

ALEXANDRA HAWRYLYSZYN

Avocat A la Cour

Case : ZIEBEN / WILES

SUMMONS BEFORE THE TRIBUNAL DE GRANDE INSTANCE OF PARIS

PLAINTIFFS

Mister Michael ZIEBEN, born 28/08/82 in Saint-Denis (Seine-Saint-Denis)
French citizen, living at 20 rue Touzet Gaillard, 93400 Saint-Ouen, France
Author-composer

Mister Patrice ADEKALOM, born 05/07/80 in Abymes (Guadeloupe)
Living at 37 rue Rouget de Lisle, 92130 Issy-les-Moulineaux, France
Author-composer

Represented by: Maître Alexandra HAWRYLYSZYN, Lawyer recognised by the
Paris bar, domiciled at 3, Square la Fontaine, 75016 Paris, Telephone : +33 1 45 05 95
95 – Fax : +33 1 45 05 95 96

V.

DEFENDANTS

Mister Adam Richard WILES, born 17/01/84 in Dumfries (United Kingdom)

Mister Christopher BREAUX, born 28/10/87 in Long Beach (United States of America)

Mister Kiari Kendrell CEPHUS, born 14/12/91 in Lawrenceville (United States of America)

Mister Kirsnick Khari BALL, born 18/06/94 in Lawrenceville (United States of America)

Mister Quavious Keyate MARSHALL, born 02/04/91 in Athens (United States of America)

SONY ATV MUSIC PUBLISHING FRANCE headquartered at 17 rue de Berri, 75008 Paris,
FRANCE

UNIVERSAL MCA MUSIC PUBLISHING headquartered at 16 rue des Fossés Saint Jacques
75235 Paris Cedex 05, FRANCE

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MEMBRE D'UNE ASSOCIATION AGRÉÉE. LE RÈGLEMENT PAR CHÈQUE EST ACCEPTÉ.

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BMG RIGHTS MANAGEMENT headquartered at 5 rue de Castiglione
75001 Paris, FRANCE

EMI MUSIC PUBLISHING France headquartered at 27 rue de Berri 75008 Paris, FRANCE

SONY ATV MUSIC PUBLISHING UK headquartered at 30 Golden Square London W1F9LD,
UNITED KINGDOM

SONY ATV MUSIC PUBLISHING (US) headquartered at 424 Church Street , Suite 1200,
Nashville, TN 37219, UNITED STATES OF AMERICA

TSJ MERLYN LICENSING B V headquartered at 424 Church Street , Suite 1200, Nashville,
TN 37219, UNITED STATES OF AMERICA

UNIVERSAL MUSIC CORPORATION headquartered at 2100 Colorado Avenue Santa
Monica, CA 90404, UNITED STATES OF AMERICA

QUALITY CONTROL QC PRO headquartered at 2100 Colorado Avenue Santa Monica, CA
90404, UNITED STATES OF AMERICA

HUNCHO YRN MUSIC headquartered at 2100 Colorado Avenue Santa Monica, CA 90404,
UNITED STATES OF AMERICA

RESERVOIR MEDIA MANAGEMENT headquartered at 75 Varick Street FL 9 New York, NY
10013, UNITED STATES OF AMERICA

YRN PIPED UP ENT headquartered at 75 Varick Street FL 9 New York, NY 10013, UNITED
STATES OF AMERICA

SILENT ASSASSIN YRN headquartered at 75 Varick Street FL 9 New York, NY 10013,
UNITED STATES OF AMERICA

BMG RIGHTS MANAGEMENT headquartered at Charlottenstraße 59, 10117 Berlin,
GERMANY

HEAVENS RESEARCH headquartered at Charlottenstraße 59, 10117 Berlin, GERMANY

TO COURT BAILIFF

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Is commanded to Summon the above named defendant(s) and serve upon said defendant(s) a copy of this summons and complaint.

VERY IMPORTANT

Within fifteen days of the date indicated at the beginning of the present deed, subject to an extension due to the distance, in accordance with articles 643 and 644 of the French Code of Civil Procedure, you are required to entrust a lawyer having his professional residence in the jurisdiction of the PARIS Court of Appeal - if you do not intend to benefit from the legal aid and that the chosen lawyer is the pleading lawyer - to represent you before French courts, in this case before the Tribunal de Grande Instance of PARIS.

In accordance with Article 5 - Law No. 71-1130 of December 31st, 1971,

and Article 643 of the French Code of Civil Procedure,

If you refuse to do so, you are liable to a decision being made against you on the only elements provided by your opponents.

