

COBLENTZ PATCH DUFFY & BASS LLP  
ONE MONTGOMERY STREET, SUITE 3000, SAN FRANCISCO, CALIFORNIA 94104-5500  
415.391.4800 • FAX 415.989.1663

JEFFREY G. KNOWLES (SBN 129754)  
CHRISTOPHER J. WIENER (SBN 280476)  
BINA G. PATEL (SBN 315352)  
COBLENTZ PATCH DUFFY & BASS LLP  
One Montgomery Street, Suite 3000  
San Francisco, California 94104-5500  
Telephone: 415.391.4800  
Facsimile: 415.989.1663  
Email: ef-jgk@cpdb.com  
ef-cjw@cpdb.com  
ef-bgp@cpdb.com

Attorneys for Plaintiff  
SOUNDEXCHANGE, INC.

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

SOUNDEXCHANGE, INC., a  
Delaware corporation.

Plaintiff,

v.

SONOS, INC., a Delaware corporation;  
and RHAPSODY INTERNATIONAL  
INC. dba NAPSTER, a Delaware  
corporation.

Defendants.

Case No.

**COMPLAINT FOR  
UNDERPAYMENT OF  
STATUTORY COPYRIGHT  
ROYALTIES**

**JURY TRIAL DEMANDED**

1 Plaintiff SoundExchange, Inc. (“Plaintiff” or “SoundExchange”) hereby  
 2 brings this Complaint for the underpayment of statutory copyright royalties against  
 3 Defendants Sonos, Inc. (“Sonos”) and Rhapsody International Inc. dba Napster  
 4 (“Rhapsody” or “Napster,” and together with Sonos, “Defendants”). Plaintiff, on  
 5 personal knowledge as to its own acts, and upon information and belief as to all  
 6 others based on investigation, alleges as follows:

### 7 PRELIMINARY STATEMENT

8 1. SoundExchange is an independent nonprofit organization organized  
 9 and existing under the law of the State of Delaware, with its headquarters at 733  
 10 10th Street NW, 10th Floor, Washington, DC 20001. SoundExchange is the sole  
 11 entity in the United States designated by the Library of Congress to collect digital  
 12 performance royalties from statutory license users and to distribute those royalties to  
 13 performing artists and copyright owners. Specifically, SoundExchange is charged  
 14 by statute and regulation with administering the statutory license, *see, e.g.*, 17  
 15 U.S.C. § 114(g)(3)(A); 37 C.F.R. § 370.4, collecting and distributing statutory  
 16 royalties, *see, e.g.*, 17 U.S.C. § 114(g)(2), (3); 37 C.F.R. § 380.7, and enforcing the  
 17 terms of the statutory license, *see, e.g.*, 17 U.S.C. § 114(g)(3)(C). Pursuant to this  
 18 authority, SoundExchange collects statutory royalties from television music  
 19 channels, satellite radio, Internet webcasters, and other types of services for  
 20 transmission of sound recordings, and distributes those royalties to performing  
 21 artists and copyright owners.

22 2. In its over twenty-plus year history, SoundExchange has distributed  
 23 over \$11 billion to music creators and rightsholders. Each year, SoundExchange  
 24 distributes around \$1 billion in royalties collected from approximately 3,600  
 25 licensees.

26 3. Sonos, founded in 2002, is an in-home audio system manufacturer  
 27 which launched its first commercial hardware products in 2005. In early 2020,  
 28 Sonos launched its first service, Sonos Radio, a non-interactive music streaming

1 service available exclusively on its Sonos products, to Sonos customers, controlled  
2 via the Sonos smartphone application. Sonos operated Sonos Radio, which was  
3 powered by Napster and its streaming catalog, and advertised unique content curated  
4 by Sonos and by popular artists on Sonos's behalf.

5 4. The Sonos Radio service made use of the Copyright Act's "statutory  
6 license" to make digital transmissions of sound recordings, and accordingly, streams  
7 made on the Sonos Radio service incur an obligation to pay royalties, under the  
8 statutory license, to SoundExchange.

9 5. From its launch in April 2022 until April 2023, SoundExchange  
10 received the statutorily mandated royalty reports and payments from Napster on  
11 behalf of Sonos for the Sonos Radio service.

12 6. Starting in May 2022, however, those royalty reports and payments  
13 ceased. Sonos and Napster, without explanation or justification, continued to  
14 operate the Sonos Radio service in reliance on the statutory license but did so  
15 without compensating musicians and rightsholders.

