

No. _____

In the
Supreme Court of the United States

ABKCO MUSIC, INC., et al.,

Petitioners,

v.

WILLIAM SAGAN, et al.,

Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Second Circuit**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Respondent William Sagan purchased thousands of bootleg concert tapes that were made by various concert promoters and venue operators without the consent of either the performers or the owners of the copyrights in the musical works being performed. He bought them forewarned about the lack of necessary authorizations and licenses. Undeterred, Sagan used his position as the president, CEO, and sole owner of respondent Norton LLC to commercially exploit those bootleg concert recordings on the Internet on a massive scale. Sagan hired his brother-in-law and specifically directed him to digitize the tapes and make them available for download or streaming online, eventually putting tens of thousands of concert recordings up for sale—all without licenses for the copyrights in the underlying musical works. The district court held that Sagan was directly liable for copyright infringement for acquiring the bootleg recordings, developing the plan to digitize them and distribute them online, and instructing his brother-in-law which recordings to post online. The Second Circuit reversed, concluding that Sagan was not liable for direct infringement because “direct liability attaches only to ‘the person who actually presses the button,’” and Sagan instructed his employee to post the recordings instead of doing so himself.

The question presented is:

Whether direct liability for copyright infringement is limited to the person who actually “presses the button” to make the infringing copies.

PARTIES TO THE PROCEEDING

Petitioners are ABKCO Music, Inc.; Colgems-EMI Music Inc.; Sony Music Publishing (US) LLC; EMI April Music Inc.; EMI Blackwood Music Inc.; EMI Consortium Music Publishing, Inc.; EMI Consortium Songs, Inc.; EMI Feist Catalog Inc.; EMI Robbins Catalog Inc.; EMI Unart Catalog, Inc.; Jobete Music Co., Inc.; Screen-Gems-EMI Music Inc.; Stone Agate Music; Stone Diamond Music Corp.; Iagem Music LLC; Peer International Corporation; PSO Limited; Peermusic Ltd.; Peermusic III, Ltd.; Songs Of Peer, Ltd.; Lyric Copyright Services, L.P. o/b/o Crescendo Royalty Funding, L.P.; Warner-Tamerlane Publishing Corp.; and W Chappell Music Corp. d/b/a WC Music Corp. Petitioners were plaintiffs/counter-defendants in the district court and appellees/cross-appellants in the Second Circuit.

Respondents are William Sagan; Norton LLC; and Bill Graham Archives, LLC, d/b/a Wolfgang's Vault, Concert Vault, Music Vault, and Daytrotter. Respondents were defendants/counterclaimants in the district court and appellants/cross-appellees in the Second Circuit.

CORPORATE DISCLOSURE STATEMENT

ABKCO Music, Inc. is a wholly owned subsidiary of ABKCO Music & Records, Inc. No publicly traded company owns 10% or more of the stock of ABKCO Music, Inc.

Colgems-EMI Music Inc. is a wholly owned, indirect subsidiary of Sony Group Corporation, a publicly traded company organized under the laws of Japan. No publicly traded company other than Sony Group Corporation owns more than 10% of the stock of Colgems-EMI Music Inc.

Sony Music Publishing (US) LLC, formerly EMI Algee Music Corp., is a partially owned, indirect subsidiary of Sony Group Corporation, a publicly traded company organized under the laws of Japan. No publicly traded company other than Sony Group Corporation owns more than 10% of the stock of Sony Music Publishing (US) LLC.

EMI April Music Inc. is a wholly owned, indirect subsidiary of Sony Group Corporation, a publicly traded company organized under the laws of Japan. No publicly traded company other than Sony Group Corporation owns more than 10% of the stock of EMI April Music Inc.

EMI Blackwood Music Inc. is a wholly owned, indirect subsidiary of Sony Group Corporation, a publicly traded company organized under the laws of Japan. No publicly traded company other than Sony Group Corporation owns more than 10% of the stock of EMI Blackwood Music Inc.

EMI Consortium Music Publishing, Inc. d/b/a EMI Full Keel Music is a wholly owned, indirect

subsidiary of Sony Group Corporation, a publicly traded company organized under the laws of Japan. No publicly traded company other than Sony Group Corporation owns more than 10% of the stock of EMI Consortium Music Publishing, Inc. d/b/a EMI Full Keel Music.

EMI Consortium Songs, Inc. d/b/a EMI Longitude Music is a wholly owned, indirect subsidiary of Sony Group Corporation, a publicly traded company organized under the laws of Japan. No publicly traded company other than Sony Group Corporation owns more than 10% of the stock of EMI Consortium Songs, Inc. d/b/a EMI Longitude Music.

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EMI Unart Catalog Inc. is a wholly owned, indirect subsidiary of Sony Group Corporation, a publicly traded company organized under the laws of Japan. No publicly traded company other than Sony Group Corporation owns more than 10% of the stock of EMI Unart Catalog Inc.

Jobete Music Co., Inc. is a wholly owned, indirect subsidiary of Sony Group Corporation, a publicly

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