Persons whose resources are insufficient may, if they fulfill the conditions provided for by Law No. 91-647 of July 10th, 1991, receive legal aid. In order to apply for this assistance, they must apply to the legal aid office established at the Tribunal de Grande Instance of their domicile and, by way of derogation from the second paragraph of Article 5 of Law No. 71-1130 of December 31st, 1971, to charge a lawyer having his professional residence within the jurisdiction of the Tribunal de grande instance of PARIS.

STATEMENT OF FACTS

Mr. Mickael ZIEBEN and Mr. Patrice ADEKALOM are equal holders of the economic rights: right of representation and right of reproduction and moral rights on the work "HOW IS IT GONNA BE" created on May 27, 2016, declared to SACEM under the number 3418475111 dated 9 July 2016 at 17 hours 16 minutes Paris time (France) and listed under number ISCWCT-703.596.699.7 (**Exhibit 1**).

The plaintiffs indicate that in the course of 2017, they discovered that a musical work entitled "SLIDE" was very widely broadcast on national and international airwaves and networks. **This work was flagrantly similar to the instrumental version of HIIGB?**

This work has been registered with the Society of Musical Authors, Composers and Publishers under the number ISWCT-921.245.278.3. The registered authors-composers are Christopher BREAUX, Adam Richard WILES known under his artistic pseudonym CALVIN

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HARRIS, Kiari Kendrell CEPHUS alias OFFSET, Kirsnick Khari BALL alias TAKEOFF and Quavious Keyate MARSHALL alias QUAVO.

The plaintiffs were informed that in France, SONY MUSIC ENTERTAINMENT FRANCE SAS, SONY ATV MUSIC PUBLISHING FRANCE, UNIVERSAL MCA MUSIC PUBLISHING, BMG RIGHTS MANAGEMENT and EMI MUSIC PUBLISHING FRANCE operate and / or publish and / or reproduce and / or broadcast to the public without their authorization the musical work called "SLIDE" which has flagrant similarities with the work "HOW IS IT GONNA BE" (**Exhibit 2**).

These similarities have been confirmed by several recognized musical experts, including Messrs Joel SACHS, Tuomas EEROLA, Nicolas LHOMOND and Peter OXENDALE as well as by Mr Laurent SOUQUES, an expert recognised by the Court of Appeal of Paris, whose expert report is annexed to this letter (**Exhibit 3**).

The afore-mentioned report of Mr. Laurent SOUQUES dated April 13, 2019 concluded: "*(...) The accumulation of both aesthetic and technical similarities identified in this analysis leads us to believe that they are not mere coincidences linked to the collective memory. To the mission "to say if an informed ear could confuse the two works", we answer that the instrumental versions of these works are based on instrumental, harmonic, rhythmic points and similar and striking sound environments that can lead to confusion and induce some listeners in error. (...)*" (**Exhibit 3 - page 21/30**).

Messrs CHANDLER & SIDELL, expert musicological experts confirm the content of Mr Laurent SOUQUES' report by concluding "*that there are striking similarities between the two works*", to such an extent that "*there is musical evidence that could support a potential claim of copyright infringement*". They also emphasize the originality of the work "HOW IS IT GONNA BE" and think that "SLIDE" "*arguably could be described as a new arrangement of*" "HOW IS IT GONNA BE". (**Exhibit 4 - pages 8/9**).

The companies SONY ATV MUSIC PUBLISHING (US), TSJ MERLYN LICENSING B V (c/o EMI PARIL MUSIC INC c/o SONY/ATV MUSIC PUBLISHING), SONY ATV MUSIC PUBLISHING (UK), UNIVERSAL MUSIC CORPORATION, QUALITY CONTROL QC PRO (c/o UNIVERSAL MUSIC CORPORATION), HUNCHO YRN MUSIC (c/o UNIVERSAL MUSIC CORPORATION), RESERVOIR MEDIA MANAGEMENT, YR, PIPED UP ENT (c/o RESERVOIR MEDIA MUSIC), SILENT ASSASSIN YRN (c/o RESERVOIR MEDIA MUSIC), BMG RIGHTS MANAGEMENT and HEAVENS RESEARCH exploit and / or sub-exploit and / or publish and / or sub-publish and / or reproduce and / or broadcast to the public throughout the world the musical work entitled "SLIDE".

These facts constitute an infringement by reproduction, representation, diffusion of the above-mentioned musical work "HOW IS IT GONNA BE" covered by articles L. 122-4 and L. 335-2 of the French Code of Intellectual Property.

