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11 **Application Pro Hac Vice Forthcoming*

12 *Attorneys for Plaintiff*

13
14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF ARIZONA**

16 Sony Music Entertainment; Sony Music) No.
Publishing (US) LLC,)
17) **COMPLAINT**
Plaintiffs,)
18) **JURY TRIAL DEMANDED**
v.)
19)
20 Trefuego,)
Defendant.)
21)
22)

23 **NATURE OF THE ACTION**

24 1. This action is brought to redress the flagrant and deliberate infringement of
25 the musical composition and sound recording entitled “Reflections”, written and recorded
26 by renowned Japanese composer Toshifumi Hinata (“Hinata”), owned and/or controlled

1 by Plaintiffs Sony Music Publishing (US) LLC (“SMP”) and Sony Music Entertainment
2 (“SME”) (collectively “Plaintiffs”) as the exclusive licensees and/or assignees of Sony
3 Music Entertainment Japan Inc. and Sony Music Publishing (Japan) Inc., respectively in
4 the United States. The Reflections sound recording, embodying the “Reflections” musical
5 composition, was released in 1986, and has received over 53 million plays on Spotify alone.

6 2. On or around September 30, 2019, the artist known as Trefuego (“Trefuego”
7 or “Defendant”) released a musical composition and sound recording entitled “90mh” (the
8 “Infringing Works”). The Infringing Works copy original and protected musical expression
9 from the “Reflections” musical composition and sound recording. The Infringing Works
10 have been widely distributed on social media and through streaming platforms. Since their
11 release, the Infringing Works have been featured in over 155,000 videos on TikTok alone,
12 have received over 100 million streams on Spotify, and have nearly 10 million views on
13 YouTube.

14 3. The Infringing Works purposefully and prominently used a significant
15 portion of the Reflections musical composition and sound recording, and listeners
16 immediately recognized the infringement.

17 4. For example, one Twitter user noted that “[t]he kids on TikTok are going
18 crazy to this song by Trefuego. How ... did TreFuego’s producer find Toshifumi Hinata’s
19 ... Reflections[?]”

20 5. Trefuego never requested, much less obtained, a license to copy or create a
21 derivative work based upon the “Reflections” musical composition and/or sound recording.

22 6. To add insult to injury, Trefuego ignored Plaintiffs’ demands that his
23 infringing conduct be discontinued and remedied. Notwithstanding having notice since at
24 least the beginning of 2021, Trefuego continued to make the Infringing Works available
25 until SME issued a takedown request to digital service providers (“DSPs”) on August 9,
26 2022.

1 14. Plaintiff Sony Music Publishing (US) LLC controls the exclusive rights to
2 the “Reflections” musical composition in the United States.

3 **B. The Defendant.**

4 15. Defendant Trefuego is an individual musical artist. Upon information and
5 belief, Defendant Trefuego lives in Arizona.

6 **HINATA’S “REFLECTIONS”**

7 16. In or about 1986, Hinata composed and recorded “Reflections”.
8 “Reflections” was released as part of Hinata’s third album, Reality in Love. Due to its
9 lasting popularity, Reality in Love was re-issued on vinyl in June of 2021.

10 17. “Reflections” continues to have standalone success. “Reflections” remains
11 Hinata’s most popular musical composition and sound recording to date, boasting over 53
12 million streams on Spotify alone. “Reflections” was also recently featured in the 2020
13 Netflix film Tigertail, and in the 2018 Amazon television series Forever.

14 18. “Reflections” is an instrumental piece, best classified as ambient lo-fi or
15 Japanese city pop – a genre of music that is currently experiencing a “surge of international
16 interest,” including in the U.S., due to viral success on YouTube and TikTok.

17 19. The portion of “Reflections” at issue is the “hook” – precisely the part
18 designed to catch listeners’ attention – which permeates the entirety of the song in a
19 repeating loop. It is characterized by a distinctive 15-note melodic sequence played on
20 strings, accompanied by a looping chord progression, played on the piano.

21 20. Each approved prior use of Hinata’s original music was carefully considered
22 and authorized pursuant to an agreed-upon license.

23 21. Trefuego took a very different approach. He used and copied Plaintiffs’
24 works without so much as asking, or paying a cent to Plaintiffs, and he continued to exploit
25 that music despite Plaintiffs’ demand that he stop.

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DEFENDANT’S INFRINGING WORKS.

22. The Infringing Works feature a segment of the “Reflections” musical composition and sound recording, played on a loop throughout “90mh.” Specifically, the featured portion contains the distinctive 15-note melodic sequence on strings and the piano chord progression that constitute the “hook” of the “Reflections” musical composition and sound recording.

