

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

FILED

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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

SLEP-TONE ENTERTAINMENT CORPORATION,

Plaintiff,

v.

ASTRO ENTERPRISES, INC.; AMANDA C. STEPHENSON; EDDIE SAL PRODUCTIONS, INC.; BING AND DEE TUNES, a partnership; ROBERT A. "BING" CROSBY; DEBORAH "DEE" CROSBY; AEROGRAPHER'S MATES, INC.; B-STORE, INC.; JAMES PARKER; DOCKERS RESTAURANT AND KARAOKE PUB, a partnership; LEO H. LEARY III; INGIBJORG B. LEARY; DELANOIS INCORPORATED; MICHAEL HODGE; TGIFT, INCORPORATED; SHAWN PETERS; STEVEN W. OWEN; BOYD FLETCHER ENTERPRISES, LLC; KARAOKE N' TYME, a partnership; BOBBY A. WINFREE, SR.; PEGGY D. WINFREE; SKYLER W. SMITH; BIG RED, INC.; CONNIE, INC.; DEAN E. KOHLER; LARRY BUTLER; DAVID BLECHMAN; TIDEMILL CAFE, INC.; HENRY ENTERPRISES, INC.; ERICA MATHEWSON; ASSOCIATED CONSULTANTS, INC.; ELWOOD JUNKINS; NICHOLAS FISHER; NIGEL GANDARA; JIMMY O'NEAL; RICHARD NUNNALLY; JEFFREY SMITH; CFC OF CHARLESTON, INC.; C.I. ASSOCIATES, L.P.; and SRI INNSBROOK LLC,

Defendants.

Civil Action No. 1:10cv752

LO/TRJ

COMPLAINT

The Plaintiff, Slep-Tone Entertainment Corporation ("Slep-Tone"), by its undersigned counsel, complains of the Defendants and for its complaint alleges as follows:

INTRODUCTION

Slep-Tone is the manufacturer and distributor of karaoke accompaniment tracks sold under the name “Sound Choice.” Slep-Tone was founded 25 years ago by Kurt and Derek Slep, two brothers with a vision to nurture the development of karaoke in America as a participatory entertainment phenomenon. During that time, Sound Choice came to be recognized as one of the leading producers of high-quality karaoke accompaniment tracks. The company invested over \$18 million to re-record and replicate the authentic sound of popular music across different eras and genres of music.

The Sleps’ dedication to producing music of the highest quality and the most authentic character led its music to become the staple of almost every karaoke show in the country. As karaoke grew in popularity, Sound Choice became the brand that nearly every karaoke fan wanted to sing and that nearly every karaoke jockey (“KJ”) wanted in his or her library.

KJs play karaoke songs using compact discs written in a special encoded format known as “CD+G” (“compact disc plus graphics”) or a newer format known as “MP3G” (“Motion Picture Experts Group Audio Layer 3 plus graphics”), in either of which the CD contains the music and the lyrics, which will display on a screen. In recent years, computer technology, cheap file memory devices, and the internet have made it possible for CD+G discs to be decoded and “ripped” (copied) to a user’s hard drive and easily copied and distributed between KJs. This technology has proven irresistible to KJs, many of whom have used this opportunity to copy one purchased disc to several different computer based systems, copy a singer’s personal discs if they use them during a show, “swap” song files among each other, download them from illegal file-sharing sites and build libraries of tens of thousands of karaoke songs without paying for them. Whereas in the past a KJ would buy multiple copies of an original CD+G, now they simply

“clone” their songs for multiple commercial systems or even their entire karaoke song libraries to start a new operation. Additionally, many KJs or operators starting in the business simply buy computer drives pre-loaded with thousands of illegally copied songs.

These practices have become so widespread that Slep-Tone and its sister company, Sound Choice Studios, Inc., have been driven nearly out of business. At its peak, the Sound Choice family of companies employed 75 individuals and produced as many as 5 new karaoke discs per month. Today, the enterprise employs fewer than 10 individuals. Sound Choice Studios, which is responsible for production of new material, has virtually ceased making new discs, because the companies have lost money on every recent new karaoke disc. The most recent new disc did not produce enough revenue even to cover the production and licensing costs associated with it—yet the songs from that disc can be found on as many as 30,000 karaoke systems around the United States.

For KJs, karaoke is a commercial enterprise. KJs who legitimately acquired all of their music at great cost are being forced by illicit competition to produce shows for lower and lower fees. Illegitimate competitors offer libraries of tens of thousands of songs, which would have cost \$50,000 to \$100,000 or more to acquire legitimately, but produce shows for one-third the rates a legitimate KJ can offer. The result is significant financial pressure on once-legitimate KJs to skirt or ignore the law and become pirates, simply to stay in business.

Slep-Tone has been forced to undertake this litigation in order to ensure that it survives and continues to produce the high-quality karaoke music its fans demand and to level the playing field for the legitimate KJs.

JURISDICTION AND VENUE

1. This is an action for trademark infringement and unfair competition arising under §§ 32 and 43 of the Trademark Act of 1946, 15 U.S.C. §§ 1114 and 1125. This Court has exclusive jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, in that this is a civil action arising under the laws of the United States.
2. This Court further has jurisdiction pursuant to 28 U.S.C § 1338(a), in that this civil action arises under an Act of Congress relating to trademarks, and, as to the Plaintiff's Lanham Act unfair competition claim, pursuant to 28 U.S.C. § 1338(b), in that the claim is joined with a substantial and related claim under the trademark laws of the United States.
3. Venue is proper in this judicial district and division pursuant to 28 U.S.C. § 1391(b) and L.Civ.R. 3(C), because all of the defendants reside in this State, and at least one of the defendants resides in this judicial district and division.

THE PLAINTIFF

4. Plaintiff SLEP-TONE is a North Carolina corporation having its principal place of business at 14100 South Lakes Drive, Charlotte, North Carolina.