Prior to the present referral to the Tribunal of Grande Instance of Paris, by a letter dated October 25, 2018 and several email exchanges, Mr. Mickael ZIEBEN and Mr. Patrice

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ADEKALOM tried to amicably resolve the dispute by proposing to the company SONY MUSIC ENTERTAINMENT FRANCE SAS and to SONY ATV MUSIC PUBLISHING UK, to cease all exploitation, broadcast, distribution, reproduction, use, in any form whatsoever and by any means existing or future of the title "SLIDE" and to grant the plaintiffs their authors shares and remunerations. (**Exhibit 5**).

Nevertheless, this attempt at an amicable dispute resolution failed to succeed for the following reasons:

- Refusal by the defendants to cease the copyright infringement (**Exhibit 6**)
- Absence of amicable agreement between the plaintiffs and the defendants (**Exhibit 7**)

Consequently, Mr. Mickael ZIEBEN and Mr. Patrice ADEKALOM have served upon SONY MUSIC ENTERTAINMENT FRANCE SAS the present summons.

Mr Mickael ZIEBEN and Mr Patrice ADEKALOM are, in these circumstances, admissible and well-founded to seek, first of all, the cessation of the activity in which SONY MUSIC ENTERTAINMENT FRANCE SAS has engaged consisting in the exploitation, manufacturing, marketing, the broadcast to the public of the musical work mentioned above.

It should also be ordered, at the expense of SONY MUSIC ENTERTAINMENT FRANCE SAS, to have all compact discs, vinyl records, .MP3, .AAC, .OGG, .M4A, .WMA, .FLAC, .WAV recalled, their side-lining from main commercial channels and their destruction (or confiscation), in accordance with the provisions of Article L331-1-4 of the Code of Intellectual Property.

It is also necessary to order the publication or display at the expense of SONY MUSIC ENTERTAINMENT FRANCE SAS, by extract or in full, of the judgment to intervene in three newspapers or journals of Mr. Mickael ZIEBEN and Mr. Patrice ADEKALOM's choosing, in accordance with Article L331-1-4 of the Code of Intellectual Property.

In addition, Mr. Mickael ZIEBEN and Mr. Patrice ADEKALOM are also admissible and well-founded to seek compensation in reparation for the various damages caused by this unauthorized exploitation of their rights in accordance with the provisions of Article L331-1 - 3 of the Code of Intellectual Property.

Mr. Mickael ZIEBEN and Mr. Patrice ADEKALOM request the appointment of an expert to estimate the damage suffered in connection with the infringing activity.

ON THESE GROUNDS

It is requested of the Tribunal de Grande Instance of Paris to:

Given the provisions of Book I, III of the Code of Intellectual Property and Articles L. 122-4 and L. 335-2 of the Code of Intellectual Property,

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Given the facts as above-mentioned,

Given the documents submitted to the proceedings and attached to the the present summons,

Declare the request of Mr Mickael ZIEBEN and Mr Patrice ADEKALOM admissible and well founded,

State and rule that the companies SONY MUSIC ENTERTAINEMENT FRANCE SAS, SONY ATV MUSIC PUBLISHING FRANCE, UNIVERSAL MCA MUSIC PUBLISHING, BMG RIGHTS MANAGEMENT, EMI MUSIC PUBLISHING FRANCE, SONY ATV MUSIC PUBLISHING (US), TSJ MERLYN LICENSING B V (c/o EMI PARIL MUSIC INC c/o SONY/ATV MUSIC PUBLISHING), SONY ATV MUSIC PUBLISHING (UK), UNIVERSAL MUSIC CORPORATION, QUALITY CONTROL QC PRO (c/o UNIVERSAL MUSIC CORPORATION), HUNCHO YRN MUSIC (c/o UNIVERSAL MUSIC CORPORATION), RESERVOIR MEDIA MANAGEMENT, YR, PIPED UP ENT (c/o RESERVOIR MEDIA MUSIC), SILENT ASSASSIN YRN (c/o RESERVOIR MEDIA MUSIC), BMG RIGHTS MANAGEMENT et HEAVENS RESEARCH engage in the manufacture of material support, marketing, diffusion, unauthorized exploitation of a musical work infringing on the right (s) of intellectual property of Mickael ZIEBEN and Patrice ADEKALOM and, as such, constitutes counterfeit within the meaning of Article L. 122-4 (of the Code of Intellectual Property).

State and rule that Christopher BREAUX, Adam Richard WILES known under his artistic pseudonym CALVIN HARRIS, Kiari Kendrell CEPHUS alias OFFSET, Kirsnick Khari BALL alias TAKEOFF and Quavious Keyate MARSHALL alias QUAVO are responsible for the counterfeiting of Messrs Mickael ZIEBEN and Patrice ADEKALOM's work entitled "HOW IS IT GONNA BE".

