

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOWNTOWN MUSIC PUBLISHING LLC,
OLE MEDIA MANAGEMENT, L.P., BIG
DEAL MUSIC, LLC, CYPMP, LLC, PEER
INTERNATIONAL CORPORATION, PSO
LIMITED, PEERMUSIC LTD., PEERMUSIC
III, LTD., PEERTUNES, LTD., SONGS OF
PEER LTD., RESERVOIR MEDIA
MANAGEMENT, INC., THE RICHMOND
ORGANIZATION, INC., ROUND HILL
MUSIC LLC, THE ROYALTY NETWORK,
INC. and ULTRA INTERNATIONAL MUSIC
PUBLISHING, LLC,

Plaintiffs,

v.

PELTON INTERACTIVE, INC.,

Defendant.

No. 19 CV _____

COMPLAINT

Jury Trial Demanded

Plaintiffs Downtown Music Publishing LLC (“Downtown”), ole Media Management, L.P. (“ole”), Big Deal Music, LLC (“Big Deal”), CYPMP, LLC, doing business as Pulse Music Group (“Pulse”), Peer International Corporation, PSO Limited, Peermusic Ltd., Peermusic III, Ltd., Peertunes, Ltd., Songs of Peer, Ltd. (collectively, “Peer”), Reservoir Media Management, Inc. (“Reservoir”), The Richmond Organization, Inc. (“TRO”), Round Hill Music LLC (“Round Hill”), The Royalty Network, Inc. (“Royalty”) and Ultra International Music Publishing, LLC (“Ultra”), by their attorneys Paul, Weiss, Rifkind, Wharton & Garrison LLP, for their complaint against Peloton Interactive, Inc. (“Peloton”), upon knowledge as to themselves and their own acts, and upon information and belief as to all other matters, allege as follows.

Nature of the Action

1. This is an action to recover more than \$150,000,000 in damages from Peloton. Here's why: it is a central tenet of copyright law that statutory damages should be imposed on a willful infringer who either has actual knowledge of infringement or who acted in reckless disregard of its obligations under the copyright law. Peloton is a textbook willful infringer. It has used more than 1,000 musical works owned or administered by Plaintiffs over a period of *years* in the videos that it makes available to its hundreds of thousands of customers without a synchronization (or "sync") license for a single one of those songs. And there is no doubt that Peloton's infringement was and continues to be knowing and reckless. Peloton fully understood what the copyright law required, having entered into sync licenses with certain other copyright holders, while trampling the rights of Plaintiffs by using their musical works for free and without permission. Those copyright violations continue, as Peloton creates new workout videos containing works owned or administered by Plaintiffs.

2. Peloton is one of the world's most successful fitness and technology companies. Founded in 2012, it is a hardware company and subscription service that allows consumers to replicate the experience of a high-end exercise studio at home. Peloton sells high-tech stationary bikes and treadmills that enable users to participate in instructor-led video workouts, while competing against other class participants and viewing performance metrics. It sells subscriptions to its video content library both to consumers who have purchased a Peloton bike or treadmill and those that have not.

3. Peloton's fitness videos contain music from start to finish. Music not only can provide a tempo for a treadmill run or stationary bike ride; it is essential to creating the instructor's desired atmosphere. Peloton publishes the music playlists for some of its archived videos and offers consumers the ability to select workout classes based on the type of music they

want to hear, allowing them to choose a class focusing on, for example, classic rock, contemporary pop, electronic, hip hop or country, among other genres.

4. By Peloton's own admission, music is at the center of the ballyhooed Peloton experience. As Peloton said in a June 27, 2018 press release, "[o]ur members have embraced music as central to the Peloton experience and consistently rank it as one of the top aspects of the brand." Peloton nonetheless deliberately decided to use Plaintiffs' musical works without any regard for the rights of thousands of songwriters and creators whose music helped fuel the explosive growth of Peloton from a startup to a company reported to be valued in excess of \$4 billion.