THE DEFENDANTS

5. Defendant ASTRO ENTERPRISES, INC. is a Virginia corporation having its principal place of business in Virginia Beach, Virginia. Defendant ASTRO ENTERPRISES, INC. is engaged in the business of providing karaoke entertainment, and it conducts its business activities at numerous venues in this State.

6. Defendant AMANDA C. STEPHENSON is an individual residing in the Commonwealth of Virginia who does business as “Tootsie’s Karaoke & DJ Service” and who has her principal business address in Chesapeake, Virginia. Defendant AMANDA C. STEPHENSON is engaged in the business of providing karaoke entertainment, and she conducts her business activities at numerous venues in this State.
7. Defendant AMANDA C. STEPHENSON has advertised the business operation known as “Tootsie’s Karaoke & DJ Service” as being owned by her mother, Shirl Crawford, but government records filed by Defendant AMANDA C. STEPHENSON indicate her as the true owner of the business operation.
8. Defendant EDDIE SAL PRODUCTIONS, INC. is a Virginia corporation having its principal place of business in Virginia Beach, Virginia. Defendant EDDIE SAL PRODUCTIONS, INC. is engaged in the business of providing karaoke entertainment, and it conducts its business activities at numerous venues in this State.
9. Defendant BING AND DEE TUNES is a general partnership doing business in Virginia and having as its general partners at least Defendant ROBERT A. “BING” CROSBY and Defendant DEBORAH “DEE” CROSBY, who are sued in their individual and partner capacities and who are residents of the Commonwealth of Virginia. Defendant BING AND DEE TUNES and Defendants ROBERT A. “BING” CROSBY and DEBORAH “DEE” CROSBY have their principal place of business in Norfolk, Virginia. Defendants BING AND DEE TUNES, ROBERT A. “BING” CROSBY, and DEBORAH “DEE” CROSBY are engaged together in the business of providing karaoke entertainment, and they conduct their business activities at numerous venues in this State.

10. Defendant AEROGRAPHER'S MATES, INC. is a Virginia corporation whose principal place of business is in Virginia Beach, Virginia, and operates an eating and drinking establishment known as "The Brass Bell." Among other services, Defendant AEROGRAPHER'S MATES, INC. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.
11. Defendant B-STORE, INC. is a Virginia corporation whose principal place of business is in Virginia Beach, Virginia, and operates an eating and drinking establishment known as "Catherine's Restaurant & Lounge." Among other services, Defendant B-STORE, INC. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.
12. Defendant JAMES PARKER is an individual residing in the Commonwealth of Virginia who does business or is otherwise professionally known as "DJ JAMEZ." Defendant JAMES PARKER is engaged in the business of providing karaoke entertainment, and he conducts his business activities at numerous venues in this State, chiefly in the Hampton Roads region.
13. Defendant DOCKERS RESTAURANT AND KARAOKE PUB is a general partnership doing business in Virginia and having as its general partners at least Defendant LEO H. LEARY III and Defendant INGIBJORG B. LEARY, who are sued in their individual and partner capacities and who are residents of the Commonwealth of Virginia. Defendant

DOCKERS RESTAURANT AND KARAOKE PUB and Defendants LEO H. LEARY III and INGIBJORG B. LEARY have their principal place of business in Virginia Beach, Virginia, at an eating and drinking establishment operated under that name. Among other services, Defendants DOCKERS RESTAURANT AND KARAOKE PUB, LEO H. LEARY III and INGIBJORG B. LEARY provide karaoke entertainment services to their patrons, either directly (themselves or through one or more employees) or indirectly (by contracting with another party to provide those services), and thereby exercising control over and deriving financial benefit from those services.

14. Defendant DELANOIS INCORPORATED is a Virginia corporation whose principal place of business is in Virginia Beach, Virginia, and operates an eating and drinking establishment known as “Secrets Restaurant & Tavern.” Among other services, Defendant DELANOIS INCORPORATED provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.

15. Defendant MICHAEL HODGE is an individual residing in the Commonwealth of Virginia who does business or is otherwise professionally known as “El-Mike.” Defendant MICHAEL HODGE provides karaoke entertainment services regularly in the Virginia Beach, Virginia, area at the establishment known as “Secrets Restaurant & Tavern” described in the preceding paragraph.

16. Defendant TGIFT, INCORPORATED is a Virginia corporation whose principal place of business is in Virginia Beach, Virginia, and operates an eating and drinking establishment known as “Fat Tuesdays Restaurant & Bar.” Among other services, Defendant TGIFT,

INCORPORATED provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.

17. Defendant SHAWN PETERS is an individual residing in the Commonwealth of Virginia who does business or is otherwise professionally known as "OzzManKJ." Defendant SHAWN PETERS provides karaoke entertainment services regularly in the Virginia Beach, Virginia, area, at least at the establishment known as "Fat Tuesdays Restaurant & Bar" described in the preceding paragraph.
18. Defendant STEVEN W. OWEN is an individual residing in the Commonwealth of Virginia who does business as "Steve Owen Entertainment," and who has his principal place of business in Williamsburg, Virginia. Defendant STEVEN W. OWEN is engaged in the business of providing karaoke entertainment, and he conducts his business activities at venues in this State.
19. Defendant BOYD FLETCHER ENTERPRISES, LLC is a Virginia limited liability company whose principal place of business is in Williamsburg, Virginia, and operates an eating and drinking establishment known as "The Gridiron Sports Grille." Among other services, Defendant BOYD FLETCHER ENTERPRISES, LLC provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.

