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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
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11 SA MUSIC, LLC and WILLIAM  
12 KOLBERT, AS TRUSTEE OF THE  
HAROLD ARLEN TRUST,

13 Plaintiffs,

14 v.

15 AMAZON.COM, INC., AMAZON  
16 DIGITAL SERVICES LLC,  
17 VALLEYARM DIGITAL LIMITED,  
LENANDES LTD, GIACOMO VERANI,  
and LIMITLESS INT. RECORDINGS,

18 Defendants.  
19

**COMPLAINT FOR  
COPYRIGHT INFRINGEMENT  
JURY DEMAND**

20 **Basis for Jurisdiction**

21 1. The Court has jurisdiction over the subject matter of this action against  
22 Defendants Google LLC, Valleyarm Digital Limited, Lenandes Ltd, Giacomo Verani,  
23 and Limitless Int. Recordings pursuant to 28 U.S.C. § 1338(a) because this is an action  
24 for copyright infringement arising under the Copyright Act of 1976, 17 U.S.C. §§  
25 101, 106, 115, 501, 602 *et seq.*  
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## Introduction

2. Plaintiffs are the legal and/or beneficial copyright owners of musical works authored by Harold Arlen one of the premier composers of American music.

3. Harold Arlen wrote or co-wrote some of the most popular modern songs, including *Over the Rainbow* from *The Wizard of Oz* and many other seminal works in the American songbook, including *I've Got the World on a String*, *Stormy Weather*, *The Devil and the Deep Blue Sea*, *Come Rain or Come Shine*, *Get Happy*, *Ill Wind* and *It's Only A Paper Moon*.

4. The Composition Chart annexed as Exhibit A provides a list of Plaintiffs' copyrighted compositions at issue in this case (the "Subject Compositions").

5. The works of Arlen have been recorded by the most prominent jazz and popular artists of all time, including Art Tatum, Art Blakey, Benny Goodman, Billie Holliday, Buddy Rich, Cab Calloway, Charlie Parker, Coleman Hawkins, Count Basie, Dean Martin, Dizzy Gillespie, Duke Ellington, Ella Fitzgerald, Etta James, Frank Sinatra, Fred Astaire, John Coltrane, Judy Garland, Lena Horne, Louis Armstrong, Miles Davis, Quincy Jones, Ray Charles, and Sarah Vaughan to name only a few. These monumental works of art are, quite literally, national treasures.

6. These and other recordings of Plaintiffs' copyrighted musical works have been pirated by the Defendants in this case. Defendants are all players in the digital music business that participate in, and jointly profit from, making digital phonorecord deliveries (*i.e.*, downloads) of pirated recordings of the Subject Compositions.

7. Digital phonorecord deliveries of musical recordings constitute a reproduction and distribution of the musical work embodied in the digital recording and require a license from the copyright owner of the musical composition, sometimes referred to as a "mechanical license."

1           8. Defendants have failed to obtain any license that would authorize them  
2 to reproduce, distribute, or sell the recordings of the Subject Compositions identified  
3 on Exhibit B and, as a result, Defendants have infringed Plaintiffs' exclusive rights of  
4 reproduction and distribution of the Subject Compositions, under 17 U.S.C. §§ 106(1)  
5 and 106(3).

6           9. Further, the activity of making digital phonorecord deliveries of pirated  
7 recordings of the Subject Compositions does not qualify for a compulsory license or  
8 as a covered activity under Section 115 of the Copyright Act.

9           10. A list of the pirated recordings of the Subject Compositions that  
10 Defendants have reproduced and distributed without authorization, including by  
11 making digital phonorecord deliveries, thus far identified, is set forth in the  
12 Infringement Chart annexed as Exhibit B.

13           11. All of the recordings identified on Exhibit B are pirated. Plaintiffs have  
14 thus far identified over 220 pirated recordings of the Subject Compositions that have  
15 been separately reproduced and distributed as digital phonorecord deliveries by  
16 Defendants through the Amazon music store as set forth in the Infringement Chart  
17 annexed as Exhibit B. Defendants have infringed these works in a concerted and  
18 distinct distribution chain.

