

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

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UNIVERSAL POLYGRAM	:	
INTERNATIONAL PUBLISHING,	:	Civil Action No.
INC., CRITERION MUSIC CORP., 2082	:	
MUSIC PUBLISHING, and SONGS OF	:	
PEER, LTD.,	:	
	:	
	:	
Plaintiffs,	:	
-against-	:	<u>COMPLAINT</u>
	:	
	:	
5 CHURCH ATLANTA, L.L.C. and	:	
AYMAN KAMEL,	:	
Defendants.	:	
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Plaintiffs, by their undersigned attorneys, allege:

1. This is a suit for copyright infringement under Title 17 of the United States Code.
2. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a), and venue in this District is proper pursuant to 28 U.S.C. § 1400(a).
3. Plaintiffs allege three (3) causes of action for copyright infringement based on the Defendants’ public performances of Plaintiffs’ copyrighted musical compositions. SCHEDULE A, annexed to the Complaint, sets

forth in summary form the allegations hereinafter made with respect to the Plaintiffs, their copyrighted musical compositions, and Defendants' acts of infringement.

THE PARTIES

4. The Plaintiffs named in Column 2* are the owners of the copyrights in the original musical compositions listed in Column 3, and are properly joined in this complaint under Rule 20 of the Federal Rules of Civil Procedure.

5. On information and belief, Defendant 5 Church Atlanta, L.L.C. ("5CAL") is a limited liability company organized under the laws of the state of Georgia with offices at 1197 Peachtree Street Northeast, Atlanta, Georgia 30361.

6. At all times hereinafter mentioned, 5CAL did, and still does, own, control, manage, operate, and maintain a place of business for public entertainment, accommodation, amusement, and refreshment known as 5Church, located at 1197 Peachtree Street Northeast, Suite 528, Atlanta, Georgia 30361.

7. Musical compositions were and are publicly performed at 5Church.

8. On information and belief, defendant Ayman Kamel, ("Kamel")

* All references to "columns" herein refer to the numbered columns set forth in SCHEDULE A.

and, together with 5CAL, the “Defendants”) is an individual who resides and/or does business in this district.

9. At all times hereinafter mentioned, Kamel was, and still is, a member and/or principal of 5CAL.

10. At all times hereinafter mentioned, Kamel was, and still is, responsible for the control, management, operation and maintenance of the affairs of 5CAL.

11. At all times hereinafter mentioned, Defendants jointly had, and still have, the right and ability to supervise and control the activities that take place at 5Church, including the right and ability to supervise and control the public performance of musical compositions at 5Church.

12. Each Defendant derives a direct financial benefit from the public performance of musical compositions at 5Church.

**FACTS SPECIFIC TO DEFENDANTS’ INFRINGEMENT OF
PLAINTIFFS’ COPYRIGHTED MUSICAL COMPOSITIONS**

13. The Plaintiffs are all members of the American Society of Composers, Authors, and Publishers (“ASCAP”), a membership association that represents, licenses, and protects the public performance rights of its more than 660,000 songwriter, composer, and music publisher members.

14. Each ASCAP member grants to ASCAP a non-exclusive right to license the performing rights in that member's copyrighted musical compositions. On behalf of its members, ASCAP licenses public performances of its members' musical works, collects license fees associated with those performances, and distributes royalties to its members, less ASCAP's operating expenses.

15. Since February 2016, ASCAP representatives have made more than fifty (50) attempts to contact the Defendants, or their representatives, agents, or employees, to offer an ASCAP license for 5Church. ASCAP has contacted Defendants by phone, by mail, by e-mail, and in person.

16. Defendants have refused all of ASCAP's license offers for 5Church.

17. ASCAP's various communications gave Defendants notice that unlicensed performances of ASCAP's members' musical compositions at 5Church constitute copyright infringement of ASCAP's members' copyrights in their musical works.

18. Notwithstanding the foregoing, Defendants have continued to present public performances of the copyrighted musical compositions of ASCAP members at 5Church, including the copyrighted works involved in this action, without permission, during the hours that the establishment is open to the public for

business and presenting musical entertainment.

19. The original musical compositions listed in Column 3 were created and written by the persons named in Column 4.

20. The original musical composition named in cause of action 2 was registered as unpublished, and since the date of registration has been printed and published in strict conformity with Title 17 of the United States Code.

