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7 Attorneys for Plaintiff,  
8 ANDRELL RODGERS

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

11 ANDRELL RODGERS, an individual,  
12  
13 Plaintiff,

14 v.

15 ALIEN RECORDS, INC.; CARL D.  
16 ZOOK; RON CABILTES; WARNER  
17 MUSIC GROUP CORP.; BRYSON  
18 POTTS; NLE CHOPPA  
19 ENTERTAINMENT, INC.; ALYSSA M.  
20 STEPHENS; ZACHARY D. THOMAS;  
21 BUDDA BEATS, LLC; TERRELL  
22 MCNEAL; MP808 BEATS LLC;  
23 NORVA DENTON; and DOES 1-10,  
24 inclusive,  
25 Defendants.

CASE NO: 2:21-cv-05139

**COMPLAINT FOR DAMAGES  
FOR:**

- 1) COPYRIGHT INFRINGEMENT
- 2) UNFAIR COMPETITION

**JURY DEMAND**

**PARTIES**

1. Plaintiff ANDRELL RODGERS (a.k.a. “Kilo Ali”), an individual, is a music performing artist who performs under the name “Kilo Ali.”
2. Defendant ALIEN RECORDS, INC., a Georgia corporation, is a music publisher.
3. Defendant CARL D. ZOOK (a.k.a. “Danny Zook”) is an individual. Defendant Zook is, and at all relevant times was, CEO of Alien Records, Inc.

1 4. Defendant RON CABILTES is an individual. Defendant Cabiltes is, and  
2 at all relevant times was, Vice President of Alien Records, Inc.

3 5. Defendant WARNER MUSIC GROUP CORP., a New York  
4 Corporation, is a music publisher.

5 6. Defendant BRYSON POTTS (a.k.a. “NLE Choppa”), an individual, is a  
6 music performing artist who performs under the name “NLE Choppa”. He is and was  
7 at all relevant times affiliated with NLE Choppa Entertainment, Inc. and Warner  
8 Music Group Corp.

9 7. Defendant NLE CHOPPA ENTERTAINMENT, INC., a Delaware  
10 corporation, is a music-producing entity.

11 8. Defendant ALYSSA M. STEPHENS (a.k.a. “Latto,” formerly known as  
12 “Mulatto”), an individual, is a music performing artist who performs under the name  
13 “Latto.”

14 9. Defendant ZACHARY D. THOMAS (a.k.a. “Budda Beats”), an  
15 individual, is a music producer who produces under the name “Budda Beats.” He is  
16 and was at all relevant times associated with Budda Beats, LLC.

17 10. Defendant BUDDA BEATS, LLC, a Georgia limited liability company,  
18 is a music-producing entity.

19 11. Defendant TERRELL MCNEAL (a.k.a. “MP808”), an individual, is a  
20 music producer who produces under the name “MP808.”

21 12. Defendant MP808 BEATS LLC, a Georgia limited liability company, is  
22 a music-producing entity.

23 13. Defendant NORVA DENTON, an individual, is, and was at all relevant  
24 times, the Senior Vice President of A&R at Warner Music Group Corp.

25 14. Each Defendant had actual and/or constructive knowledge of the acts of  
26 the other Defendant as described herein, and ratified, approved, joined in, acquiesced  
27 in, and/or authorized the acts of the other, and/or retained the benefits of said acts.  
28

1 **JURISDICTION AND VENUE**

2 15. This action is brought under the federal Copyright Act of 1976, as  
3 amended, 17 U.S.C.A. §§ 101 et seq. This Court has subject matter jurisdiction over  
4 this action pursuant to 28 U.S.C. § 1338(a) and § 1338(b).

5 16. Venue is proper under 28 U.S.C. §§ 1391(b-c) as the injury of the  
6 infringement of unlawful trade practices are alleged to have been committed in this  
7 District and Defendants regularly conduct business in the District by disseminating  
8 copyrighted materials and marketing to citizens of this District.

9 **FACTUAL BACKGROUND**

10 17. Plaintiff Andrell Rodgers (hereinafter, “Kilo Ali”) is a critically-  
11 acclaimed rap music artist who has performed under the name Kilo Ali since 1991.  
12 His works have proven inspirational to much of the rap music emerging from the  
13 south, particularly Atlanta, with Rich Homie Quan remarking in a 2016 interview  
14 with V103, “[b]eing from Atlanta, I grew up on Kilo Ali, Outkast, and T.I.” Writing  
15 for DJBooth, Yoh Phillips addressed Kilo Ali’s influence on the southern rap scene in  
16 his article, “Kilo Ali Is Atlanta Rap History”.

