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9 INTERNATIONAL MANUFACTURING CONCEPTS, INC., a Nevada  
10 Corporation, dba MELOMEGA MUSIC and SOUND GEMS

11  
12 **UNITED STATES DISTRICT COURT**  
13  
14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

15 INTERNATIONAL MANUFACTURING  
16 CONCEPTS, INC., a Nevada Corporation,  
17 dba MELOMEGA MUSIC and SOUND  
18 GEMS,

19 Plaintiff,

20 -vs-

21 JUSTIN BIEBER, an individual; DAN  
22 SMYERS, an individual; SHAY  
23 MOONEY, an individual; JESSIE JO  
24 DILLON, an individual; JORDAN  
25 REYNOLDS, an individual; JASON  
26 BOYD, an individual; WARNER MUSIC  
27 NASHVILLE, LLC, a Tennessee limited  
28 liability company; W CHAPPELL MUSIC  
CORP., a California corporation dba WC  
MUSIC CORP. (f/k/a WB MUSIC  
CORP.); BMG RIGHTS  
MANAGEMENT (US) LLC, a Delaware  
limited liability company dba BMG  
GOLD SONGS; WARNER MUSIC  
GROUP CORP., a Delaware corporation;  
WARNER-TAMERLANE PUBLISHING  
CORP., a California corporation;  
UNIVERSAL MUSIC CORPORATION,  
a Delaware corporation; POO BZ INC., a  
California corporation aka POO BZ  
PUBLISHING and POO B Z  
PUBLISHING INC; BIG MACHINE  
MUSIC LLC dba BIG MUSIC  
MACHINE, a Delaware limited liability

Case No. 2:22-cv-2650

**COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 company; BIG ASS PILE OF DIMES  
 2 MUSIC, an entity of unknown form;  
 3 SHAY MOONEY MUSIC, an entity of  
 4 unknown form; BIEBERTIME  
 5 PUBLISHING, LLC dba BIEBER TIME  
 6 PUBLISHING, a Delaware limited  
 7 liability company; BUCKEYE26, an entity  
 of unknown form; JREYN  
 PRODUCTIONS LLC, a Tennessee  
 limited liability company dba  
 JREYNMUSIC; BEATS AND BANJOS,  
 an entity of unknown form; and DOES 1  
 through 50 inclusive,  
 Defendants.

8  
 9  
 10 Plaintiff INTERNATIONAL MANUFACTURING CONCEPTS, INC., a  
 11 Nevada Corporation, dba MELOMEGA MUSIC and SOUND GEMS  
 12 (“Melomega”) hereby complains and alleges as follows:

13 **INTRODUCTION**

14 1. Creative theft in the entertainment industry has become its own cottage  
 15 industry. Its perpetrators pillage the labor of lesser-known, hard-working creators,  
 16 while unapologetically exploiting such work as their own. This flagrant pilfering of  
 17 the creative victims’ intellectual property is no more alive than in the music industry  
 18 where innocent songwriters and artists are routinely left as collateral damage. Ergo,  
 19 this case.

20 2. Make no mistake, this case marks an instance of blatant and errant  
 21 copying. Enter Defendants JUSTIN BIEBER, DAN SMYERS, SHAY MOONEY,  
 22 JESSIE JO DILLON, JORDAN REYNOLDS, JASON BOYD, WARNER MUSIC  
 23 NASHVILLE, LLC, W CHAPPELL MUSIC CORP. dba WC MUSIC CORP. (f/k/a  
 24 WB MUSIC CORP.), BMG RIGHTS MANAGEMENT (US) LLC dba BMG  
 25 GOLD SONGS, WARNER MUSIC GROUP CORP., WARNER-TAMERLANE  
 26 PUBLISHING CORP., UNIVERSAL MUSIC CORPORATION, POO BZ INC.,  
 27 aka POO BZ PUBLISHING and POO B Z PUBLISHING, INC., BIG MACHINE  
 28 MUSIC LLC dba BIG MUSIC MACHINE, BIG ASS PILE OF DIMES MUSIC,

1 SHAY MOONEY MUSIC, BIEBERTIME PUBLISHING, LLC dba BIEBER TIME  
2 PUBLISHING; BUCKEYE26, JREYN PRODUCTIONS LLC dba JREYNMUSIC,  
3 and BEATS AND BANJOS (collectively “Defendants”) who, through their song  
4 *10,000 Hours*, have committed, contributed to and/or participated in infringing  
5 Plaintiff’s work.

6 3. In particular, Defendants JUSTIN BIEBER, DAN SMYERS and  
7 SHAY MOONEY are some of the music industry’s biggest artists, each having  
8 achieved great fame, success and acclaim, with numerous mega-hits under their  
9 belts. The success of their recent collaboration, *10,000 Hours*, has exceeded even  
10 that of many of their past hits. Aside from the many awards and accolades *10,000*  
11 *Hours* has received, the song has nearly two-billion streams internationally, and  
12 nearly 800,000,000 streams on Spotify, alone. The problem: Defendants stole the  
13 core portion of *10,000 Hours* from Plaintiff’s song, *The First Time Baby Is A*  
14 *Holiday* (“*First Time*”). *First Time*’s authors wrote the song over forty (40) years  
15 ago. Most recently, Plaintiff released *First Time* in 2014 through one of the largest  
16 music distributors in the world, Sony’s *Orchard*. Here is a link to the song for easy  
17 reference: <https://youtu.be/oybr6KWbugo>.