5. At all relevant times, Peloton was fully aware that in order to lawfully embody copyrighted musical works in connection with visual images, copyright law required Peloton to obtain authorization from owners of the copyrighted works in the form of what is commonly referred to as a "synchronization" or "sync" license. A synchronization license allows the licensee lawfully to reproduce a protected work "in connection with" or "in timed relation with" a visual image, such as videos that Peloton records, archives and makes available to its customers. On information and belief, Peloton entered into sync licenses with owners of certain other musical works while inexplicably and unlawfully using the musical works of Plaintiffs over a period of years without license or recompense.

6. Plaintiffs therefore bring this action to enjoin Peloton's ongoing infringement of copyrighted musical works owned or administered by Plaintiffs, and to recover the maximum statutory damages resulting from Peloton's callous and flagrant prior and ongoing infringement.

The Parties

7. Plaintiffs are music publishers that own or control the copyrights in numerous musical works that were synchronized by Peloton without Plaintiffs' authorization. Plaintiffs earn their livelihood, in part, by licensing their exclusive rights to sync their musical works.

8. Plaintiff Downtown is a limited liability company organized and existing under the laws of Delaware, with its principal place of business in New York, New York, and is actively engaged in the business of music publishing whereby it licenses the use, reproduction, synchronization and distribution of musical works for which it either owns or controls the copyrights, including, for example, "Happy Xmas (War Is Over)," "Carnival" and "Amber."

9. Plaintiff ole is a limited partnership organized and existing under the laws of Ontario, Canada, with its principal place of business in Toronto, Ontario, and is actively engaged in the business of music publishing whereby it licenses the use, reproduction, synchronization and distribution of musical works for which it either co-owns or controls the copyrights, including, for example, "SexyBack," "If It Makes You Happy" and "Tom Sawyer."

10. Plaintiff Big Deal is a limited liability company organized and existing under the laws of Delaware, with its principal place of business in Encino, California, and is actively engaged in the business of music publishing whereby it licenses the use, reproduction, synchronization and distribution of musical works for which it either owns or controls the copyrights, including, for example, "Hey Mami," "Los Ageless" and "Stitches."

11. Plaintiff Peer consists of a group of related entities that are actively engaged in the business of music publishing whereby they license the use, reproduction, synchronization and distribution of musical works for which they either own or control the copyrights, including, for example, "Walk Like an Egyptian," "Old Time Rock & Roll" and "It's Too Funky in Here."

Plaintiff Peer International Corporation is a corporation organized and existing under the laws of New Jersey, with its principal place of business in New York, New York; Plaintiffs PSO Limited and Peermusic Ltd. are corporations organized and existing under the laws of New York, with their principal places of business in New York, New York; and Plaintiffs Peermusic III, Ltd., Peertunes, Ltd. and Songs of Peer, Ltd. are corporations organized and existing under the laws of Delaware, with their principal places of business in New York, New York.

12. Plaintiff Pulse is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business in Los Angeles, California, and is actively engaged in the business of music publishing whereby it licenses the use, reproduction, synchronization and distribution of musical works for which it either co-owns or controls the copyrights, including, for example, “American Money,” “Everybody Talks” and “Roar.”

13. Plaintiff Reservoir is a corporation organized and existing under the laws of Delaware, with its principal place of business in New York, New York, and is actively engaged in the business of music publishing whereby it licenses the use, reproduction, synchronization and distribution of musical works for which it either owns or controls the copyrights, including, for example, “Bring Me to Life,” “Fighter” and “Save a Horse (Ride a Cowboy).”

14. Plaintiff TRO is a corporation organized and existing under the laws of New York, with its principal place of business in New York, New York, and is actively engaged in the business of music publishing whereby it licenses the use, reproduction, synchronization and distribution of musical works for which it either owns or controls the copyrights, including, for example, “Fly Me to the Moon (In Other Words),” “Iron Man” and “My Generation.”

15. Plaintiff Round Hill is a corporation organized and existing under the laws of Delaware, with its principal place of business in New York, New York, and is actively engaged

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