20. Defendant KARAOKE N' TYME is a general partnership doing business in Virginia and having as its general partners at least Defendant BOBBY A. WINFREE, SR. and Defendant PEGGY D. WINFREE, who are sued in their individual and partner capacities and who are residents of the Commonwealth of Virginia. Defendant KARAOKE N' TYME and Defendants BOBBY A. WINFREE, SR. and PEGGY D. WINFREE have their principal place of business in Newport News, Virginia. Defendants KARAOKE N' TYME, BOBBY A. WINFREE, SR. and PEGGY D. WINFREE are engaged together in the business of providing karaoke entertainment, and they conduct their business activities at venues in this State.
21. Defendant SKYLER W. SMITH is an individual residing in the Commonwealth of Virginia who does business as "SkyHigh Communications" and "SkyHigh DJ," and who has his principal place of business in Virginia Beach, Virginia. Defendant SKYLER W. SMITH is engaged in the business of providing karaoke entertainment, and he conducts his business activities at venues in this State.
22. Defendant BIG RED, INC. is a Virginia corporation with its principal business address in Virginia Beach, Virginia, and operates an eating and drinking establishment, known as "Stooges Bar & Grill," located at 3900 Bonnie Road in Virginia Beach. Among other services, Defendant BIG RED, INC. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.
23. Defendant CONNIE, INC. is a Virginia corporation with its principal business address in Virginia Beach, Virginia, and operates an eating and drinking establishment, known as

“Stooges Bar & Grill,” located at 4239 Holland Road in Virginia Beach. Among other services, Defendant CONNIE, INC. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.

24. Defendant BIG RED, INC. and Defendant CONNIE, INC. are related companies by virtue of their common ownership or control.
25. Defendant DEAN E. KOHLER is an individual residing in the Commonwealth of Virginia who does business as “Music Mill Disc Jockeys USA,” and who has his principal place of business in Virginia Beach, Virginia. Defendant DEAN E. KOHLER is engaged in the business of providing karaoke entertainment, and he conducts his business activities at venues in this State.
26. Defendant LARRY BUTLER is an individual residing in the Commonwealth of Virginia who does business as “Laraoke Karaoke & D.J. Services,” and who has his principal place of business in Virginia Beach, Virginia. Defendant LARRY BUTLER is engaged in the business of providing karaoke entertainment, and he conducts his business activities at venues in this State.
27. Defendant DAVID BLECHMAN, also known as “Dave Flick,” is an individual residing in the Commonwealth of Virginia who does business as “Local Celebrity DJs,” and who has his principal place of business in the Hampton Roads region. Defendant DAVID BLECHMAN is engaged in the business of providing karaoke entertainment, and he conducts his business activities at venues in this State.

28. Defendant TIDEMILL CAFE, INC. is a Virginia corporation having its principal place of business in Hampton, Virginia, and operates an eating and drinking establishment of the same name. Among other services, Defendant TIDE MILL CAFE, INC. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.
29. Defendant HENRY ENTERPRISES, INC. is a Virginia corporation having its principal place of business in Virginia Beach, Virginia, and operates an eating and drinking establishment known as “Wanna B’s.” Among other services, Defendant HENRY ENTERPRISES, INC. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.
30. Defendant ERICA MATTHEWSON is an individual residing in the Commonwealth of Virginia. Defendant ERICA MATTHEWSON is engaged in the business of providing karaoke entertainment, and she conducts her business activities at one or more venues in this State, chiefly in the Virginia Beach, Virginia, area.
31. Defendant ASSOCIATED CONSULTANTS, INC. is a Virginia corporation having its principal place of business in or near Arlington, Virginia. Defendant ASSOCIATED CONSULTANTS, INC. is engaged in the business of providing karaoke entertainment, and it conducts its business activities at numerous venues in this State.

32. Defendant ELWOOD JUNKINS is an individual residing in the Commonwealth of Virginia and doing business as “Starlight Entertainment.” Defendant ELWOOD JUNKINS is engaged in the business of providing karaoke entertainment, and he conducts his business activities in numerous venues in this state, chiefly in the Woodbridge, Virginia, area.
33. Defendant NICHOLAS FISHER is an individual residing in the Commonwealth of Virginia and doing business as “Karaoke One,” whose principal place of business is in Mechanicsville, Virginia. Defendant NICHOLAS FISHER is engaged in the business of providing karaoke entertainment, and he conducts his business activities in venues in this state, chiefly in the greater Richmond area.
34. Defendant NIGEL GANDARA is an individual residing in the Commonwealth of Virginia and doing business variously as “Virginia Idol,” “Carolina Starz,” and “DJ Reflex,” whose principal place of business is in Richmond, Virginia. Defendant NIGEL GANDARA is engaged in the business of providing karaoke entertainment, and he conducts his business activities in venues in this state, chiefly in the greater Richmond area.
35. Defendant JIMMY O’NEAL is an individual residing in the Commonwealth of Virginia and doing business as “Good Tymes Karaoke & DJ Services,” and having his principal place of business in Midlothian, Virginia. Defendant JIMMY O’NEAL is engaged in the business of providing karaoke entertainment, and he conducts his business activities in venues in this state, chiefly in the greater Richmond area.
36. Defendant RICHARD NUNNALLY, also known as “King Richard,” is an individual residing in the Commonwealth of Virginia. Defendant RICHARD NUNNALLY is

engaged in the business of providing karaoke entertainment, and he conducts his business activities in venues in this state, chiefly in the greater Richmond area.

37. Defendant JEFFREY SMITH, also known as “Smitty,” is an individual residing in the Commonwealth of Virginia. Defendant JEFFREY SMITH is engaged in the business of providing karaoke entertainment, and he conducts his business activities in venues in this state, chiefly in the greater Richmond area.
38. Defendant CFC OF CHARLESTON, INC. is a South Carolina corporation having a regular and established place of business in this State. Defendant CFC OF CHARLESTON, INC. does business as and operates an eating and drinking establishment known as “Siné Irish Pub & Restaurant” in Richmond, Virginia. Among other services, Defendant CFC OF CHARLESTON, INC. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.
39. Defendant C.I. ASSOCIATES, L.P. is a Virginia limited partnership that does business as and operates an eating and drinking establishment known as “Hooah’s Sports Grill” in the Prince George, Virginia, area. Among other services, Defendant C.I. ASSOCIATES, L.P. provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.