18 4. Defendants’ theft is impudently bold. One need only listen to *First Time*  
19 and the infringing *10,000 Hours* to discern the unmistakable similarities between the  
20 songs. However, subjective analysis aside, when the songs are viewed through the  
21 objective, empirical lens of musical science—as was done in this case by one of the  
22 top musicology experts in the industry—Defendants’ infringement is unmistakable.  
23 The result: a single, universal and ineluctable conclusion that Defendants stole  
24 Plaintiff’s song.

25 5. *10,000 Hours* is not just substantially similar to *First Time*; Defendants  
26 copied, in minute detail, the most important, core portion of Plaintiff’s song, which  
27 includes the chorus, verse and hook. The similarities are so striking that *10,000*  
28 *Hours* simply cannot have been independently created.



1 the Billboard Music Awards, the CMT Music Awards and the Grammys. Defendant  
2 Smyers co-wrote the musical composition and performed vocals on the infringing  
3 *10,000 Hours* sound recording. The *10,000 Hours* Music Registrations identify  
4 Defendant Smyers as an author of the song's music and lyrics. Further, Plaintiff is  
5 informed and believes, and thereupon alleges that Defendant Smyers has and  
6 continues to come to Los Angeles, California, to perform regularly at live concerts.  
7 On information and belief, he also regularly performs at and/or attends music awards  
8 ceremonies in and around Los Angeles, including the American Country Countdown  
9 Awards, the Grammys, the American Music Awards, and the iHeartRadio Music  
10 Awards, and regularly travels to the Los Angeles area for television tapings and  
11 media appearances, including but not limited to *The Tonight Show* and *The Voice*.  
12 Moreover, he has specifically performed, sung and promoted the subject song *10,000*  
13 *Hours* in Los Angeles and other parts of California on numerous occasions,  
14 committing copyright infringement violations personally, directly and specifically  
15 in the county of Los Angeles, State of California.

16 10. Defendant SHAY MOONEY ("Defendant Mooney") is an individual  
17 and, based on information and belief, a resident of Davidson County, Tennessee.  
18 Defendant Mooney is a world-famous singer and recording artist and the recipient  
19 of numerous awards and accolades from the Academy of Country Music Awards,  
20 the Billboard Music Awards, the CMT Music Awards and the Grammys. Defendant  
21 Mooney co-wrote the musical composition and performed vocals on the infringing  
22 *10,000 Hours* sound recording. The *10,000 Hours* Music Registrations identify  
23 Defendant Mooney as an author of the song's music and lyrics. Further, Plaintiff is  
24 informed and believes, and thereupon alleges that Defendant Mooney has and  
25 continues come to Los Angeles, California to perform regularly at live concerts. On  
26 information and belief, he also regularly performs at and/or attends music awards  
27 ceremonies in and around Los Angeles, including the American Country Countdown  
28 Awards, the Grammys, the American Music Awards, and the iHeartRadio Music

1 Awards, and regularly travels to the Los Angeles area for television tapings and  
2 media appearances, including but not limited to the *Tonight Show* and *The Voice*.  
3 Moreover, he has specifically performed, sung and promoted the subject song *10,000*  
4 *Hours* in Los Angeles and other parts of California on numerous occasions,  
5 committing copyright infringement violations personally, directly and specifically  
6 in the county of Los Angeles, State of California.

7 11. Defendant JESSIE JO DILLON (“Defendant Dillon”) is an individual  
8 and, based on information and belief, a resident of Davidson County, Tennessee.  
9 The *10,000 Hours* Music Registrations identify Defendant Dillon as an author of the  
10 song’s music and lyrics. Reg. No. PA0002223387 also identifies Defendant Dillon  
11 as a copyright claimant. Based on information and belief, Defendant Dillon  
12 previously resided in Los Angeles County, State of California, and continues to  
13 return to Los Angeles for various awards shows, musical appearances and  
14 promotional activities in furtherance of her musical career. Further, based on  
15 information and belief, Defendant Dillon has songwriting credits associated with  
16 over 900 songs and routinely writes music intended to be performed, distributed and  
17 exploited in Los Angeles, California, conducts business in the music industry in this  
18 county and state, and works with Los Angeles-based co-writers, musicians and/or  
19 artists who have or will perform and market Defendant Dillon’s songs in Los  
20 Angeles County, State of California.

21 12. Defendant JORDAN REYNOLDS (“Defendant Reynolds”) is an  
22 individual and, based on information and belief, a resident of Los Angeles,  
23 California. The *10,000 Hours* Music Registrations identify Defendant Reynolds as  
24 an author of the song’s music and lyrics. In addition to residing in Los Angeles,  
25 California, it is believed that Defendant Reynolds conducts business in the music  
26 industry and routinely performs in Los Angeles, as well as promotes *10,000 Hours*  
27 in this state and county.