16 7. Based on information uncovered during a statutory audit and via  
17 subsequently provided royalty reports, Sonos and Napster owe SoundExchange in  
18 excess of \$3.3 million, reflecting royalties incurred but not paid from October 2022  
19 to April 2023, statutory interest, late fees, and the cost of an audit which is shifted  
20 by regulation to Sonos and Napster. Late fees continue to accrue each day that  
21 Sonos and Napster fail to pay the amounts due.

22 8. SoundExchange brings this action to recover the royalty amounts that  
23 Sonos and Napster owe to SoundExchange, all interest and late fees set by  
24 regulation, and the cost of its audit.

## 25 JURISDICTION AND VENUE

26 9. This is a civil action seeking damages under the Copyright Act, 17  
27 U.S.C. § 101, *et seq.* This Court has original subject matter jurisdiction over  
28 Copyright Act claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2). A substantial part of the events giving rise to this suit have occurred in this District, and Defendants' contacts with the Central District of California are sufficient to subject it to jurisdiction in this District.

11. Sonos is a Delaware corporation, registered to do business in the State of California and headquartered in Santa Barbara, California, in this District. Sonos provides its Sonos Radio service to customers in the Central District of California. On information and belief, Sonos's correspondence with SoundExchange in advance of this litigation was sent and received in the Central District of California.

12. Rhapsody is a Delaware corporation, with its principal place of business at 701 5th Avenue, Suite 3100, Seattle, Washington 98104. On information and belief, Rhapsody entered into commercial transactions and contracts with Sonos, a resident of California and of this District, relating to the launch and operation of the Sonos Radio service. The failure to pay the required royalties to SoundExchange arises out of Rhapsody's contractual relationship with Sonos in California and this District relating to the Sonos Radio service. On information and belief, through its interactive online services, Rhapsody enters into commercial transactions, contracts, and other arrangements with residents of California. Rhapsody's online activities knowingly and purposely interact with computers and other electronic devices of residents in California and solicit business from California consumers.

## FACTUAL ALLEGATIONS

### A. The Statutory and Regulatory Framework

13. Section 106 of the Copyright Act grants the owner of a copyright in a sound recording the exclusive rights "to reproduce the copyrighted work in copies or phonorecords" and "to perform the copyrighted work publicly by means of a digital audio transmission." 17 U.S.C. §§ 106(1), (6).

14. As an alternative to having every music service negotiate separate

licenses with every copyright owner, Congress has granted various eligible entities the ability to obtain a “statutory license,” 17 U.S.C. §§ 112(e), 114(d)(2), to render certain digital public performances of copyrighted sound recordings and make related reproductions. The federal statutory license, however, is not free. Eligible entities must comply with applicable requirements, including the payment of established royalties, in order to reproduce and publicly perform all commercial sound recordings without fear of copyright infringement. *E.g.*, 37 C.F.R. § 380.10.

15. “[R]easonable rates and terms of royalty payments” under the statutory license are set by the Copyright Royalty Judges in adversarial administrative proceedings that occur every five years. 17 U.S.C. §§ 112(e)(3), 114(f). The “rates and terms” set in proceedings before the Copyright Royalty Judges “distinguish among the different types of [digital audio transmission] services then in operation.” 17 U.S.C. § 114(f).

16. In October 1998, Congress passed the Digital Millennium Copyright Act (“DMCA”), Pub. L. No. 105-304, 112 Stat. 2860 (Oct. 28, 1998), which amended section 114 and other provisions of the Copyright Act. Among other things, the DMCA put in place a royalty rate standard for the sound recording statutory license. Services are classified as either “eligible nonsubscription transmission” services or “new subscription service[s],” depending on whether they are provided to consumers on a subscription basis. 17 U.S.C. § 114(j)(6), (8).

17. Licensees must provide SoundExchange monthly royalty payments and Statements of Account for their use of copyrighted sound recordings. *E.g.*, 37 C.F.R. §§ 380.2(b) & 380.3(a).

18. To the extent licensees are late delivering a royalty payment, they must pay a fee of “1.5% (or the highest lawful rate, whichever is lower) of the late payment amount per month.” 37 C.F.R. § 380.2(d). For a late Statement of Account, licensees must pay “1.5% of the payment amount associated with the Statement of Account.” *Id.*

19. Applicable regulations also grant SoundExchange the right to audit a licensee's records to verify the royalty payments. Those audits may be conducted annually and may cover any or all of the preceding three calendar years, however, any given calendar year may only be audited once. 37 C.F.R. § 380.6(b) (2011 & 2016).<sup>1</sup> This audit is "binding on all parties." 37 C.F.R. § 380.6(c) (2011 & 2016). Additionally, if there is an underpayment of 10% or more, the licensee must bear the audit's reasonable costs. 37 C.F.R. § 380.6(g) (2011 & 2016).

