

1 Barry E. Mallen, Esq. [SBN 120005]  
2 bmallen@laklawyers.com  
3 **LEVINSON ARSHONSKY & KURTZ, LLP**  
4 15303 Ventura Blvd., Suite 1650  
5 Sherman Oaks, CA 91403  
6 Telephone: (818) 382-3434  
7 Facsimile: (818) 382-3433

8 Attorneys for Plaintiffs  
9 KISS CATALOG, LTD., GENE SIMMONS and  
10 PAUL STANLEY

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 KISS CATALOG, LTD.; GENE  
14 SIMMONS; and PAUL STANLEY,

15 Plaintiffs,

16 vs.

17 APPLAUSE LICENSING, LLC, a Florida  
18 limited liability company; CURT  
19 GOOCH, an individual and DOES 1  
20 through 20, inclusive,

21 Defendants.

CASE NO.

**COMPLAINT FOR DECLARATORY  
RELIEF**

**DEMAND FOR JURY**

LEVINSON ARSHONSKY & KURTZ, LLP

22 **I. Introduction**

23 1. Plaintiffs Kiss Catalog, Ltd., Gene Simmons and Paul Stanley are  
24 collectively the owners of the intellectual property of the iconic recording group  
25 KISS, including the copyrights to the concert footage at issue in this action. Plaintiffs  
26 bring this action as a result of Defendants' unauthorized attempt to exercise dominion  
27 and control over, and claim ownership of, the copyrights to certain KISS historical  
28 concert footage.

**II. Parties**

LEVINSON ARSHONSKY & KURTZ, LLP

1           2.     Plaintiff KISS Catalog, Ltd. (“KISS Catalog”) is a New Jersey  
2 corporation with its principal place of business in Pine Brook, New Jersey. Plaintiff is  
3 the owner of certain of the intellectual property of the recording group KISS.

4           3.     Plaintiff Gene Simmons (“Simmons”) is an individual who resides in Los  
5 Angeles, California.

6           4.     Plaintiff Paul Stanley (“Stanley”) is an individual who resides in Los  
7 Angeles, California. Simmons and Stanley are the founders of the band “KISS,” and  
8 the owners of KISS Catalog.

9           5.     KISS Catalog is the successor in interest in and to the interests that  
10 former KISS band members Paul “Ace” Frehley and Peter Criss had in the filmed  
11 concert footage that is at issue in this dispute. Accordingly, KISS Catalog, Gene  
12 Simmons and Paul Stanley (“Plaintiffs”) collectively own the rights at issue in this  
13 lawsuit.

14           6.     Defendant Applause Licensing, LLC. (“Applause”) is, on information  
15 and belief, a Florida limited liability company that conducts business throughout the  
16 United States, and in this judicial district, and which, on information and belief,  
17 maintains its principal place of business in or around Tampa, Florida.

18           7.     Defendant Curt Gooch (“Gooch”) is, on information and belief, an  
19 individual residing in the State of Oklahoma. On information and belief, Gooch co-  
20 founded and co-owns Applause. Applause and Gooch shall collectively be referred to  
21 as “Defendants.”

22           8.     The identity of DOES 1 through 20 is presently unknown to Plaintiffs.  
23 On information and belief, DOES 1 through 20 were involved in and/or participated in  
24 and/or profited from the infringing activity set forth herein.

25 **III. Jurisdiction and Venue**

26           9.     As an action arising under the Copyright Act, 17 U.S.C. § 101 et. seq.,  
27 this Court has exclusive jurisdiction over this action under 28 U.S.C. § 1338. This  
28 Court has further subject matter jurisdiction as an action under the Declaratory

LEVINSON ARSHONSKY & KURTZ, LLP

1 Judgment Act pursuant to 28 U.S.C. § 2201. This Court also has diversity jurisdiction  
2 pursuant to 28 U.S.C. §1332(a) as this is an action between citizens of different states  
3 and the amount in controversy exceeds \$75,000.

4 10. Each of the Defendants have been actively involved in business  
5 transactions and proposed licensing transactions in this district and have substantial,  
6 continuous and systematic contacts within this district.

7 11. Venue is proper in this district pursuant to 28 U.S.C. § 1400(a).

8 **IV. Claims for Relief**

9 **First Claim for Relief for Declaratory Relief Pursuant to 28 U.S. Code § 2201**

10 12. Plaintiffs repeat and reallege paragraphs 1 through 11.

11 13. Pursuant to 17 U.S.C. § 201, copyright vests in the author at the time of  
12 creation. Accordingly, the copyright to any video and audio recordings of the band  
13 KISS performing in concert vests in the first instance with the members of the band.  
14 No writing of any kind exists transferring or assigning those copyright interests in any  
15 filmed or recorded KISS concert performances to Defendants. As such, Defendants  
16 literally have no rights in and to the copyrights to any filmed or audio recordings of  
17 any KISS concert performances, including but not limited to those specifically  
18 referenced herein.

19 14. Pursuant to 17 U.S.C. §106, only the copyright owner has the exclusive  
20 right to make reproductions of or to otherwise distribute, license or exploit the work.

21 15. In October 2023, Defendants claimed to be the owners of the copyright to  
22 and/or party with the exclusive right to license the copyrights to the following KISS  
23 concert footage:

24 a. KISS performing at The Sunshine In, in Asbury Park, New Jersey,  
25 June 17, 1974 during their first tour in support of their debut album (8mm) (agent);

26 b. KISS performing at the Beacon Theatre in Manhattan, New York,  
27 March 21, 1975 during their Dressed to Kill tour (8mm) (agent);  
28

LEVINSON ARSHONSKY & KURTZ, LLP

1 c. KISS performing at the Calderone Concert Hall in Hempstead,  
2 New York, August 23, 1975 during their Dressed to Kill tour (8mm) (agent);

3 d. KISS performing at the Asbury Park Convention Center in Asbury  
4 Park, New Jersey, June 25, 1975 during their Dressed to Kill tour (8mm) (agent):

5 e. KISS performing at the Tarrant County Convention Center in Ft.  
6 Worth, Texas, September 4, 1977 during their Love Gun tour (16mm) (owner);

7 f. KISS fans at the Nassau County Veterans Memorial Coliseum in  
8 Uniondale, New York, December 31, 2975 during KISS's Alive! Tour (8mm) (agent);

9 g. KISS performing at the Ottawa Civic Centere in Ottawa, Canada  
10 on April 22, 1976, during their Alive! Tour (8mm) (owner) and

11 h. KISS performance crowd footage at The Tarrant County  
12 Convention Center, Ft. Worth, Texas, September 4, 1977 (owner).

13 16. Defendants do not possess copyright registrations for any of the above-  
14 referenced works. The footage Defendants claim to possess and/or own are, on  
15 information and belief, bootlegs, or copies acquired from someone other than the  
16 author/owner of the works.

17 17. On information and belief, Defendants have possession and control of  
18 additional KISS concert footage which Defendants wrongfully claim to own the  
19 copyrights to.

20 18. A justiciable controversy now exists in that Plaintiffs contend that they  
21 are the owners of any and all KISS filmed concert footage, including but not limited to  
22 those works specifically referenced herein, and that Defendants have no interest in the  
23 copyrights to the footage at issue, and indeed would be guilty of copyright  
24 infringement to the extent Defendants attempted to license or exploit that footage. On  
25 information and belief, Defendants dispute Plaintiffs' contentions.

26 **PRAYER FOR RELIEF**

27 Plaintiffs pray for relief as follows:  
28