23. Trefuego’s conduct resulted in unauthorized copying, performance, transmission, and the creation of a derivative work, all rights that belong exclusively to Plaintiffs as the copyright holders of the “Reflections” musical composition and sound recording.




24. Trefuego has exploited the Infringing Works on multiple YouTube channels, TikTok, Instagram, Spotify, Apple Music, and on information and belief, other distribution channels.




25. The Infringing Works have also experienced viral success online and on social media. As of August 9, 2022, when SME issued a takedown to all major DSPs, the Infringing Works had been streamed over 100 million times on Spotify alone. The Infringing Works have been used in over 155,000 TikTok videos, and have received nearly 10 million views on YouTube.




26. Indeed, Trefuego used the success of “90mh” to jumpstart his own artistic career, boasting of the success of the track on his website.




27. Trefuego’s infringement is blatant. Listeners have recognized that Trefuego exploits and copies the “Reflections” musical composition and sound recording in his Infringing Works. For example, as pictured below, one listener commented on YouTube that it is “so sad to see something being sampled” without permission and that “the violin and piano is actually sampled from reflections by toshifumi hinata!!” And another YouTube listener commented that “TreFuego sampled Toshifumi Hinata’s song




1 ‘Reflections’ in this song [without] getting permission from him . . . He needs to be held
2 accountable.”




3  **tsukkiscraps** 11 months ago
its so sad to see something being sampled without credit given to the original. the violin and piano is actually sampled from reflections by toshifumi hinata!! its really good you should listen to it :))
4   **REPLY**
▲ [Hide 2 replies](#)

5  **Hi** 8 months ago
lkr
6  1  **REPLY**

7  **Gabriel Phillips** 6 months ago
that song is really beautiful
8  1  **REPLY**




8  **pon pon** 10 months ago
9 Trefuego sampled Toshifumi Hinata's song "Reflections" in this song w/o getting permission from him or crediting him. Plus he's refusing to pay him what he owes even though he's profiting off Toshifumi's work. Spread the word. He needs to be held accountable.
10   **REPLY**

11  **Helio Zaiya** 8 months ago
12 Toshifumi Hinata's Reflections is the sample for the beat...
13   **REPLY**

14  **Russell Snow** 1 year ago
15 The violin bit is sampled from Reflections by Toshifumi Hinata! ❤️❤️
16  4  **REPLY**

17 28. Trefuego’s use of “Reflections” permeates the entirety of the Infringing
18 Works, and for many listeners, is the only reason they listen to them. For example, as
19 pictured below, many YouTube listeners commented that they “want the background music
20 without the rap,” or that they “just watch this for the violin.”

21  **Errol Dactyl** 1 year ago
22 The beat really makes this song
23   **REPLY**

24  **Zaid RAQIFLUZ** 1 year ago
25 I really just want this song but only with the violin part
26   **REPLY**

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29. Defendant’s infringement is willful. In January of 2021, Sony Music Entertainment Japan informed Defendant of the infringing nature of his conduct. He is aware that he has stolen Plaintiffs’ intellectual property. Nevertheless, Defendant insisted on continuing to make the Infringing Works available, so that he continued to profit from them until SME issued a takedown to the DSPs.

30. In copying the “Reflections” musical composition and sound recording, Trefuego brazenly sought to ride the coattails of Hinata’s creativity and popularity without regard to the United States copyright laws or the rights of Plaintiffs.

COUNT I: DIRECT COPYRIGHT INFRINGEMENT OF THE “REFLECTIONS” SOUND RECORDING

31. Plaintiffs incorporate each and every paragraph of this Complaint as if fully set forth herein.

32. Plaintiff SME’s “Reflections” sound recording is an original, creative work that contains and constitutes copyrightable subject matter under the Copyright Act.

33. Plaintiff SME is the owner of valid copyrights in the sound recording “Reflections”, as the exclusive licensee of Sony Music Entertainment Japan in the United

1 States. The sound recording is registered in the U.S. Copyright Office. (Registration
2 Numbers SR0000941927).

3 34. By his actions, Defendant has infringed Plaintiff SME's copyrights by, inter
4 alia, reproducing, distributing, publicly performing, and/or digitally transmitting the
5 "Reflections" sound recording, and creating derivative works from it, without any
6 authorization, permission, license, or consent from Plaintiff.

7 35. Defendant's acts of infringement are knowing, deliberate, and willful, and in
8 utter disregard for Plaintiff SME's rights.

9 36. Defendant has illicitly benefited from the immense success of the Infringing
10 Works, in ways including but not limited to sales and streaming revenue for the Infringing
11 Works, and an increase in name recognition leading to an increase in sales and streaming
12 revenue for other Trefuego songs.