#### **B. Sonos Launches Sonos Radio, Powered By Napster**

20. On April 2, 2020, Napster's General Counsel Matt Eccles, on behalf of Sonos Radio, filed a Notice of Use of Sound Recordings Under Statutory License, which is required before a licensee may make use of the statutory license. The Notice identifies "Sonos Radio" as the name of the service and "http://sonos.com" as the website address of service. Accordingly, Sonos and Sonos Radio are the licensees under the statutory license. Napster was Sonos's authorized agent. Pursuant to the Notice, Sonos Radio was expected to launch on April 21, 2020.

21. As planned, Sonos Radio launched on April 21, 2020. In a press release accompanying the launch, Sonos stated: "Sonos (Nasdaq: SONO) today launches Sonos Radio, a free, ad-supported streaming radio experience, exclusively available to customers in more than 10 million homes globally." See "Introducing Sonos Radio, the streaming radio service only on Sonos," *available at* <https://www.businesswire.com/news/home/20200421005148/en/Introducing-Sonos-Radio-the-streaming-radio-service-only-on-Sonos>.

22. Sonos Chief Executive Officer, Patrick Spence, noted that the new "Sonos Radio brings together streaming radio services and a select set of curated radio stations in a simple, elegant way. This is just a beginning as we work to deliver services that provide our customers a better experience, and provide our

<sup>1</sup> Although 37 CFR § 380.6 has been subsequently amended, the regulations governing the audited years (here, 2013 – 2018) govern the audit itself.

1 music streaming service partners an opportunity to highlight their best content.” *Id.*

2 23. Sonos also made clear to the public in its release that Sonos Radio was  
3 its product, designed by Sonos for Sonos customers:

- 4 • “Sonos Radio introduces original radio programming from Sonos featuring a  
5 range of music handpicked by DJs and artists.” *Id.*
- 6 • “Sonos’ signature ad-free station, Sonos Sound System, is curated and hosted  
7 by the Sonos team, recorded in a newly built radio studio in Sonos’ flagship  
8 store in New York City.” *Id.*
- 9 • “Sonos designed and developed custom programming and curation tools for  
10 Sonos Stations, delivering a regularly refreshed mix of new hand curated  
11 music. For the best listening experience across all Sonos Radio streams,  
12 Sonos partnered with Super Hi-Fi, a company delivering AI for digital music,  
13 for volume leveling across songs and ads, song blending, and seamlessly  
14 mixing in voice commentary.” *Id.*

15 24. In an interview with Wired Magazine, Sonos director of business  
16 development, Ryan Taylor, confirmed that Sonos Radio was its—Sonos’s—“owned  
17 and operated” service powered by Napster. *See* “Sonos Launches an Exclusive  
18 Radio Station”, available at <https://www.wired.com/story/sonos-radio-launch/>.

19 25. For the transmission periods April 2020 through April 2022, Napster  
20 submitted the required statements of account and timely paid all royalties due to  
21 SoundExchange, as Sonos’s authorized agent.

#### 22 **C. Sonos Radio Stops Paying After Napster Is Acquired By Venture Capital Firms**

23 26. On or about May 2022, Napster was acquired by Hivemind and  
24 Algorand, venture capital firms focused on “web3”—*i.e.*, cryptocurrencies and  
25 blockchain technology.

26 27. Matt Zhang, Hivemind’s founder and managing partner, stated that  
27 “Volatile market and uncertain times often bring exciting opportunities. At  
28 Hivemind, we believe in developing thesis and building enduring value. Music x  
Web3 is one of the most exciting spaces we’ve come across, and we are thrilled to  
work with Emmy Lovell and many talents to unlock value for the entire ecosystem  
and revolutionize how artists and fans enjoy music.” *See*

1 [https://www.linkedin.com/posts/mattzhang\\_music-web3-crypto-activity-](https://www.linkedin.com/posts/mattzhang_music-web3-crypto-activity-6929802236944420864-mX8F/)  
 2 [6929802236944420864-mX8F/](https://www.linkedin.com/posts/mattzhang_music-web3-crypto-activity-6929802236944420864-mX8F/).