21. The original musical compositions named in causes of action 1 and 3 were published on the date stated in Column 5, and since the date of publication have been printed and published in strict conformity with Title 17 of the United States Code.

22. The Plaintiffs named in each cause of action, including their predecessors in interest, if any, complied in all respects with Title 17 of the United States Code, secured the exclusive rights and privileges in and to the copyright of each composition listed in Column 3, and received from the Register of Copyrights a Certificate of Registration, identified as set forth in Column 6.

23. The original compositions named in causes of action 1 and 2 are now in their renewal terms of copyright, secured by the due filing of applications for renewal of copyright in the office of the Register of Copyrights. The Register of Copyrights thereupon issued Certificates of Registration of the claims of renewal in the names of the claimants listed in Column 7. The dates and identification

numbers of the respective renewal certificates are set forth in Column 8.

24. Defendants on the dates specified in Column 9, and upon information and belief, at other times prior and subsequent thereto, infringed the copyright in each composition named in Column 3 by performing publicly the compositions at 5Church, for the entertainment and amusement of the patrons attending said premises, and Defendants threaten to continue such infringing performances.

25. The public performances at 5Church of the Plaintiffs' copyrighted musical compositions on the dates specified in Column 9 were unauthorized: neither Defendants, nor any of the Defendants' agents, servants or employees, nor any performer was licensed by, or otherwise received permission from any Plaintiff, or any agent, servant, or employee of any Plaintiff, to give such performances.

26. In undertaking the conduct complained of in this action, Defendants knowingly and intentionally violated Plaintiffs' rights.

27. The many unauthorized performances at 5Church include the performances of the three copyrighted musical compositions upon which this action is based.

28. At the times of the acts of infringement complained of, the Plaintiff named in each cause of action was an owner of the copyright in the composition

therein named.

29. The said wrongful acts of Defendants have caused and are causing great injury to the Plaintiffs, which damage cannot be accurately computed, and unless this Court restrains Defendants from the further commission of said acts, said Plaintiffs will suffer irreparable injury, for all of which the said Plaintiffs are without any adequate remedy at law.

WHEREFORE, Plaintiffs pray:

I. That Defendants and all persons acting under the direction, control, permission or authority of Defendants be enjoined and restrained permanently from publicly performing the aforementioned compositions -- or any of them -- and from causing or permitting the said compositions to be publicly performed at 5Church, or at any place owned, controlled, managed, or operated by Defendants, and from aiding or abetting the public performance of such compositions in any such place or otherwise.

II. That Defendants be decreed to pay such statutory damages as to the Court shall appear just, as specified in 17 U.S.C. § 504(c)(1), namely, not more than Thirty Thousand Dollars (\$30,000) nor less than Seven Hundred And Fifty Dollars (\$750) in each cause of action herein.

III. That Defendants be decreed to pay the costs of this action and that a reasonable attorney's fee be allowed as part of the costs.

IV. For such other and further relief as may be just and equitable.

This 5th day of June 2018.

Respectfully submitted,

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Counsel for Plaintiffs

Schedule A

Columns	1	2	3	4	5	6	7	8	9
	Cause of Action	Plaintiff	Musical Composition	Writers	Date of Publication	Certificate of Registration Number	Renewal Claimant	Renewal Certificate Date and Number	Date of Known Infringement
1.		UNIVERSAL POLYGRAM INTERNATIONAL PUBLISHING INC.	WAY YOU LOOK TONIGHT, THE	Dorothy Fields Jerome Kern	July 24, 1936	E Pub. 56722	Dorothy Fields Elizabeth Kern Cummings (child of deceased author, Jerome Kern)	R 319447 July 24, 1963	March 13, 2018
2.		CRITERION MUSIC CORP.	THESE BOOTS ARE MADE FOR WALKIN	Lee Hazelwood	November 23, 1965 (Registered as unpublished)	EU 915461	Lee Hazlweood	RE 612 396 January 6, 1993	March 13, 2018
3.		2082 MUSIC PUBLISHING SONGS OF PEER, LTD.	UMBRELLA	Shawn C. Carter Thaddis Laphonia Harrell Terius Youngdell Nash Christopher A. Stewart	May 15, 2007	PA 1-602-373			March 13, 2018