1           13. Defendant JASON BOYD (“Defendant Boyd”) is an individual and,  
2 based on information and belief, a resident of Miami-Dade County, Florida. The  
3 *10,000 Hours* Music Registrations identify Defendant Boyd as an author of the  
4 song’s music and lyrics. Reg. No. PA0002223387 also identifies Defendant Boyd as  
5 a copyright claimant. Plaintiff is informed and believes, and thereupon alleges that  
6 Defendant Boyd, who also goes by the name of “Poo Bear,” resided in Los Angeles,  
7 California until in or about 2021 and routinely returns to Los Angeles to promote his  
8 career. Like Defendants Meyers and Mooney, Defendant Boyd regularly attends  
9 awards shows, events and openings in an around Los Angeles, including Variety’s  
10 1<sup>st</sup> Annual Hitmakers Luncheon, the Grammys, the Gushcloud Talent Agency  
11 opening, the Wonderbrett Cannabis Store Grand Opening, the 31<sup>st</sup> Annual Rhythm  
12 & Soul Music Awards, the ASCAP Pop Music Awards and ASCAP “I Create  
13 Music” Expo. Further, based on information and belief, Boyd regularly promotes his  
14 songs, including *10,000 Hours*, and conducts other business in the music industry in  
15 the county of Los Angeles, State of California, including in connection with  
16 Defendant Poo BZ, Inc., a California corporation of which Boyd is Chief Executive  
17 Officer.

18           14. Defendant WARNER MUSIC NASHVILLE, LLC (“Warner Music”),  
19 is a Tennessee limited liability company, and serves as Defendant WARNER  
20 MUSIC GROUP CORP.’s country music label. Warner Music owns the copyright  
21 in the *10,000 Hours* sound recording, Reg. No. SR0000864368. Since 2017, Warner  
22 Music artists have performed over 80 times at various venues throughout California,  
23 including at last two live performances of *100,000 Hours* by Dan + Shay at the  
24 Hollywood Bowl for the 2000 Country Music Awards and at the Staples Center on  
25 or about October 15, 2021. Warner Music’s website, at the URL  
26 <https://www.warnermusicnashville.com/artist>, currently promotes approximately 22  
27 upcoming California performances by Warner Music artists. Warner Music regularly  
28 conducts business in Los Angeles, California, pertaining to a myriad of aspects of

1 the music industry, including but not limited to signing, developing, marketing and  
2 exploiting artists, recording music, publishing musical compositions, and generally  
3 conducting business in the music field while enjoying the benefits and privileges of  
4 doing business in Los Angeles, California. It is believed that Warner Music has  
5 specifically promoted, marketed and exploited *10,000 Hours* in Los Angeles,  
6 California.

7 15. Defendant WARNER MUSIC GROUP CORP. (“Warner”) is a  
8 Delaware corporation that has filed as a foreign corporation in California and has  
9 offices located in Los Angeles, California. Warner oversees all of its music labels,  
10 including Defendant Warner Music, and, based on information and belief, Warner  
11 has control over the distribution, exploitation, marketing and sales of *10,000 Hours*  
12 through Warner Music.

13 16. Defendant W CHAPPELL MUSIC CORP. dba WC MUSIC CORP.  
14 (f/k/a WB MUSIC CORP.) (“W Chappell”) is a California corporation with a  
15 principle place of business in Los Angeles County. U.S. Copyright Reg. No.  
16 PA0002212950 for the *10,000 Hours* musical composition identifies W Chappell’s  
17 former dba, WB Music Corp., as a copyright claimant. Reg. No. PA0002223387  
18 identifies W Chappell’s current dba, WC Music Corp., as a copyright claimant.

19 17. Defendant BMG RIGHTS MANAGEMENT (US) LLC (“BMG”) is a  
20 Delaware limited liability company. BMG is registered to do business, and has  
21 offices, in California. Based on information and belief, BMG sometimes does  
22 business as “BMG Gold Songs.” U.S. Copyright Reg. No. PA0002248599 for the  
23 *10,000 Hours* musical composition identifies BMG as a copyright claimant. U.S.  
24 Copyright Reg. No. PA0002212950 for the *10,000 Hours* musical composition  
25 identifies BMG Gold Songs as a copyright claimant.

26 18. Defendant WARNER-TAMERLANE PUBLISHING CORP.  
27 (“Warner-Tamerlane”) is a California corporation with a principal place of business  
28 in California. U.S. Copyright Reg. Nos. PA0002212950 and PA0002223387 for the



1 | *10,000 Hours* musical composition identify Warner-Tamerlane as a copyright  
2 | claimant.

3 | 19. Defendant UNIVERSAL MUSIC CORP. (“UMC”) is a Delaware  
4 | corporation that has filed as a foreign corporation in California and has offices  
5 | located in Los Angeles, California. U.S. Copyright Reg. No. PA0002212950 for the  
6 | *10,000 Hours* musical composition identifies UMC as a copyright claimant.

7 | 20. Defendant POO BZ INC., is a California corporation that, on  
8 | information and belief, is also known as POO B Z PUBLISHING, INC and POO BZ  
9 | PUBLISHING (collectively, “Poo BZ”). U.S. Copyright Reg. Nos. PA0002212950  
10 | and PA0002248599 for the *10,000 Hours* musical composition identify Poo BZ  
11 | Publishing, and Poo B Z Publishing Inc, respectively, as copyright claimants.  
12 | Further, by and through Defendant Boyd, who is believed to be a principal of  
13 | Defendant Poo BZ, and to operate on its behalf, Poo BZ has substantial contacts with  
14 | the county of Los Angeles, State of California, and specifically promotes its music,  
15 | including *10,000 Hours*, in this county and state.