13 37. As a result of Defendant's wrongful conduct, Plaintiff SME has been
14 substantially and irreparably harmed.

15 38. Plaintiff SME is entitled to injunctive relief prohibiting Trefuego, his agents,
16 and employees from further infringing Plaintiff's copyrights.

17 39. In addition, Plaintiff SME is entitled to recover from Defendant the damages
18 it has sustained and continues to sustain, and any gains, profits, and advantages obtained
19 by Defendant as a result of his infringement.

20 **COUNT II: DIRECT COPYRIGHT INFRINGEMENT OF THE**
21 **"REFLECTIONS" MUSICAL COMPOSITION**

22 40. Plaintiffs incorporate each and every paragraph of this Complaint as if fully
23 set forth herein.

24 41. Plaintiff SMP's "Reflections" musical composition is an original, creative
25 work that contains and constitutes copyrightable subject matter under the Copyright Act.

26 42. Plaintiff SMP controls exclusive rights to the musical composition

1 “Reflections” in the United States. The composition is registered in the U.S. Copyright
2 Office. (Registration Number PA0002379996).

3 43. By his actions, Defendant has infringed Plaintiff SMP’s copyrights by, inter
4 alia, reproducing, distributing, publicly performing, and/or digitally transmitting the
5 “Reflections” musical composition, and creating derivative works from it, without any
6 authorization, permission, license, or consent from Plaintiff.

7 44. Defendant’s acts of infringement are knowing, deliberate, and willful, and in
8 utter disregard for Plaintiff SMP’s rights.

9 45. Defendant has illicitly benefited from the immense success of the Infringing
10 Works, in ways including but not limited to sales and streaming revenue for the Infringing
11 Works, and an increase in name recognition leading to an increase in sales and streaming
12 revenue for other Trefuego songs.

13 46. As a result of Defendant’s wrongful conduct, Plaintiff SMP has been
14 substantially and irreparably harmed.

15 47. Plaintiff SMP is entitled to injunctive relief prohibiting Trefuego, his agents,
16 and employees from further infringing Plaintiff’s copyrights.

17 48. In addition, Plaintiff SMP is entitled to recover from Defendant the damages
18 it has sustained and continues to sustain, and any gains, profits, and advantages obtained
19 by Defendant as a result of his infringement.

20 **COUNT III: CONTRIBUTORY INFRINGEMENT OF THE “REFLECTIONS”**
21 **SOUND RECORDING**

22 49. Plaintiffs incorporate each and every paragraph of this Complaint as if fully
23 set forth herein.

24 50. Defendant encouraged, induced, designed, directed, produced, controlled,
25 oversaw, or otherwise materially contributed to the creation of the Infringing Works,
26 including the use of the “Reflections” sound recording.

1 51. Defendant distributed, exploited, and promoted the Infringing Works.
2 Defendant had the right, ability, and authority to control and supervise the placement of
3 the Infringing Works on social media, streaming platforms, and other channels of
4 distribution, and had the ability to remove the Infringing Works from social media,
5 streaming platforms, and other channels of distribution.

6 52. Defendant directly profited from the duplication of and unauthorized creation
7 of a derivative work from the “Reflections” sound recording.

8 53. Defendant knew that he did not own or otherwise have the right, permission,
9 or a license to use, the “Reflections” sound recording in the Infringing Works.

10 54. By promoting and participating in the creation of the Infringing Works that
11 included the use of the “Reflections” sound recording, Defendant induced, caused, or
12 materially contributed to the infringing conduct alleged herein.

13 55. Defendant knew that the use of the “Reflections” sound recording was
14 without permission and therefore infringing.

15 56. Defendant’s ongoing conduct after notice from SME constituted willful
16 contributory copyright infringement.

17 57. Plaintiff SME has been damaged by Defendant’s acts of contributory
18 infringement of the “Reflections” sound recording.

19 58. In addition, Plaintiff SME is entitled to recover from Defendant the damages
20 it has sustained, and any gains, profits, and advantages obtained by Defendant as a result
21 of his infringing acts.

22 **COUNT IV: CONTRIBUTORY INFRINGEMENT OF THE “REFLECTIONS”**
23 **MUSICAL COMPOSITION**

24 59. Plaintiffs incorporate each and every paragraph of this Complaint as if fully
25 set forth herein.

26 60. Defendant encouraged, induced, designed, directed, produced, controlled,

1 oversaw, or otherwise materially contributed to the creation of the Infringing Works,
2 including the use of the “Reflections” musical composition.