Consequently, it is requested of the Tribunal de Grande Instance of Paris to:

Sentence *in solidum* Messrs Christopher BREAUX, Adam Richard WILES known under his artistic pseudonym CALVIN HARRIS, Kiari Kendrell CEPHUS alias OFFSET, Kirsnick Khari BALL alias TAKEOFF and Quavious Keyate MARSHALL alias QUAVO to repair the damages suffered by Mr Mickael ZIEBEN and Mr Patrice ADEKALOM resulting from the counterfeiting of the musical work "HOW IS IT GONNA BE".

Sentence *in solidum* the companies SONY MUSIC ENTERTAINEMENT FRANCE SAS, SONY ATV MUSIC PUBLISHING FRANCE, UNIVERSAL MCA MUSIC PUBLISHING, BMG RIGHTS MANAGEMENT, EMI MUSIC PUBLISHING FRANCE, SONY ATV MUSIC PUBLISHING (US), TSJ MERLYN LICENSING B V (c/o EMI PARIL MUSIC INC c/o SONY/ATV MUSIC PUBLISHING), SONY ATV MUSIC PUBLISHING (UK), UNIVERSAL MUSIC CORPORATION, QUALITY CONTROL QC PRO (c/o UNIVERSAL MUSIC CORPORATION), HUNCHO YRN MUSIC (c/o UNIVERSAL MUSIC CORPORATION), RESERVOIR MEDIA MANAGEMENT, YR, PIPED UP ENT (c/o RESERVOIR MEDIA MUSIC), SILENT ASSASSIN YRN (c/o RESERVOIR MEDIA MUSIC), BMG RIGHTS MANAGEMENT et HEAVENS RESEARCH to repair the

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damages suffered by Mr Mickael ZIEBEN and Mr Patrice ADEKALOM resulting from the counterfeiting of the musical work "HOW IS IT GONNA BE".

Appoint an expert to estimate the damage suffered by Mr. Mickael ZIEBEN and Mr. Patrice ADEKALOM.

Order the publication or display at the expense of SONY MUSIC ENTERTAINMENT FRANCE SAS, SONY ATV MUSIC PUBLISHING FRANCE, UNIVERSAL MCA MUSIC PUBLISHING, BMG RIGHTS MANAGEMENT, EMI MUSIC PUBLISHING FRANCE by extract or in whole, of the judgment to intervene in three newspapers or reviews of Mickael ZIEBEN and Patrice ADEKALOM's choosing.

Order, given the urgency, the provisional execution of the judgment to intervene, notwithstanding appeal and without constitution of guarantee.

Acknowledge that Mr. Mickael ZIEBEN has fulfilled the requirements of the penultimate paragraph of Article 56 of the Code of Civil Procedure.

Acknowledge that Mr Patrice ADEKALOM that he has fulfilled the requirements of the penultimate paragraph of Article 56 of the Code of Civil Procedure.

Sentence *in solidum* Messrs Christopher BREAUX, Adam Richard WILES known under his artistic pseudonym CALVIN HARRIS, Kiari Kendrell CEPHUS alias OFFSET, Kirsnick Khari BALL alias TAKEOFF and Quavious Keyate MARSHALL alias QUAVO and the companies SONY MUSIC ENTERTAINMENT FRANCE SAS, SONY ATV MUSIC PUBLISHING FRANCE, UNIVERSAL MCA MUSIC PUBLISHING, BMG RIGHTS MANAGEMENT, EMI MUSIC PUBLISHING FRANCE to pay Mr. Mickael ZIEBEN and Mr. Patrice ADEKALOM € 20,000.00 under Article 700 of the Code of Civil Procedure.

Sentence *in solidum* Messrs Christopher BREAUX, Adam Richard WILES known under his artistic pseudonym CALVIN HARRIS, Kiari Kendrell CEPHUS alias OFFSET, Kirsnick Khari BALL alias TAKEOFF and Quavious Keyate MARSHALL alias QUAVO and the companies SONY MUSIC ENTERTAINMENT FRANCE SAS, SONY ATV MUSIC PUBLISHING FRANCE, UNIVERSAL MCA MUSIC PUBLISHING, BMG RIGHTS MANAGEMENT, EMI MUSIC PUBLISHING FRANCE to bear the full costs of these legal proceedings.

UNDER ALL RESERVES

- All relevant documents to establish materiality, extent of infringement and damages sought.
- The numbered list of supporting documents referred to by the applicants is set out in the schedule annexed to the present complaint.

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LIST OF SUPPORTING DOCUMENTS

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