16 | 21. Defendant BIG MACHINE MUSIC LLC (“Big Machine”) is a  
17 | Delaware limited liability corporation with a principal place of business in  
18 | Tennessee. Based on information and belief, Big Machine Music also does business  
19 | as “Big Music Machine.” U.S. Copyright Reg. No. PA0002212950 for the  
20 | *10,000 Hours* musical composition identifies Big Music Machine as a copyright  
21 | claimant. Based on information and belief, Defendant Big Machine regularly  
22 | conducts promotional activities and engages in various aspects of the music business  
23 | in Los Angeles, California.

24 | 22. Defendant BIG ASS PILE OF DIMES MUSIC (“Pile of Dimes”) is,  
25 | based on information and belief, a business entity of unknown legal form and status.  
26 | U.S. Copyright Reg. No. PA0002212950 for the *10,000 Hours* musical composition  
27 | identifies Defendant Pile of Dimes as a copyright claimant. Based on information  
28 |

1 and belief, Defendant Pile of Dimes regularly conducts promotional activities and  
2 engages in various aspects of the music business in Los Angeles, California.

3 23. Defendant SHAY MOONEY MUSIC (“Mooney Music”) is, based on  
4 information and belief, a business entity, the legal form and status of which is  
5 currently unknown to Plaintiff. U.S. Copyright Reg. Nos. PA0002212950 and  
6 PA0002223387 for the *10,000 Hours* musical composition identify Mooney Music  
7 as a copyright claimant. Moreover, by and through Defendant Mooney as its  
8 principal, Mooney Music has substantial contacts with the County of Los Angeles,  
9 State of California, and specifically publishes and promotes its music, including  
10 *10,000 Hours*, in this county and state.

11 24. Defendant BIEBERTIME PUBLISHING, LLC dba BIEBER TIME  
12 PUBLISHING (“Bieber Time”) is a Delaware limited liability company with, based  
13 on information and belief, a principal place of business in California. U.S. Copyright  
14 Reg. No. PA0002212950 for the *10,000 Hours* musical composition identifies  
15 Bieber Time Publishing as a copyright claimant. Based on information and belief,  
16 Defendant Bieber Time regularly conducts promotional activities and otherwise  
17 does business in Los Angeles, California.

18 25. Defendant BUCKEYE26 (“Buckeye”) is, based on information and  
19 belief, a business entity, the legal form and status of which is currently unknown to  
20 Plaintiff. U.S. Copyright Reg. Nos. PA0002212950 and PA0002223387 for the  
21 *10,000 Hours* musical composition identify Buckeye26 as a copyright claimant.  
22 Based on information and belief, Defendant Buckeye regularly conducts  
23 promotional activities and engages in various aspects of the music business in Los  
24 Angeles, California.

25 26. Defendant JREYNMUSIC (“Jreyn”) is, based on information and  
26 belief, a business entity, the legal form and status of which is currently unknown to  
27 Plaintiff. U.S. Copyright Reg. Nos. PA0002212950 and PA0002223387 for the  
28 *10,000 Hours* musical composition identify Jreyn as a copyright claimant. Based on

1 information and belief, Defendant Jreyn operates by and through Defendant  
2 Reynolds as its agent, and has the similar contacts and relationship with Los  
3 Angeles, California as Defendant Reynolds, and also regularly conducts promotional  
4 activities and engages in various aspects of the music business in Los Angeles,  
5 California.

6 27. Defendant BEATS AND BANJOS (“Beats”) is, based on information  
7 and belief, a business entity, the legal form and status of which is currently unknown  
8 to Plaintiff. U.S. Copyright Reg. Nos. PA0002212950 and PA0002223387 for the  
9 *10,000 Hours* musical composition identify Defendant Beats as a copyright  
10 claimant. Based on information and belief, Defendant Beats regularly conducts  
11 promotional activities and engages in various aspects of the music business in Los  
12 Angeles, California.

13 28. Plaintiff is informed and believes, and thereupon alleges, that other  
14 fictitious defendants, not previously identified by name but designated as Does 1  
15 through 50, may be liable or responsible in whole or in part for the allegations  
16 contained herein. Once the true names and capacities of these Doe Defendants are  
17 ascertained, Plaintiffs will seek leave to amend this Complaint and substitute their  
18 true names and capacities.

19 29. Plaintiff is informed and believes and thereupon alleges, that each of  
20 the Defendants named herein as Does 1 through 50, inclusive, is intentionally,  
21 negligently or otherwise legally responsible in some manner, either vicariously or  
22 by virtue of his, her or its agents, representatives, servants or employees, for the acts  
23 and occurrences alleged herein, and has thereby proximately caused injury or  
24 damage to Plaintiff.