17 18. In or around 1997, Kilo Ali authored the musical composition, “Love in  
18 Ya Mouth” (hereinafter, “the Original Work”) and recorded the Original Work for  
19 Interscope Records in the form of a Sound Recording. The Original Work was  
20 registered for copyright protection on August 26, 1998, with the registration number  
21 SR0000237163.

22 19. On or around August 6-7, 2020, Defendants published a song and music  
23 video entitled “Make Em Say feat. Mulatto”<sup>1</sup> by NLE Choppa (hereinafter “the  
24  
25

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26 <sup>1</sup> Defendant Alyssa M. Stephens performed under the name “Mulatto” as of August  
27 2020. She has since begun performing under the name “Latto”. This change has been  
28 reflected in the Spotify upload of the Infringing Work (“Make Em Say (feat. Latto)”),  
but not the music video version which was uploaded to YouTube by the Defendants.

1 Infringing Work”). The Infringing Work was published as part of NLE Choppa’s  
2 album, “Top Shotta,” also released on August 7, 2020.

3 20. Throughout the Infringing Work, a distinctive sample of Kilo Ali’s  
4 melodic vocal chorus from the sound recording embodying the Original Work  
5 comprises the melody of the Infringing Work. Additionally, the flow and pitch of the  
6 post-chorus of the Infringing Work is substantially similar to the chorus of the  
7 Original Work. Further, the lyrics of the chorus and post-chorus of the Infringing  
8 Work resemble the lyrics of the chorus of the Original Work in word, sound, and  
9 meaning, which invoke the heart of the Original Work.

10 21. In addition, the adaptation of the Original Work in the Infringing Work  
11 prominently incorporates the Original Work into the lyrics of the chorus of the  
12 Infringing Work. The chorus follows an ABCBACB call-and-response pattern,  
13 where B is comprised of Kilo Ali’s melodic vocal chorus from the Original Work, A  
14 is comprised of the lyrics “and we know some good d\*\*\* [sic] that make the p\*\*\*\*  
15 [sic] say”, C is comprised of the lyrics “and we know some good p\*\*\*\* [sic] that  
16 make them N\*\*\*\*\* [sic] say”. Both A and C present as calls, with the response, B,  
17 presented as a quoted response. Noting the title, “Make Em Say,” the B section  
18 comprised of Kilo Ali’s melodic vocal chorus is both the aesthetic focus of and the  
19 message conveyed by the Infringing Work.

20 22. Several comments on the YouTube upload of the music video of the  
21 Infringing Work identify the sampled portion as the best and/or central element of the  
22 song, while other comments show that many viewers recognized the sample in the  
23 Infringing Work to be Kilo Ali’s melodic vocal chorus from the Original Work. *See*  
24 YouTube screenshots, attached hereto as Group Exhibit A and incorporated by  
25 reference.

26 23. None of the Defendants hold a valid and/or enforceable license or any  
27 other form of consent to use a sample of the sound recording which embodies the  
28

1 Original Work, nor do any of Defendants hold a license to use or adapt the Original  
2 Work.

3 24. Defendants have not provided any attribution to Kilo Ali for his  
4 authorship of the Original Work as reproduced and adapted in the Infringing Work.

5 **COUNT I**  
6 **COPYRIGHT INFRINGEMENT**  
7 **(Against all Defendants)**

8 25. Plaintiff realleges and incorporates by reference Paragraphs 1-24 of this  
9 Complaint, as if fully alleged herein.

10 26. Plaintiff Kilo Ali is the current co-owner of the entire right, title, and  
11 interest in the musical composition of the Original Work, in the copyright to that  
12 musical composition, and in the registrations of the copyright to the musical  
13 composition.

14 27. Defendants knowingly infringed Plaintiff's copyrights by sampling the  
15 sound recording<sup>2</sup> embodying the Original Work, creating derivative works,  
16 publishing and placing on the market the phonorecord in the form of compact discs,  
17 digital downloads, streaming audio, and streaming video entitled "Make Em Say,"  
18 which contain the Plaintiff's musical composition embodied in the sound recording of  
19 the Original Work. By sampling and creating a derivative work, and reproducing,  
20 publishing, offering for sale, distributing, and selling the "Top Shotta" album and the  
21 "Make Em Say" single and music video, Defendants have infringed and are  
22 continuing to infringe Plaintiff's copyrights throughout the United States without the  
23 consent of Plaintiff and in complete disregard of Plaintiff's exclusive rights to the  
24 Work.

