

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA**

Alexandria, Virginia

UMG RECORDINGS, INC., CAPITOL
RECORDS, LLC, WARNER BROS. RECORDS
INC., ATLANTIC RECORDING
CORPORATION, ELEKTRA
ENTERTAINMENT GROUP INC., FUELED
BY RAMEN LLC, NONESUCH RECORDS
INC., SONY MUSIC ENTERTAINMENT,
SONY MUSIC ENTERTAINMENT US LATIN
LLC, ARISTA RECORDS LLC, LAFACE
RECORDS LLC, and ZOMBA RECORDING
LLC,

Plaintiffs,

v.

TOFIG KURBANOV and DOES 1–10, d/b/a
FLVTO.BIZ and 2CONV.COM,

Defendants.

CASE NO. _____

COMPLAINT

Plaintiffs UMG Recordings, Inc., Capitol Records, LLC, Warner Bros. Records Inc., Atlantic Recording Corporation, Elektra Entertainment Group Inc., Fueled by Ramen LLC, Nonesuch Records Inc., Sony Music Entertainment, Sony Music Entertainment US Latin LLC, Arista Records LLC, LaFace Records LLC, and Zomba Recording LLC (collectively, “Plaintiffs”), by and through their attorneys, on personal knowledge as to their own actions and on information and belief as to the actions, capabilities, and motivation of others, hereby allege the following:

INTRODUCTION

1. Plaintiffs are record companies that create, manufacture, distribute, sell, and license the great majority of all legitimate commercial sound recordings in this country. Defendants Tofig Kurbanov and Does 1–10 (“Defendants”) own and operate websites located at the web addresses www.FLVTO.biz and www.2conv.com (collectively referred to herein as “FLVTO/2conv” or individually referred to herein as “FLVTO” or “2conv”). By Defendants’ design, the FLVTO/2conv websites are essentially dedicated to the piracy of Plaintiffs’ copyrighted sound recordings that are available on YouTube (www.youtube.com). The FLVTO/2conv websites quickly and seamlessly capture the audio tracks contained in videos streamed from YouTube that the users of FLVTO/2conv access (those videos consist largely of Plaintiffs’ copyrighted sound recordings), convert those audio tracks to an MP3 or other audio format (referred to herein as “audio files”), copy and store the audio files on FLVTO/2conv servers, and then distribute copies of those files from their servers to users in the United States, including in this District, thus enabling their users to download those audio files to their own computers, tablets or mobile devices. All of this occurs without the authorization of Plaintiffs or YouTube, which makes videos available to its users for viewing and listening online, but not for copying or downloading.

2. Capturing digital content streamed over the internet is known as “stream ripping.” Copyright infringement through stream ripping has become a major problem for Plaintiffs and for the recorded music industry as a whole. Indeed, stream ripping is now the dominant form of music piracy and, according to a recent study, nearly half of all internet users between the ages of 16 and 24 now regularly engage in unauthorized stream ripping to acquire music.

3. By their conduct, Defendants, through their FLVTO/2conv websites, engage in unauthorized stream ripping and directly infringe Plaintiffs’ copyrighted sound recordings. Defendants also provide and control the site, facilities, and means for FLVTO/2conv’s users to

engage in copyright infringement, while financially profiting from the infringement. Defendants also materially contribute to the infringement by their users, of which Defendants have knowledge.

4. Defendants' conduct, and the conduct of FLVTO/2conv's users that Defendants induce and facilitate and to which Defendants materially contribute, infringes Plaintiffs' copyrights and other rights. It also violates YouTube's Terms of Service. In addition, on information and belief, Defendants' unauthorized conversion, copying, storage, and distribution of Plaintiffs' copyrighted sound recordings is accomplished by Defendants unlawfully circumventing technological measures that YouTube has implemented to prevent the downloading or copying of content from the YouTube service. By engaging in and facilitating the unlawful infringement of Plaintiffs' sound recordings, Defendants, through their FLVTO/2conv websites, deprive Plaintiffs (and other copyright owners) of the benefits of their investment in these valuable works and interfere with and create an unlawful substitute for legitimate streaming and download services that are authorized by, and that compensate, Plaintiffs and other copyright owners.