25 30. Plaintiff is informed and believes, and thereupon alleges, that at all  
26 times herein mentioned, the Defendants, and each of them, were the agents, partners,  
27 alter egos, joint venturers and/or employees of each other, and at all times were  
28 acting within the scope and course of said agency, partnership, joint venture, alter

1 ego relationship and/or employment, and with full knowledge and consent of each  
2 other. In so doing, the Defendants, and each of them, acted within the scope of such  
3 relationship or ratified the acts of the others, and is jointly and severally liable as  
4 such. Plaintiffs further believe and allege that Defendants, and each of them, are the  
5 alter egos of the other, and that there is such a unity of interest and ownership  
6 between and among Defendants, that such interests have become intertwined and  
7 inseparable.

### 8 JURISDICTION AND VENUE

9 31. The Court has federal question jurisdiction pursuant to 28 U.S.C.  
10 Sections 1331 and 1338(a), as an action arising under the 1976 Copyright Act, 17  
11 U.S.C. Sections 101, *et seq.*

12 32. This Court has specific personal jurisdiction over Defendants because,  
13 based on information and belief, each has purposefully committed, within the state,  
14 the acts from which Plaintiff's claim arises and/or committed tortious acts outside  
15 California, knowing and intending that such acts would cause injury to Plaintiff  
16 within the state.

17 33. Specifically, based on information and belief, Defendants have  
18 purposefully availed themselves of the benefits of conducting business within the  
19 State of California by directing their activities with respect to the infringing work,  
20 including their marketing and promotion of the infringing work, to California  
21 residents, who are able to purchase, download and stream the infringing  
22 compositions and recordings. Upon information and belief, Defendants, and each of  
23 them, have received substantial revenues from their exploitation of the infringing  
24 works in California.

25 34. Upon information and belief, and as set forth above in greater detail,  
26 Defendants Bieber, Shay and Mooney, have performed and/or will perform touring  
27 dates in California to further exploit the infringing compositions and recordings, and  
28

1 have licensed, distributed and exploited the subject infringing song (and other songs)  
2 in this state.

3 35. The Court also has general personal jurisdiction over Defendants, as  
4 each either resides in this state, has incorporated in this state, is licensed as a foreign  
5 entity to do business in this state, has its principal place of business in this state,  
6 and/or conducts continuous, systematic, and routine business within the state of  
7 California and the County of Los Angeles and/or within this district.  
8 Consequentially, by virtue of their pervasive business contacts and transactions  
9 within the State of California, Defendants are constructively aware and can  
10 reasonably expect and/or anticipate being sued in this jurisdiction.

11 36. Venue is proper in the United States District Court for the Central  
12 District of California pursuant to 28 U.S.C. §§ 1391(b) - (d) and 1400.

### 13 **FACTUAL BACKGROUND**

14 37. This is an action for copyright infringement, in violation of 17 U.S.C.  
15 §§ 101 *et seq.*, arising from the unauthorized reproduction, distribution and/or public  
16 performance of Plaintiff's copyrighted musical composition *First Time*. Plaintiff is  
17 informed and believes, and thereupon alleges, that Defendants are the writers,  
18 composers, performers, producers, record label, distributors, and publishers who  
19 were involved with the creation, release, reproduction, exploitation, licensing, and  
20 public performance of the infringing and derivative musical composition *10,000*  
21 *Hours*, the infringing sound recording of *10,000 Hours*, and the music video and  
22 other products embodying the infringing musical composition and sound recording  
23 *10,000 Hours* (collectively, the "Infringing Works"). Defendants Bieber, Smyers,  
24 Dillon, Reynolds, Boyd, and Mooney (collectively, the "Composer Defendants")  
25 each received credit as composers of the music and lyrics of *10,000 Hours*. The  
26 corporate Defendants are, on information and belief, the publishing, distribution,  
27 recording labels and other entities that exploit the song.

1           **A. Plaintiff’s Song *The First Time Baby Is A Holiday***

2           38. Plaintiff Melomega is the owner of the copyright in the musical  
3 composition embodied in sound recordings of *First Time*. The authors of the music  
4 and lyrics of *First Time*, Palmer Rakes and Frank Fioravanti, respectively, were  
5 well-known songwriters at the time they authored the song. In 1973, shortly after  
6 forming their first record label, Sound Gems Records, one of their singles, *What You*  
7 *Got* by William Devaughn, earned a gold record, selling 2 million copies and  
8 climbing to number 2 or 3 on the charts, depending on the publication doing the  
9 ranking. Frank Fioravanti eventually formed Melomega, which released numerous  
10 songs in the 70’s and 80’s, including a number of chart-making songs in the top 100.

11           39. In 1980, Melomega registered the musical composition for *First Time*  
12 with the U.S. Copyright Office, under registration number PA0000080539, under  
13 the title “The First time, baby, was a holiday.” In 2014, Melomega recorded the song  
14 and, on August 4, 2021, registered the 2014 sound recording and derivative version  
15 of the musical composition under registration number SR0000904298, using the  
16 slightly altered title “The First Time Baby Is a Holiday.” On February 15, 2021,  
17 Plaintiff also registered an unpublished sound recording of the 1980 version of *First*  
18 *Time* under registration number SRu001465520.

19           40. Melomega initially released the 2014 sound recording in or about  
20 September, 2014. In 2017 and 2019, Melomega’s Sound Gems Records label re-  
21 released the song on three different albums. In 2014, the sound recording  
22 commenced world-wide distribution via *The Orchard*, one of the largest music  
23 distributors in the world, which distributes to approximately 45 global markets and  
24 hundreds of retail outlets, if not more, including digital, physical and multimedia  
25 platforms.

