants and its officers, agents, servants, employees, and
5 representatives, and all persons in active concert or participation with them be
6 permanently enjoined from copying, reproducing, promoting, advertising,
7 distributing, or selling, any work that infringes on Plaintiffs' copyrights;

8 4. Reasonable attorneys' fees incurred herein pursuant to 17 U.S.C. § 505
9 or otherwise available by law;

10 5. Costs and interest pursuant to 17 U.S.C. §§ 504 (a)(1) and (b), 17
11 U.S.C. § 505, or otherwise available by law;

12 6. Prejudgment interest to on all amounts owed; and

13 7. Any such other and further relief as the Court may deem just and
14 appropriate.

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16 Dated: May 24, 2021

Respectfully submitted,

17

/s/ Mathew K. Higbee
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury in the above matter.

Dated: May 24, 2021

Respectfully submitted,

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