3 28. Unfortunately, Hivemind's excitement did not extend to building value  
 4 for artists and rightsholders.

5 29. From May 2022 (*i.e.*, the month of Napster's acquisition) through April  
 6 2023, Sonos (as the owner and operator of Sonos Radio) and Napster (as Sonos's  
 7 agent) failed to submit statements of account or pay royalties to SoundExchange.  
 8 Nevertheless, Sonos Radio continued to operate, broadcasting creative works  
 9 without compensating artists.

#### 10 **D. SoundExchange Audits Sonos Radio**

11 30. On January 20, 2023, SoundExchange filed a Notice of Intent to Audit  
 12 Sonos Radio for the years 2020 through 2022. The Copyright Royalty Board  
 13 subsequently published the Notice of Intent to Audit in the Federal Register, listing  
 14 Sonos Radio as the service.

15 31. During the course of the audit, SoundExchange's auditor Armanino  
 16 obtained the missing royalty reports from May 2022 to December 2022.

17 32. In its October 24, 2023 report, Armanino described its "Examination of  
 18 Sonos, Inc. ('Sonos') for the years 2020 through 2022 pursuant to 37 C.F.R.  
 19 §380.6(b) and 380.15(b). Sonos is subject to payment of royalties for eligible  
 20 performances made via digital audio transmission pursuant to 17 U.S.C. 114(f), and  
 21 the making of related recordings pursuant to 17 U.S.C. 112(e). Sonos provides  
 22 music streaming services covered under the aforementioned statutes."

23 33. During the audit, it became clear that Napster's acquisition in May  
 24 2022 resulted in a complete breakdown of reporting and payment for the Sonos  
 25 Radio service which neither Sonos nor Napster has ever addressed.

26 34. According to Armanino, on August 4, 2022, Napster employee Dan  
 27 Parker stated that "[T]he employee that used to handle the reporting and payment  
 28 processes is no longer with the company as of May 2022. Unfortunately, at that

1 point the reporting process within the [SoundExchange] portal stopped.”

2 35. Armanino calculated the missing royalties due as \$2,272,574, interest  
3 due (through the date of the report) of \$384,463, and auditor costs of \$59,473.  
4 Because the amount owed under the audit exceeded 10%, Sonos and Napster are  
5 obligated by federal regulation to pay the audit costs. 37 C.F.R. § 380.6(g) (2011 &  
6 2016).

7 36. Neither Sonos, nor its agent Napster, have paid all of the amounts  
8 identified in the audit.

9 37. Neither Sonos, nor its agent Napster, have objected to the conclusions  
10 of the Armanino audit.

11 38. In or about April 2023, Sonos ended its partnership with Napster and  
12 transitioned the Sonos Radio service backend to Deezer.

13 39. SoundExchange was subsequently provided with the statements of  
14 account for the period January 2023 to April 2023 (up to the Deezer transition).  
15 However, neither Sonos nor its agent Napster, paid any royalties for that period.

16 40. Sonos has attempted to shift blame for nonpayment to its agent  
17 Napster, and refused to engage meaningfully with SoundExchange regarding its  
18 unpaid royalties and other amounts owed. However, it was Sonos and its “owned  
19 and operated” Sonos Radio service that made transmissions in reliance on the  
20 statutory license, and it is Sonos who is ultimately responsible for ensuring  
21 compliance with that statutory license, including the payment of royalties.

22 **E. Sonos Radio Owes Millions In Royalties, Interest, Late Fees, and Audit**  
23 **Fees**

24 41. Sonos and Napster have made certain payments that fall far short of  
25 their obligations. In total, Sonos, and its agent Napster, have failed to pay at least  
26 \$3,423,844.41 comprising royalties owed for the period October 2022 to April 2023,  
27 interest, late fees, and auditor fee-shifting costs, and subtracting Sonos and  
28 Napster’s payments made to date. Late fees and interest continue to grow.

**COUNT ONE****Violation of 37 C.F.R. § 380.2, 37 C.F.R. § 380.3, 37 C.F.R. § 380.10, and 17 U.S.C. § 114(f)(3)(B) – Underpayment of Statutory Royalties (Against Sonos, Inc. and Rhapsody International Inc.)**

42. SoundExchange incorporates by reference paragraphs 1 to 41 as if fully set forth herein.

43. The Copyright Act provides a statutory license for certain digital performances of sound recordings, as well as related reproductions to facilitate the licensee's performance of sound recordings. 17 U.S.C. §§ 112(e), 114.