26           **B. Defendants’ Song *10,000 Hours*.**

27           41. Defendants released *10,000 Hours* as a single in the United States on  
28 or about October 4, 2019. The official music video for the song debuted that same

1 day. On or about November 27, 2019, Defendants released a piano version of *10,000*  
2 *Hours*, known as “the wedding version.” The song also appears on the album entitled  
3 *Good Things*, which was released on or about August 13, 2021. *10,000 Hours* was a  
4 multi-week No. 1 hit, with nearly two billion global streams to date. In its first week  
5 of distribution, listeners streamed *10,000 Hours* more times than any other single in  
6 country music history, earning over four million U.S. track equivalents to date. It is  
7 only the sixth song ever to top all four *Billboard* country song charts simultaneously,  
8 and was also the highest-charting non-holiday country song in the history of  
9 *Billboard*’s streaming song charts.

10 42. *10,000 Hours* received awards for “Best Country Duo/Group  
11 Performance” at the 2021 Grammy Awards, “Collaboration of the Year” and  
12 “Favorite Country Song” at the 2020 American Music Awards, and Top Country  
13 Song at the 2020 Billboard Music Awards. The Recording Industry Association of  
14 America certified *10,000 Hours* as Gold in late 2019, and the song went quadruple  
15 platinum in 2021.

16 **C. Substantial Similarity Between *10,000 Hours* and *First Time***

17 43. From a subjective standpoint, by simply listening to both songs, the  
18 average listener clearly hears the distinctively similar melody and other  
19 compositional elements in both songs. Indeed, the melodies of the chorus of *10,000*  
20 *Hours* and the chorus/verse of *First Time* are practically identical.

21 44. The listener’s subjective observations are more than corroborated by an  
22 objective, scientific, empirical musical analysis conducted by one of the top  
23 musicologists in the industry, Dr. Alexander Stewart. Dr. Stewart, whose extensive  
24 analysis is set forth in his preliminary report, attached hereto as Exhibit A, came to  
25 the immutable conclusion that not only are these songs substantially similar, but  
26 from an analysis of the most significant, core expressions of each song, “*First Time*  
27 *Baby* and *10,000 Hours* are practically the same song [and] [g]iven the degree of  
28

1 similarity in these passages and other details... I consider it almost impossible that  
 2 *10,000 Hours* was created independently from *First Time Baby*.”

3 45. From a general perspective, both songs have similar tempos, overall  
 4 feel, and form structure. More specifically, however, an analysis with respect to the  
 5 “core expression” of the songs is particularly striking and revealing. Such core  
 6 expression is found in the chorus of *10,000 Hours* and the chorus/verse of *First Time*.  
 7 These are the most important sections of the songs in which the titles of the songs  
 8 are referenced, the signature phrases and “hooks” are found, and which the listener  
 9 is most likely to identify and remember. Dr. Stewart compared the melodic themes,  
 10 pitch, rhythm, length, phrasing, hook, lyrics and metric placement of these core  
 11 sections of the songs and found them to be practically identical.

12 46. For example, when the core sections of the songs are broken down into  
 13 their four component phrases, and the pitch sequences compared on a note-by-note  
 14 basis, the percentage of melodic components of *First Time* that also appear in *10,000*  
 15 *Hours* is as high as 83%, or all but two (2) of the twelve (12) notes.

16  
 17 First Time  
 18 We packed up our bags and we went a-way.  
 19 10,000  
 20 I'd spend TEN THOU-SAND HOURS and ten thou-sand more,  
 21  
 22 Pitch sequences  
 23 FTB 165632161231  
 24 10k 1165632151233

24 47. Moreover, when looking at the core portions of the songs as a whole,  
 25 34 of 47 notes—i.e., 72%—in the pitch sequence of the main verse/chorus of *First*  
 26 *Time* appear in the chorus of *10,000 Hours*.<sup>1</sup>

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 28 <sup>1</sup> In each of the graphs, identical notes are denoted in red.



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First Time  $\text{♩} = 84$  ① ② ③  
 THE FIRST TIME... BA-BY WAS A HOL-I - DAY. We packed up my bags and we went a-way... You  
 10,000  $\text{♩} = 89$   
 I'd spend TEND THOU-SAND HOURS... and ten thou sand more, oh, if that's what it takes to learn that sweet heart of yours. And I  
 First Time ③ ④  
 treat - ed me ten - der, so per-fect-ly right, a time I'll re - mem-ber for *the rest of my life*...  
 10,000  
 might nev er get there, but I'm gon-na try, if it's TEN THOU-SAND HOURS or *the rest of my life*...

48. Even further, a comparison of the rhythm and metric placement of this extended, 47-note sequence demonstrates that nearly 90% of notes—an incredible 42 of 47 notes—are identical in this regard. While keeping the same rhythms, only four pitches were changed in two of the phrases, amounting to just a nominal variation. In other words, for all intents and purposes, the melodies and melodic structure of these two core sections of each song are the same.