40. Defendant SRI INNSBROOK LLC is a Virginia limited liability company that does business as “The Curry House West” and operates an eating and drinking establishment known as “The Curry House” in Glen Allen, Virginia. Among other services, Defendant SRI INNSBROOK LLC provides karaoke entertainment services to its patrons, either directly via its own employee or employees or indirectly by contracting with another party to provide those services, and thereby exercising control over and deriving financial benefit from those karaoke entertainment services.

BACKGROUND FACTS

41. The term “karaoke” means “empty orchestra” in Japanese. Karaoke entertainment has grown into a multi-million dollar business in the United States.
42. Karaoke compact disc plus graphics (“CD+G”) recordings contain re-created arrangements of popular songs for use as “accompaniment tracks.”
43. Typically, the lead vocal tracks in an accompaniment track are omitted so that a karaoke participant can sing along, as though he or she were the lead singer. In other situations, the lead vocal track by a sound-alike artist might be included, and some formats allow the lead vocal to be selectively muted upon playback so that the accompaniment track may be listened to either with or without the lead vocals.
44. The “graphics” portion of a karaoke recording refers to the encoding of the recording with data to provide a contemporaneous video display of the lyrics to the song, in order to aid the performer.

45. This graphics data is also utilized to mark the accompaniment tracks with the Sound Choice trademarks and to cause the Sound Choice trademarks to be displayed upon playback.
46. Entertainers who provide karaoke services in bars, restaurants, and other venues are known as karaoke jockeys (“KJs”) or karaoke hosts. The services provided by KJs typically include providing the karaoke music and equipment for playback, entertaining the assembled crowd for warm-up purposes, and organizing the karaoke show by controlling access to the stage, setting the order of performance, and operating the karaoke equipment.
47. Typically, a KJ will maintain a catalog of songs available for performance in order to aid participants in selecting a song to sing.
48. Legitimate KJs purchase equipment and tracks stored on compact discs in CD+G or MP3G format and charge for the above-mentioned karaoke services.
49. Many KJs, such as some of the present Defendants, obtain, copy, share, distribute and/or sell media-shifted copies of the accompaniment tracks via pre-loaded hard drives, USB drives, CD-R’s, or the Internet.
50. Neither SLEP-TONE nor any of its associated companies has ever authorized the digitization or distribution of its songs in this manner for commercial use in producing karaoke shows.
51. SLEP-TONE tolerates, but does not authorize, the shifting of its accompaniment tracks from the original compact disc medium to another medium, such as a computer hard drive, provided that the KJ strictly follows SLEP-TONE’s media-shifting policy by maintaining “one-to-one correspondence.”

52. “One-to-one correspondence” requires (1) that each track stored on an alternative medium have originated from an original Sound Choice disc; (2) that the tracks from the original Sound Choice disc be shifted to one, and only one, alternative medium at a time; (3) that the KJ maintain possession of the original Sound Choice disc while its content is shifted to the alternative medium; and (4) that the original Sound Choice disc not be used for any commercial purpose while its content is shifted to the alternative medium.
53. The copying, sharing, distribution, and selling of media-shifted copies is not accompanied by the payment of any royalty to SLEP-TONE, nor authorized by any license agreement.
54. SLEP-TONE and its affiliated companies pay statutory and negotiated royalties to the owners of copyright in the underlying musical works for their activities in legitimately creating, copying, distributing, and selling CD+Gs and/or recordings in other formats.
55. Those persons, including the Defendants, who illegitimately obtain, copy, share, distribute, and/or sell media-shifted copies of the Plaintiff’s accompaniment tracks do not pay royalties to the owners of copyright in the underlying musical works.
56. SLEP-TONE and its affiliated companies have spent millions of dollars building and maintaining studios, hiring artists, building a distribution facility, paying royalties to copyright owners, building a company that is capable of reliably producing high-quality karaoke versions of current and historical musical hits, and building a brand that is one of the pre-eminent brands in the industry.
57. The widespread creation of counterfeit copies of SLEP-TONE’s karaoke discs in CD+G and other formats has denied SLEP-TONE the benefit of its investments.

58. These counterfeits include SLEP-TONE's registered trademarks, such that to the consumers of the illegitimate KJs' services, the counterfeits are virtually indistinguishable from genuine Sound Choice materials.
59. For each of the several recent releases of new karaoke music by SLEP-TONE, dozens of illegitimate copies of the contents of the disc have been created, on average, for each legitimate copy sold. SLEP-TONE, its affiliated companies, and its licensors have lost a considerable amount of money due to this widespread piracy.
60. Such widespread illegal copying of music has been made possible by improving and ever cheaper computer technology and memory devices and the easy distribution of digital content over the internet.
61. Widespread pirating of songs has contributed to the loss of more than sixty jobs at the Plaintiff's location in Charlotte, North Carolina, as well as several consecutive years of operating losses, as revenues do not cover fixed costs.
62. Legitimate KJs spend thousands of dollars acquiring SLEP-TONE's accompaniment tracks, an irreducible overhead cost that must be recovered over a significant number of engagements.
63. Illegitimate KJs, who acquire the songs in their libraries illegally, have an unfair advantage over legitimate KJs, because the illegitimate KJs are able to provide karaoke services with a considerably lower overhead cost and significantly more songs through the pirating of SLEP-TONE's tracks.
64. Piracy therefore unfairly increases the profits of illegitimate KJs and unfairly decreases the profits of legitimate KJs, a condition that pressures legitimate KJs to either commit

piracy instead of doing business with SLEP-TONE and other karaoke music producers or lose their shows to KJs offering more songs at cheaper prices to the same venues.