25  
26  
27 <sup>2</sup> For the avoidance of doubt, Plaintiff does not own the copyright to the sound  
28 recording of the Original Work. On the contrary, the rights to the Original Work  
sound recording are held by Interscope Records, a subsidiary of Universal Music  
Group, not yet a party to this suit.

1 28. Defendants registered the Infringing Work with Broadcast Music, Inc.  
2 (“BMI”) and did not provide Plaintiff with any songwriter, composer, or publisher  
3 credit. A copy of such BMI registration is attached as Exhibit B and incorporated by  
4 reference.

5 29. Since the date of first publication in 1997, Plaintiff has complied with all  
6 pertinent provisions of the federal Copyright Act and all other laws governing  
7 copyright with respect to the Original Work.

8 **COUNT II**  
9 **UNFAIR COMPETITION**  
10 **(Against All Defendants)**

11 30. Plaintiff realleges and incorporates by reference Paragraphs 1-29 of this  
12 Complaint as if fully alleged herein.

13 31. Defendants, by their unauthorized appropriation and use of Plaintiff’s  
14 Original Work, have engaged, and are continuing to engage, in acts of wrongful  
15 deception of the purchasing public, wrongful designation as to the source and  
16 sponsorship of goods, wrongful deprivation of Plaintiff’s good name and reputation,  
17 and the wrongful deprivation of Plaintiff’s rights to public recognition and credit as  
18 producer and owner of the Original Work.

19 32. Plaintiff’s action concerning Defendants’ unfair competition is related to  
20 Plaintiff’s “substantial” copyright infringement action, since both actions are based  
21 on the same operative facts.

22 33. After August 6, 2020, and continuously after that date, Defendants have  
23 been performing, recording, publishing, selling, and marketing the sound recording  
24 and music video “Make Em Say,” as well as the “Top Shotta” album which contains  
25 unauthorized samples of Plaintiff’s musical composition embodied in the sound  
26 recording “Love in Ya Mouth” resulting in consumer confusion as to the source of  
27 the composition. Such conduct constitutes an unfair trade practice and unfair  
28 competition under the Lanham Act and the California Unfair Practices Act, CA BPC  
Section 17000, et. seq. These acts of unfair competition and unfair trade practices

1 against Plaintiff caused Plaintiff damages in that he has been denied credit as owner  
2 of the Original Work and has been denied royalties resulting from the public  
3 performance and distribution of the Work.

4 WHEREFORE, Plaintiff, ANDRELL RODGERS, by and through his  
5 attorneys, respectfully requests judgment against the Defendants, ALIEN RECORDS,  
6 INC.; CARL D. ZOOK; RON CABILTES; WARNER MUSIC GROUP CORP.;  
7 BRYSON POTTS; NLE CHOPPA ENTERTAINMENT, INC.; ALYSSA M.  
8 STEPHENS; ZACHARY D. THOMAS; BUDDA BEATS, LLC; TERRELL  
9 MCNEAL; MP808 BEATS LLC; and NORVA DENTON, for:

- 10 1. An accounting for, and payment to the Plaintiff as actual damages, all  
11 the following sums:
  - 12 a. All gains, profits, and advantages derived by Defendants as a  
13 result of their unfair trade practices and unfair competition; and
  - 14 b. All gains, profits, and advantages derived by Defendants as a  
15 result of their infringement of Plaintiff's copyright;
- 16 2. *In the alternative*, Statutory Damages for intentional infringement in the  
17 sum of \$150,000.00 per infringement, or such damages as this Court  
18 shall deem proper and within the provisions of the copyright statutes, but  
19 not less than the sum of \$750.00;
- 20 3. The delivery by Defendants, their agents, employees, and all holding  
21 with, through, or under them, or anyone acting on their behalf, for  
22 destruction following a final decision of this action, of all infringing  
23 copies or devices, as well as all plates, molds, matrices, magnetic tapes,  
24 and other means for making infringing copies or devices;
- 25 4. Additional damages for an amount determined at trial for unfair and  
26 deceptive trade practices;
- 27 5. Reasonable attorney fees;
- 28 6. The costs of this action including, but not limited to, expert fees; and

1 7. Such other and further relief as this Court deems proper.

2 **JURY TRIAL DEMANDED**

3 Plaintiff demands trial by jury on all issues so triable.

4 DATED: June 24, 2021

Respectfully submitted,

5 **ANDRELL RODGERS**

6 /s/ Heather L. Blaise

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