First Time  $\text{♩} = 84$  ① ② ③  
 THE FIRST TIME... BA-BY WAS A HOL-I - DAY. We packed up our bags and we went a-way... You  
 10,000  $\text{♩} = 89$   
 I'd spendTEN THOU-SAND HOURS... and ten thou-sand more, oh, if that's what it takes to learn that sweet heart of yours. And I  
 First Time ③ ④  
 treat - ed me ten - der, so per-fect-ly right, a time I'll re - mem-ber for *the rest of my life*...  
 10,000  
 might nev-er get there, but I'm gon-na try, if it's TEN THOU-SAND HOURS or *the rest of my life*...

49. Additional analysis found other musical features to be substantially similar, including the harmony and accompaniment figures. In fact, the hooks of these songs are exactly the same—both end with the identical lyric “for the rest of

1 my life,” set to the same melody. This identical similarity can’t be overstated. The  
2 fact that both songs exhibit the exact same lyrics, pitch, rhythm, contours and metric  
3 placement at exactly the same moment in each song simply can’t happen without  
4 copying.

5  
6

7 **First Time**

8

9 a time I'll re - mem - ber for the rest of my life.\_\_\_\_

10 **10,000**

11 if it's ten thou-sand hours\_\_\_\_ or the rest of my\_ life.\_\_\_\_

12

13 50. In looking at this analysis, it also is important to understand that  
14 musicological comparisons have in many cases involved comparisons of as few as  
15 6 to 7 consecutive notes in the subject musical compositions. Here, in contrast,  
16 several 47-note sections of *10,000 Hours* are virtually *identical* to parallel sections  
17 of *First Time*. Such a lengthy expression of largely identical musical composition is  
18 nothing less than strikingly similar. This, combined with the results of a prior art  
19 search which uncovered no compositions with anywhere near this degree of  
20 similarity pre-dating *First Time*, makes Defendants’ theft abundantly clear.

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1 Melodies

2 The First Time Baby

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5 10,000 Hours

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7 Rhythms

8 The First Time Baby

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10 10,000 Hours

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14 51. The musicological analysis is not only compelling but constitutes  
15 overwhelming evidence that *10,000 Hours* copied and is comprised of the most  
16 important portions of *First Time*. In fact, without *First Time*, *10,000 Hours* would  
17 not exist.

18 **D. Access.**

19 52. The fact that the core expression of the two songs is nearly identical  
20 and strikingly similar obviates the need to establish access, as such is inferred.

21 53. Notwithstanding, *First Time* was written and recorded in 1980, and  
22 initially released in 2014 on Sony's Orchard platform, with subsequent releases in  
23 2017 and 2019, for a total of three separate releases on three different albums. The  
24 Orchard is one of the largest music distributors in the world, reaching over 45  
25 countries through hundreds of musical outlets. In the United States, *First Time* is  
26 distributed and available through all of the major retailers including top outlets such  
27 as iTunes, Spotify, Napster, Shazam, Soundcloud, Tidal, TikTok, Peloton, Vevo,  
28 Amazon Music, Facebook, YouTube Music and Pandora. In fact, there are five

1 different versions of *First Time* available for purchase on iTunes, alone. *First Time*  
2 was written four decades ago, and domestically and internationally distributed for  
3 approximately 5 years prior to the release of *10,000 Hours*. Thus, access through  
4 widespread distribution is undeniable.

5 **E. Defendants' Unauthorized Exploitation of *First Time***

6 54. Defendants have, without authorization, and without giving credit to  
7 either Palmer Rakes or Frank Fioravanti, or a copyright interest to Melomega, copied  
8 *First Time*, and reproduced, distributed, displayed, publicly performed and  
9 otherwise exploited the Infringing Works, resulting in substantial revenue, profit and  
10 fame for Defendants. Upon information and belief, each Defendant is responsible in  
11 some manner for the events described herein and are liable to Melomega for the  
12 damages it has incurred. As co-infringers, Defendants are jointly and severally liable  
13 for all amounts owed.

14 55. Defendants continue to infringe on the musical composition *First Time*  
15 by reproducing, displaying, distributing, exploiting, licensing, and publicly  
16 performing the Infringing Works. *10,000 Hours* continues to be reproduced, sold,  
17 distributed, publicly performed, licensed and otherwise exploited on compact discs  
18 and albums, digital downloads, streaming, music videos, internet and other  
19 commercial products, all without payment to the Melomega or credit to Frank  
20 Fioravanti.

21 56. These acts were willful, knowing, and malicious and perpetrated  
22 without regard to Melomega's rights.

23 **CAUSE OF ACTION COPYRIGHT INFRINGEMENT**  
24 **(Direct, Contributory, And Vicarious Copyright Infringement**  
25 **Against All Defendants)**

26 57. Plaintiff repeats and re-alleges each of the foregoing paragraphs, as  
27 though fully set forth herein.  
28

1 58. Plaintiff is the sole owner of the U.S. copyright in all rights, titles, and  
2 interests in the musical composition *First Time*. The musical composition is properly  
3 registered with the United States Copyright Office.

4 59. Defendants' unauthorized reproduction, distribution, public  
5 performance, display, and creation of a derivative work of *First Time* infringes  
6 Melomega's exclusive rights in violation of the Copyright Act, 17 U.S.C. §§ 101 *et*  
7 *seq.*

8 60. Defendants did not seek or receive permission to copy or interpolate  
9 any portion of *First Time* into *10,000 Hours*.