65. Because of piracy, it is nearly impossible for legitimate KJs to compete against illegal KJs, who are able to provide less expensive karaoke services and a greater number of tracks due to their lower overhead costs.

THE RIGHTS OF THE PLAINTIFF

66. Plaintiff SLEP-TONE is the owner of U.S. Trademark Registration No. 1,923,448 for the trademark SOUND CHOICE.
67. Plaintiff SLEP-TONE is also the owner of U.S. Trademark Registration No. 2,000,725, for a display trademark as follows:



68. Plaintiff SLEP-TONE has, for the entire time its marks (“the Sound Choice Marks”) have been federally registered, provided the public, including the Defendants, with notice of its federal registrations through the consistent display of the symbol ® with its marks as used.

INVESTIGATION OF THE DEFENDANTS’ ACTIVITIES

69. SLEP-TONE’s investigators observed each of the Defendants possessing, using, or authorizing or benefiting from unauthorized counterfeit copies of at least one work bearing the Sound Choice Marks.

70. Defendant ASTRO ENTERPRISES, INC. was observed operating karaoke systems to produce shows at venues in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
71. In connection with those shows, Defendant ASTRO ENTERPRISES, INC. repeatedly displayed the Sound Choice Marks without right or license.
72. Defendant ASTRO ENTERPRISES, INC. has advertised that it puts on as many as 15 separate karaoke shows and as many as 10 different venues per week, and as many as five such shows simultaneously.
73. Defendant ASTRO ENTERPRISES, INC. has advertised that it maintains a library of in excess of 20,000 tracks stored on each of its karaoke systems.
74. Defendant AMANDA C. STEPHENSON was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
75. In connection with those shows, Defendant AMANDA C. STEPHENSON repeatedly displayed the Sound Choice Marks without right or license.
76. Defendant AMANDA C. STEPHENSON has advertised that she puts on as many as three separate karaoke shows in any given week using her karaoke system.
77. Defendant AMANDA C. STEPHENSON has advertised that she maintains a library of in excess of 20,000 tracks stored on her karaoke system.
78. Defendant EDDIE SAL PRODUCTIONS, INC. was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.

79. In connection with those shows, Defendant EDDIE SAL PRODUCTIONS, INC. repeatedly displayed the Sound Choice Marks without right or license.
80. Edward Salvadore, who is an owner or officer of Defendant EDDIE SAL PRODUCTIONS, INC., stated to the Plaintiff's investigator, "I'm all digital," meaning that he did not own or play from discs, and that "I've got everything unless it's really obscure," meaning that his collection of available tracks consists of substantially all of the karaoke tracks in existence.
81. Defendant BING AND DEE TUNES, as operated by its partners Defendants ROBERT A. "BING" CROSBY and DEBORAH "DEE" CROSBY, was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
82. In connection with those shows, Defendant BING AND DEE TUNES and its partners repeatedly displayed the Sound Choice Marks without right or license.
83. Specifically, Defendant BING AND DEE TUNES was observed playing a substantial number of karaoke tracks from homemade "burned" discs.
84. Additionally, Defendant BING AND DEE TUNES also repeatedly played SLEP-TONE accompaniment tracks in a partially "chopped" format.
85. "Chopping" is a practice undertaken by karaoke pirates in an attempt to hide their piracy by excising the musical intro or outro portion of an accompaniment track in order to prevent the manufacturer's logo from being displayed. Chopping is a strong indicator that an accompaniment track has been obtained from an illicit source.
86. The partially "chopped" format utilized by Defendant BING AND DEE TUNES did not entirely prevent the Sound Choice Marks from being displayed.

87. Defendant AEROGRAPHER'S MATES, INC. was observed operating a karaoke system to produce shows at its The Brass Bell place of business in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
88. Defendant ERICA MATHEWSON was observed operating the karaoke system identified in the preceding paragraph on behalf of Defendant AEROGRAPHER'S MATES, INC.
89. In connection with those shows, Defendants AEROGRAPHER'S MATES, INC. and ERICA MATHEWSON repeatedly displayed the Sound Choice Marks without right or license.
90. Defendants AEROGRAPHER'S MATES, INC. and ERICA MATHEWSON supplied books for the use of patrons in selecting tracks that indicated the availability of approximately 18,300 tracks for selection.
91. Defendant B-STORE, INC. was observed operating a karaoke system to produce a show at its venue Catherine's Restaurant & Lounge in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
92. In connection with that show, Defendant B-STORE, INC. displayed the Sound Choice Marks without right or license.
93. Defendant B-STORE, INC. supplied materials for the use of patrons that indicated that it had acquired its hard drive-based karaoke system second-hand as a counterfeit, without accompanying discs.
94. Defendant JAMES PARKER was observed operating a karaoke system to produce a show at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.

95. In connection with that show, Defendant JAMES PARKER repeatedly displayed the Sound Choice Marks without right or license.
96. Defendant JAMES PARKER also made use of SLEP-TONE's accompaniment tracks in a partially chopped format; the format used by Defendant JAMES PARKER did not entirely prevent the Sound Choice Marks from being displayed.
97. Defendant DOCKERS RESTAURANT AND KARAOKE PUB, as operated by its partners Defendants LEO H. LEARY III and INGIBJORG B. LEARY, was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
98. In connection with those shows, Defendant DOCKERS RESTAURANT AND KARAOKE PUB and its partners repeatedly displayed the Sound Choice Marks without right or license.
99. Defendant DOCKERS RESTAURANT AND KARAOKE has advertised the acquisition and use of a karaoke system containing more than 21,000 tracks.
100. Upon information and belief, Defendant MICHAEL HODGE is a manager of the Secrets Restaurant & Tavern operated by Defendant DELANOIS INCORPORATED.
101. Defendants DELANOIS INCORPORATED and MICHAEL HODGE were observed operating a karaoke system to produce shows at Secrets Restaurant & Tavern in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
102. In connection with those shows, Defendants DELANOIS INCORPORATED and MICHAEL HODGE repeatedly displayed the Sound Choice Marks without right or license.