5. The scale of Defendants' infringing activity is enormous. The FLVTO/2conv websites are among the most visited sites in the world, and have tens of millions of users. According to one independent estimate, the FLVTO website alone receives nearly 100 million visits per month and is the 322nd most visited website in the world.¹ The 2conv website receives 23 million monthly visitors.²

6. Defendants' unlawful conduct inflicts tremendous and irreparable damage on Plaintiffs' businesses and erodes authorized sales and distribution of sound recordings through

¹ Similarweb.com, Site Analytics for FLVTO.biz, available at <https://www.similarweb.com/website/flvto.biz#overview>, last visited July 11, 2018.

² *Id.*, Site Analytics for 2conv.com, available at <https://www.similarweb.com/website/2conv.com>, last visited July 11, 2018.

traditional and online channels. Rampant copyright infringement of sound recordings over the internet, including the massive infringement engaged in and enabled by websites such as FLVTO/2conv, has resulted in significant harm to the music industry, including to artists who rely on royalties from the legitimate exploitation of their recorded music for their livelihood.

7. At the same time as Defendants are depriving Plaintiffs and their recording artists of the fruits of their labor, Defendants are profiting from the operation of the FLVTO/2conv websites. Through the promise of illicit delivery of free music, Defendants have attracted millions of users to the FLVTO/2conv websites, which in turn generates advertising revenues for Defendants. For example, Defendants profit from third-party advertising that targets users based on the users' location (geo-targeting) or based on the users' prior internet browsing history (interest-based targeting). Such targeted advertising maximizes the "click-through" rate of advertisements on the FLVTO/2conv websites (*i.e.*, the number of visitors to the site who then "click" on an advertisement appearing on the sites), thereby generating substantial revenues and profits to Defendants through their operation of the websites.

8. Defendants' provision of easy-to-use services for copyright infringement has caused and is causing Plaintiffs significant and irreparable harm. Defendants' business unlawfully profits from copyright infringement and free rides on the creative efforts and investments of others. Plaintiffs are entitled to permanent injunctive relief to stop Defendants' ongoing violation of Plaintiffs' rights, and to damages.

NATURE OF THE ACTION

9. This is an action for copyright infringement under the Copyright Act of the United States, Title 17, United States Code §§ 101, *et seq.*, and for violations of the provisions of the Copyright Act that prohibit persons from circumventing technological measures designed to protect copyrighted works.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

11. This Court has personal jurisdiction over Defendants because Defendants have caused tortious injury by an act of copyright infringement within Virginia, and have caused tortious injury in Virginia by an act outside Virginia while regularly doing or soliciting business, engaging in a persistent course of conduct, or deriving substantial revenue from services rendered in Virginia. This includes, without limitation, Defendants' operation and use of "front end" servers (*i.e.*, computer servers through which Defendants' U.S.-based users interact with the FLVTO/2conv websites) physically located in this District.

12. In the alternative, the Court has personal jurisdiction over the Defendants pursuant to Federal Rule of Civil Procedure 4(k)(2), for at least the following reasons: (1) Plaintiffs' claims arise under federal copyright law; (2) FLVTO/2conv are dedicated exclusively to capturing, converting, and copying audio content that is maintained on a U.S.-based website, YouTube (www.youtube.com), which Defendants then distribute to users throughout the United States; (3) Defendants direct their electronic activity into the United States and target and attract a substantial number of users in the United States (on information and belief, FLVTO/2conv attract more users from the United States than any other country) through the FLVTO/2conv websites, which are readily accessible throughout the United States; (4) Defendants do so with the manifest intent of engaging in business or other interactions within the United States; and (5) the effects of Defendants' unlawful conduct are felt in the United States, including in this District.

13. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and 1400(a).

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