10 61. Defendants' conduct has at all times been knowing, willful, and with  
11 complete disregard to Melomega's rights.

12 62. As a proximate cause of Defendants' wrongful conduct, Melomega has  
13 been irreparably harmed.

14 63. The Infringing Works copy quantitatively and qualitatively the most  
15 distinct, important, recognizable and significant portions of *First Time* to the point  
16 where *10,000 Hours* could not exist without the stolen portions of *First Time*.

17 64. From the date of the creation of the infringing *10,000 Hours*,  
18 Defendants have infringed Melomega's copyright interest in *First Time* including:  
19 (a) by substantially copying and publicly performing, or authorizing the copying and  
20 public performances, including publicly performing *10,000 Hours* on the radio, at  
21 live concerts and personal appearances, and on film, video, television, internet and  
22 otherwise; (b) by authorizing the reproduction, distribution and sale of the records,  
23 digital downloads and streaming through the execution of licenses, and/or actually  
24 selling, manufacturing, and/or distributing *10,000 Hours* through various sources  
25 and outlets; (c) by substantially copying and the related marketing and promotion of  
26 the sale of the records, videos, downloads, streams, tickets to concerts and other  
27 performances, and other merchandise; and (d) by participating in and furthering the  
28 aforementioned infringing acts, and/or sharing in the proceeds therefrom, all through

1 substantial use of *First Time* in and as part of the Infringing Works, packaged in a  
2 variety of configurations and digital downloads, streams, mixes and versions, and  
3 performed in a variety of ways including internet, radio, concerts, personal  
4 appearances, film, video, television, downloads, streams and otherwise.

5 65. Neither Palmer Rakes nor Frank Fioravanti have received songwriter  
6 or composer credit for, and Melomega has received no copyright ownership interests  
7 in and for, any of the exploitations of *10,000 Hours* or any of the works associated  
8 with *First Time*.

9 66. The infringement by Defendants has been, and continues to be, willful  
10 and knowing.

11 67. With knowledge of the infringement, the Defendants have induced,  
12 caused, or materially contributed to, the infringing conduct of others, such that they  
13 should be found to be contributorily liable.

14 68. Defendants had the right and ability to control other infringers and have  
15 derived a direct financial benefit from that infringement such that Defendants should  
16 be found to be vicariously liable.

17 69. The infringement is continuing as the album *Good Things*, on which  
18 *10,000 Hours* appears, continues to be sold and the single *10,000 Hours* continues  
19 to be licensed for sale, downloads, streams, ringtones and/or mastertones, and other  
20 exploitations by Defendants or their agents.

21 70. As a direct and proximate result of Defendants' conduct, Melomega has  
22 suffered actual damages including lost profits, lost opportunities, and loss of  
23 goodwill.

24 71. Pursuant to 17 U.S.C. § 504, Melomega is entitled to actual damages,  
25 including Defendants' profits, as will be proven at trial, and/or statutory damages,  
26 including attorneys' fees.

27 72. Defendants' conduct is causing and, unless enjoined by this Court, will  
28 continue to cause Melomega irreparable injury that cannot be fully compensated or

1 measured in monetary terms. Melomega has no adequate remedy at law. Pursuant to  
2 17 U.S.C. § 502, Melomega is entitled to a permanent injunction prohibiting the  
3 reproduction, distribution, sale, public performance or other use or exploitation of  
4 *10,000 Hours*, including all Infringing Works.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Melomega prays for judgment against Defendants and for the  
7 following relief:

8 A. A permanent injunction prohibiting Defendants and their agents,  
9 servants, employees, officers, attorneys, successors, licensees, partners, and assigns,  
10 and all persons acting in concert or participation with each or any one of them, from  
11 directly or indirectly infringing, or causing, enabling, facilitating, encouraging,  
12 promoting, inducing, and/or participating in the infringement of, any of Melomega's  
13 rights protected by the Copyright Act; an order directing Defendants to include  
14 credits on behalf of Melomega and/or the authors of *First Time* to be included on  
15 any awards, accolades, events of prestige and/or other public recognition attributed  
16 to *10,000 Hours*;

17 B. An award of damages pursuant to 17 U.S.C. § 504(b), including actual  
18 damages and Defendants' profits in an amount to be proven at trial;

19 C. An award of statutory damages,

20 D. An award of attorneys' fees;

21 E. For pre-judgment and post-judgment interest according to law, as  
22 Applicable.

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1 F. For such other and further relief as this Court may deem just and proper.  
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4 Dated: April 21, 2022

THE LOVELL FIRM, P.C.

5  
6 By: Tre Lovell

7 Tre Lovell  
8 Attorneys for Plaintiff  
9 INTERNATIONAL  
10 MANUFACTURING CONCEPTS,  
11 INC., a Nevada Corporation, dba  
12 MELOMEGA MUSIC and SOUND  
13 GEMS

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**JURY DEMAND**

Plaintiff respectfully requests a jury trial.

14 Dated: April 21, 2022

THE LOVELL FIRM, P.C.

15  
16 By: Tre Lovell

17 Tre Lovell  
18 Attorneys for Plaintiff  
19 INTERNATIONAL  
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