103. Defendants DELANOIS INCORPORATED and MICHAEL HODGE supplied books for the use of patrons that indicated the availability of approximately 20,000 karaoke tracks for selection.
104. Upon information and belief, Defendant SHAWN PETERS is an employee or contractor of Defendant TGIFT, INCORPORATED who provides karaoke entertainment services to same using equipment owned by Defendant TGIFT, INCORPORATED.
105. Defendants TGIFT, INCORPORATED and SHAWN PETERS were observed operating a karaoke system to produce shows at the Fat Tuesdays Restaurant & Bar operated by Defendant TGIFT, INCORPORATED in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
106. Defendant SHAWN PETERS indicated the availability, on the karaoke system he was using, of 67,000 karaoke tracks for selection.
107. Upon information and belief, Defendant STEVEN W. OWEN is an employee or contractor of Defendant BOYD FLETCHER ENTERPRISES, LLC, who provides karaoke entertainment services to same.
108. Defendants STEVEN W. OWEN and BOYD FLETCHER ENTERPRISES, LLC were observed jointly operating a karaoke system to produce shows at the Gridiron Sports Grille operated by Defendant BOYD FLETCHER ENTERPRISES, LLC, at which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
109. Defendant STEVEN W. OWEN advertises his use of a song list hundreds of pages long, sufficient to fill two three-inch binders, as well as thousands of accompaniment tracks not listed in his book.

110. Defendant KARAOKE N' TYME, as operated by its partners Defendants BOBBY A. WINFREE, JR. and PEGGY D. WINFREE, was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
111. In connection with those shows, Defendant KARAOKE N' TYME and its partners repeatedly displayed the Sound Choice Marks without right or license.
112. Specifically, Defendant KARAOKE N' TYME was observed to be in possession of karaoke tracks stored on homemade "burned" discs and provided a song list approximately 300 pages long and advertising the availability of in excess of 15,000 karaoke tracks available for selection.
113. Defendant SKYLER W. SMITH was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
114. In connection with those shows, Defendant SKYLER W. SMITH repeatedly displayed the Sound Choice Marks without right or license.
115. Defendant SKYLER W. SMITH has advertised that he puts on shows at as many as twelve separate venues in any given week using at least six separate karaoke systems.
116. Defendant SKYLER W. SMITH has advertised that he maintains entirely digitized libraries of karaoke tracks stored on his karaoke systems, and that "we have more karaoke songs available to your customer than anyone else in town."
117. Upon information and belief, Defendant DEAN E. KOHLER, through his Music Mill Disc Jockeys USA business, provides karaoke entertainment services to Defendants BIG RED, INC. and CONNIE, INC., among others.

118. Defendant DEAN E. KOHLER was observed operating karaoke systems to produce shows at the Holland Road location of Stooges Bar & Grill operated by Defendant CONNIE, INC., in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
119. In connection with those shows, Defendant DEAN E. KOHLER repeatedly displayed the Sound Choice Marks without right or license.
120. Defendant DEAN E. KOHLER utilized song books indicating the availability of more than 20,000 karaoke tracks available for selection at the shows produced for Defendant CONNIE, INC.
121. Defendant BIG RED, INC. was observed to benefit from the operation, either by Defendant DEAN E. KOHLER or another person or entity, of a karaoke system to produce shows in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
122. In connection with those shows, the Sound Choice Marks were repeatedly displayed without right or license.
123. Upon information and belief, Defendant BIG RED, INC. is the owner of the karaoke system used to produce shows for its benefit.
124. Defendant LARRY BUTLER was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
125. In connection with those shows, Defendant LARRY BUTLER repeatedly displayed the Sound Choice Marks without right or license.

126. Defendant LARRY BUTLER utilized song books indicating the availability of more than 22,000 karaoke tracks available for selection.
127. Defendant DAVID BLECHMAN was observed operating a karaoke system to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
128. Upon information and belief, Defendant DAVID BLECHMAN owns at least three separate substantially identical karaoke systems containing counterfeit copies of SLEP-TONE's accompaniment tracks, and uses those systems to put on as many as 10 shows per week at as many as seven different venues in this state.
129. In connection with those shows, Defendant DAVID BLECHMAN repeatedly displays the Sound Choice Marks without right or license.
130. Upon information and belief, Defendant DAVID BLECHMAN obtains counterfeit copies of SLEP-TONE's accompaniment tracks through unauthorized downloading.
131. Upon information and belief, Defendant DAVID BLECHMAN regularly manufactures unauthorized counterfeit copies of SLEP-TONE's accompaniment tracks for distribution to his patrons.
132. Defendant DAVID BLECHMAN claims to have in excess of 50,000 karaoke tracks available for selection at his shows.
133. Defendant TIDEMILL CAFE, INC. was observed operating a karaoke system to produce a show at its venue in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
134. In connection with that show, Defendant TIDEMILL CAFE, INC. displayed the Sound Choice Marks without right or license.