44. Because Sonos and Napster have chosen to rely on that statutory license, they must make royalty payments to SoundExchange at the rates set by the Copyright Royalty Judges. 17 U.S.C. §§ 112(e)(6)(A), 114(f)(3)(B).

45. Starting with the license period beginning October 2022, Sonos and Napster have made digital audio transmissions pursuant to the statutory license but failed to pay all the royalties they owe for those transmissions.

46. Starting with the license period beginning May 2022, Sonos and Napster made digital audio transmissions pursuant to the statutory license but failed to pay all the late fees they owe for amounts due or previously due for those transmissions.

47. Sonos and Napster have made certain payments that fall far short of their obligations. Accordingly, Sonos and Napster, after subtracting payments made to date, owe royalties for the period beginning October 2022 which would have been due no later than December 15, 2022.

48. Sonos and Napster's failure to make all required royalty payments contravenes the provisions of the Copyright Act specifying that the rates determined by the Copyright Royalty Judges are "binding on . . . entities performing sound recordings" during the period when the rates are in effect, 17 U.S.C. § 114(f)(1)(B), and that services relying on the statutory license must "pay[] royalty fees in accordance with" § 114(f), *id.* § 114(f)(3)(B). Sonos and Napster's non-payments

1 also contravene the requirement that a “Licensee must make the royalty payments  
2 due under” the regulations to SoundExchange. 37 C.F.R. § 380.2(a).

3 49. The cumulative amount of Sonos and Napster’s underpayment – which  
4 harms SoundExchange, as well as the performing artists and copyright owners on  
5 whose behalf it collects and distributes royalties – continues to grow with each  
6 passing month, along with the associated late fees under 37 C.F.R. § 380.2(d), and  
7 amounts to at least \$3,423,844.41. Late fees and interest continue to accrue at the  
8 statutory rates.

9 50. Sonos and Napster are jointly and severally liable for the harm caused  
10 to SoundExchange as a result of their failure to make all required payments as  
11 described above.

## 12 COUNT TWO

### 13 **Violation of 37 C.F.R. § 380.6 – Non-Payment Of Statutory Royalties** 14 **Uncovered By Audit** **(Against Sonos, Inc. and Rhapsody International Inc.)**

15 51. SoundExchange incorporates by reference paragraphs 1 to 49 as if fully  
16 set forth herein.

17 52. Pursuant to applicable regulations, SoundExchange initiated an  
18 additional audit in January 2023 for the years 2020 to 2022.

19 53. The final report, dated October 24, 2023, found that Sonos and Napster  
20 owed royalties and late fees for the covered period.

21 54. Sonos and Napster have not paid all of the amounts owed pursuant to  
22 the October 24, 2023 audit. Accordingly, Sonos and Napster have violated 37  
23 C.F.R. § 380.6 by failing to make all royalty payments owed under 37 C.F.R. §  
24 380.2, 37 C.F.R. § 380.3, 37 C.F.R. § 380.10, and 17 U.S.C. § 114(f)(3)(B).

25 55. Sonos and Napster have made certain payments that fall far short of  
26 their obligations. Accordingly, Sonos and Napster, after subtracting payments made  
27 to date, owe royalties for the period beginning October 2022 which would have been  
28 due no later than December 15, 2022.

56. Sonos and Napster owe at least \$3,423,844.41 in unpaid royalties, late fees, and audit costs. Late fees and interest continue to accrue at the statutory rates.

57. Sonos and Napster are jointly and severally liable for the harm caused to SoundExchange as a result of their failure to make all required payments as described above.

### DEMAND FOR JURY TRIAL

SoundExchange hereby demands a jury trial on all issues so triable.

### PRAYER FOR RELIEF

WHEREFORE, SoundExchange respectfully prays for judgment against Sonos and Napster as follows:

a. For compensatory damages corresponding to Sonos and Napster's underpayment of statutory license fees and associated late fees, in such amounts to be determined at trial;

b. For pre-judgment and post-judgment interest;

c. For SoundExchange's costs, including reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

d. For any other relief the Court deems just and proper.

DATED: June 16, 2025

COBLENTZ PATCH DUFFY & BASS LLP

By: /s/ Christopher J. Wiener  
CHRISTOPHER J. WIENER

Attorneys for Plaintiff  
SOUNDEXCHANGE, INC.