3 61. Defendant distributed, exploited, and promoted the Infringing Works.
4 Defendant had the right, ability, and authority to control and supervise the placement of
5 the Infringing Works on social media, streaming platforms, and other channels of
6 distribution, and had the ability to remove the Infringing Works from social media,
7 streaming platforms, and other channels of distribution.

8 62. Defendant directly profited from the duplication of and unauthorized creation
9 of a derivative work from the “Reflections” musical composition.

10 63. Defendant knew that he does not own or otherwise have the right,
11 permission, or a license to use, the “Reflections” musical composition in the Infringing
12 Works.

13 64. By promoting and participating in the creation of the Infringing Works that
14 included the use of the “Reflections” musical composition, Defendant induced, caused, or
15 materially contributed to the infringing conduct alleged herein.

16 65. Defendant knew that the use of the “Reflections” musical composition was
17 without permission and therefore infringing.

18 66. Defendant’s ongoing conduct after notice from SME constituted willful
19 contributory copyright infringement.

20 67. Plaintiff SMP has been damaged by Defendant’s acts of contributory
21 infringement of the “Reflections” musical composition.

22 68. In addition, Plaintiff SMP is entitled to recover from Defendant the damages
23 it has sustained, and any gains, profits, and advantages obtained by Defendant as a result
24 of his infringing acts.

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1 **COUNT V: VICARIOUS INFRINGEMENT OF THE “REFLECTIONS” SOUND**
2 **RECORDING**

3 69. Plaintiffs incorporate each and every paragraph of this Complaint as if fully
4 set forth herein.

5 70. Defendant had, and exercised, the right, ability, and authority to control and
6 supervise the creation of the Infringing Works, and inclusion of Plaintiff SME’s sound
7 recording therein.

8 71. Defendant did in fact participate in or oversee the creation and dissemination
9 of the Infringing Works.

10 72. Defendant directly profited, from the duplication, public performance, digital
11 transmission and/or distribution of the Plaintiff SME’s sound recording contained in the
12 Infringing Works.

13 73. Plaintiff SME has been damaged by Defendant’s acts of vicarious
14 infringement of the “Reflections” sound recording.

15 74. In addition, Plaintiff SME is entitled to recover from Defendant the damages
16 it has sustained, and any gains, profits, and advantages obtained by Defendant as a result
17 of his infringing acts.

18 **COUNT VI: VICARIOUS INFRINGEMENT OF THE “REFLECTIONS”**
19 **MUSICAL COMPOSITION**

20 75. Plaintiffs incorporate each and every paragraph of this Complaint as if fully
21 set forth herein.

22 76. Defendant had, and exercised, the right, ability, and authority to control and
23 supervise the creation of the Infringing Works, and inclusion of Plaintiff SMP’s musical
24 composition therein.

25 77. Defendant did in fact participate in or oversee the creation and dissemination
26 of the Infringing Works.

1 78. Defendant directly profited from the duplication, public performance, digital
2 transmission and/or distribution of the Plaintiff SMP's musical composition contained in
3 the Infringing Works.

4 79. Plaintiff SMP has been damaged by Defendant's acts of vicarious
5 infringement of the "Reflections" musical composition.

6 80. In addition, Plaintiff SMP is entitled to recover from Defendant the damages
7 it has sustained, and any gains, profits, and advantages obtained by Defendant as a result
8 of his infringing acts.

9 **JURY DEMAND**

10 81. Plaintiffs demand a trial by jury as to all issues so triable in this action.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs petition that:

13 a. The conduct alleged herein be declared, adjudged, and/or decreed to be
14 unlawful and in violation of the Copyright Act;

15 b. The Court issue such injunctive and equitable relief as may be necessary to
16 prevent and restrain Defendant, and all those in active concert or participation with him,
17 from engaging in further unlawful conduct in violation of the Copyright Act;

18 c. The Court order Defendant to render a full and complete accounting to
19 Plaintiffs for Defendant's profits, gains, advantages, and the value of the business
20 opportunities received from his infringing activities;

21 d. Plaintiffs be awarded all damages suffered by them and any profits or gain
22 enjoyed by Defendant attributable to his infringement of Plaintiffs' copyrights;

23 e. Plaintiffs be awarded pre-judgment and post-judgment interest to the fullest
24 extent available;

25 f. The Court order such other, further, and different relief as the nature of the
26 case may require or as may be determined to be just, equitable, and proper.

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RESPECTFULLY SUBMITTED this 22nd day of December, 2022.

COPPERSMITH BROCKELMAN PLC

By /s/ Nathan J. Kunz
Samuel G. Coppersmith
Nathan J. Kunz

PROSKAUER ROSE LLP

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