135. Defendant TIDEMILL CAFE, INC. made use of a songbook listing in excess of 18,000 karaoke tracks available for selection, including certain rare SLEP-TONE accompaniment tracks.
136. Defendant HENRY ENTERPRISES, INC. was observed operating a karaoke system to produce a show at its venue “Wanna B’s” in which counterfeit copies of SLEP-TONE’s accompaniment tracks were being used.
137. In connection with that show, Defendant HENRY ENTERPRISES, INC. repeatedly displayed the Sound Choice Marks without right or license.
138. Defendant HENRY ENTERPRISES, INC. advertises the availability of more than 11,000 karaoke tracks for selection.
139. Defendant HENRY ENTERPRISES, INC. offers commercially to provide sound recordings of singing patrons, in compact disc form, using their counterfeit SOUND CHOICE accompaniment tracks.
140. Defendant ASSOCIATED CONSULTANTS, INC. was observed operating a karaoke system to produce a show at a venue in this State in which counterfeit copies of SLEP-TONE’s accompaniment tracks were being used.
141. In connection with that show, Defendant ASSOCIATED CONSULTANTS, INC. repeatedly displayed the Sound Choice Marks without right or license.
142. Defendant ASSOCIATED CONSULTANTS, INC. utilized books advertising in excess of 30,000 karaoke tracks available for selection.
143. Upon information and belief, Defendant ASSOCIATED CONSULTANTS, INC. produces more than fifty separate karaoke shows weekly at venues in this State and

elsewhere, including as many as 12 shows simultaneously, and utilizes identical karaoke systems for each show.

144. Defendant ELWOOD JUNKINS was observed operating a karaoke system to produce a show at a venue at this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
145. In connection with that show, Defendant ELWOOD JUNKINS repeatedly displayed the Sound Choice Marks without right or license.
146. Defendant ELWOOD JUNKINS has advertised the availability of in excess of 25,000 karaoke tracks available for selection at the shows he produces.
147. Upon information and belief, Defendant ELWOOD JUNKINS operates or has operated two substantially identical systems to produce karaoke shows simultaneously at two different venues.
148. Defendant NICHOLAS FISHER was observed operating karaoke systems to produce two simultaneous shows at venues in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
149. In connection with those shows, Defendant NICHOLAS FISHER repeatedly displayed the Sound Choice Marks without right or license.
150. Defendant NICHOLAS FISHER has also manufactured counterfeit SLEP-TONE accompaniment tracks by placing copies of digitized accompaniment tracks onto computer hard drives for his own use and the use of others.
151. Defendant NIGEL GANDARA was observed operating karaoke systems to produce shows at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.

152. In connection with those shows, Defendant NIGEL GANDARA repeatedly displayed the Sound Choice Marks without right or license.
153. Defendant NIGEL GANDARA has advertised the availability of more than 20,000 karaoke tracks for selection at the shows he produces.
154. Defendant NIGEL GANDARA has advertised the capacity to play multiple karaoke shows simultaneously, indicating the possession of multiple identical karaoke systems in commercial use.
155. Defendant JIMMY O'NEAL was observed operating karaoke systems to produce shows at venues in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
156. In connection with those shows, Defendant JIMMY O'NEAL repeatedly displayed the Sound Choice Marks without right or license.
157. During those shows, Defendant JIMMY O'NEAL made use of some "chopped" songs, although the "chopped" songs did not entirely prevent the display of the Sound Choice Marks.
158. Defendant JIMMY O'NEAL has advertised his operation of at least five simultaneous karaoke shows, indicating his possession of at least five substantially identical karaoke systems.
159. Upon information and belief, JIMMY O'NEAL is in possession of a sixth such karaoke system, based upon the permanent installation of one such system at one of the venues to which he provides services.
160. Defendant JIMMY O'NEAL has made use of song books indicating the availability of more than 15,000 karaoke tracks for selection at his shows.

161. Defendant RICHARD NUNNALLY is an employee or contractor of Defendant JIMMY O'NEAL whose activities include the carrying out of a portion of Defendant JIMMY O'NEAL's aforementioned activities relating to counterfeit accompaniment tracks.
162. Defendant JEFFREY SMITH was observed using a karaoke system to produce a show at a venue in this State in which counterfeit copies of SLEP-TONE's accompaniment tracks were being used.
163. In connection with those shows, Defendant JEFFREY SMITH repeatedly displayed the Sound Choice Marks without right or license.
164. Upon information and belief, Defendant JEFFREY SMITH has made use of song books indicating the availability of more than 15,000 karaoke tracks for selection at his shows.
165. Defendant NIGEL GANDARA has advertised the availability of more than 20,000 karaoke tracks for selection at the shows he produces.
166. Defendant NIGEL GANDARA has advertised the capacity to play multiple karaoke shows simultaneously, indicating the possession of multiple identical karaoke systems in commercial use.
167. Defendant CFC OF CHARLESTON, INC. was observed to benefit financially from the use of counterfeit SLEP-TONE accompaniment tracks to produce karaoke shows at its "Siné Irish Pub & Restaurant" location.
168. The production of karaoke shows on behalf of Defendant CFC OF CHARLESTON, INC. using counterfeit accompaniment tracks was undertaken with the knowledge of Defendant CFC OF CHARLESTON, INC.
169. During the production of those karaoke shows, the Sound Choice Marks were repeatedly displayed without right or license.

170. Defendant CFC OF CHARLESTON, INC. was legally authorized to control the production of karaoke shows on its premises.
171. Defendant C.I. ASSOCIATES, L.P. was observed to benefit financially from the use of counterfeit SLEP-TONE accompaniment tracks to produce karaoke shows at its “Hooah’s Sports Grill” location.
172. The production of karaoke shows on behalf of Defendant C.I. ASSOCIATES, L.P. using counterfeit accompaniment tracks was undertaken with the knowledge of Defendant C.I. ASSOCIATES, L.P.
173. During the production of those karaoke shows, the Sound Choice Marks were repeatedly displayed without right or license.
174. Defendant C.I. ASSOCIATES, L.P. was legally authorized to control the production of karaoke shows on its premises.
175. Upon information and belief, Defendant SRI INNSBROOK LLC has contracted with a third party to provide karaoke services at the “The Curry House” restaurant it operates in this State.
176. Upon information and belief, the third party carries out the karaoke services at The Curry House using unauthorized, counterfeit copies of SLEP-TONE’s accompaniment tracks, and in the course of same repeatedly displays the Sound Choice Marks without right or license.
177. Upon information and belief, Defendant SRI INNSBROOK LLC has indemnified and held the third party harmless against claims arising from the services he provides.
178. Defendant SRI INNSBROOK LLC benefits financially from the production of karaoke shows on its premises.

179. Defendant SRI INNSBROOK LLC knew and knows that the production of karaoke shows has been undertaken using counterfeit karaoke tracks.
180. Defendant SRI INNSBROOK LLC was legally authorized to control the production of karaoke shows on its premises.
181. Based upon the popularity of SLEP-TONE's music, the size of the Defendants' respective libraries, operated in many cases with multiple karaoke systems, the Plaintiff has a good-faith belief that discovery will show that each of the Defendants who operates a karaoke system for his, her, or its own account is in possession of unauthorized counterfeit copies of the Plaintiff's karaoke discs, primarily in media-shifted format, which are marked with the Sound Choice Marks.
182. Although the Defendants are not specifically alleged to have acted in concert with each other, all of them are committing acts of infringement in substantially the same way, such that the right to relief asserted against them severally arises out of the same series of transactions and occurrences, and this action raises substantial questions of law and fact common to all of the defendants hereto.

FIRST CLAIM FOR RELIEF:
TRADEMARK INFRINGEMENT (15 U.S.C. 1114(1))

183. Plaintiff SLEP-TONE realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein, and incorporates them herein by reference.
184. Each of the Defendants used, or authorized or directly benefited from the use of, a reproduction, counterfeit, or copy of the Sound Choice Marks in connection with the provision of services including karaoke services, by manufacturing or acquiring the reproduction, counterfeit, or copy of the Sound Choice Marks and by displaying the

reproduction, counterfeit, or copy of the Sound Choice Marks during the provision of those services.

185. The Defendants' use of the Sound Choice Marks was "in commerce" within the meaning of the Trademark Act of 1946 as amended.
186. Plaintiff SLEP-TONE did not license any of the Defendants to manufacture or acquire reproductions, counterfeits, or copies, or to use the Sound Choice Marks in connection with the provision of their services.
187. The Defendants' use of the Sound Choice Marks is likely to cause confusion, or to cause mistake, or to deceive the Defendants' customers and patrons into believing that the Defendants' services are being provided with the authorization of the Plaintiff and that the Defendants music libraries contain bona fide Sound Choice accompaniment tracks.
188. The acts of each of the Defendants were willful.
189. Unless enjoined by the Court, the Defendants' infringing activities as described above will continue unabated and will continue to cause harm to the Plaintiff.

SECOND CLAIM FOR RELIEF:
UNFAIR COMPETITION (15 U.S.C. § 1125(a))

190. Plaintiff SLEP-TONE realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein, and incorporates them herein by reference.
191. On each occasion when they caused a SLEP-TONE accompaniment track to be played during a karaoke show, the Defendants displayed the Sound Choice Marks in connection with the Defendants' karaoke services.
192. The display of the Sound Choice Marks is likely to cause confusion, or to cause mistake, or to deceive those present during the display, in that those present are likely to be

deceived into believing, falsely, that SLEP-TONE sponsored or approved the Defendants' services and commercial activities.

193. The display of the Sound Choice Marks is also likely to cause confusion, or to cause mistake, or to deceive those present during the display, in that those present are likely to be deceived into believing, falsely, that the works being performed were sold by SLEP-TONE and purchased by the Defendants.
194. The Defendants' use of the Sound Choice Marks in this fashion would have inured to the benefit of the Plaintiff if the Defendants had legitimately acquired genuine Sound Choice discs instead of counterfeiting them or acquiring counterfeit copies, in that the Plaintiff would have received revenue from such sales.
195. Because SLEP-TONE has been denied this revenue, it has been damaged by the Defendants' uses.
196. Unless enjoined by the Court, the Defendants' unfair competition activities as described above will continue unabated and will continue to cause harm to the Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff SLEP-TONE prays for judgment against each of the Defendants severally and that the Court:

- A. Find that each of the Defendants has committed acts of infringement, including but not limited to counterfeiting, of the federally registered Sound Choice Marks;
- B. Find that each of the Defendants has engaged in unfair competition against Plaintiff SLEP-TONE in violation of 15 U.S.C. § 1125(a);
- C. Enter judgment against each of the Defendants and in favor of SLEP-TONE;

- D. Find the that Defendants' activities were in all respects conducted willfully and for profit;
- E. Award to SLEP-TONE the Defendants' profits and the damages sustained by SLEP-TONE because of the Defendants' conduct in infringing the Sound Choice Marks, or, in the alternative, statutory damages per trademark infringed by counterfeiting;
- F. Award to SLEP-TONE the Defendants' profits and the damages sustained by SLEP-TONE because of the Defendants' acts of unfair competition under 15 U.S.C. § 1125(a);
- G. Award to SLEP-TONE treble, punitive, or otherwise enhanced damages, as available, for the Defendants' acts of willful infringement;
- H. Order the seizure of all computer disks, drives, or other media belonging to any of the Defendants, which media contain illegal counterfeits of registered trademarks;
- I. Grant SLEP-TONE preliminary and permanent injunctive relief against further infringement of the Sound Choice Marks by the Defendants;
- J. Award SLEP-TONE its costs of suit and attorney's fees, to the extent not awarded above;
and
- K. Grant SLEP-TONE such other and further relief as justice may require.

Respectfully submitted this the 6th day of July, 2010.

SLEP-TONE ENTERTAINMENT
CORPORATION
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