19                           **Defendants' Piracy is Massive and Flagrant**

20           12. The scope and flagrant nature of Defendants' piracy cannot be  
21 understated. It is obvious that the recordings listed in Exhibit B are pirated by virtue  
22 of the scope of the Limitless catalog, the replication of the original album artwork  
23 (while removing the original label logos), and the continued distribution of legitimate  
24 versions of the recordings by the rightful record label owners on Amazon.

25           13. Limitless, which has no web presence and no listing on Discogs.com, is  
26 selling recordings by virtually every well-known recording artist from the 1930s  
27 through the 1960s, including Frank Sinatra, Ella Fitzgerald, Miles Davis, Louis  
28

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1 Armstrong, Billie Holiday, Mel Torme, Ray Charles, Tony Bennett, and Judy  
2 Garland.

3 14. In addition, strong evidence of the piracy can be gleaned directly from  
4 Amazon store from the comparison of the bootlegged Limitless catalog entries side-  
5 by-side with legal recordings being sold by legitimate record labels.

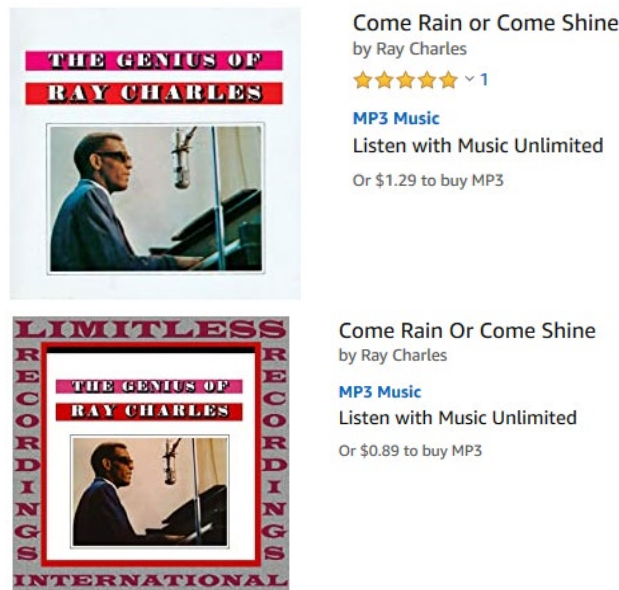
6 15. For example, album cover art has been an essential part of the packaging  
7 and marketing and labels have taken great care to create album artwork commensurate  
8 with the music it accompanied. Not so with Limitless, which has often either stolen  
9 the album art and music wholesale or employed stock artwork for its bootlegged  
10 albums.

11 16. Invariably, Limitless has simply applied a silver border with its name  
12 written around the original release artwork and obscuring the original label logo as  
13 exemplified by the following Amazon screenshots comparing the Limitless release  
14 with the original:



17 17. In many instances, the Amazon music store is selling the legitimate  
18 release by the original label side by side with Limitless' bootlegged copy. For  
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1 example, in 1959, Atlantic Records released *The Genius of Ray Charles*, which  
 2 included his acclaimed version of *Come Rain Or Come Shine*. The album is widely  
 3 hailed and was ranked number 263 on Rolling Stone's Top 500 albums of all time.<sup>1</sup>  
 4 Atlantic is still selling the record but now, it has direct competition from Defendants,  
 5 who have appropriated the recording and the album artwork and are selling their  
 6 bootleg at a 32% discount side by side with the Atlantic original on Amazon:



17 [https://www.amazon.com/s?k=the+genius+of+ray+charles+come+rain+or+come+shine&i=digital-music&ref=nb\\_sb\\_noss](https://www.amazon.com/s?k=the+genius+of+ray+charles+come+rain+or+come+shine&i=digital-music&ref=nb_sb_noss) (11/29/2019)

18 18. Similarly, in 1957, Capitol Records released the album *Alone*, by Judy  
 19 Garland, which included her recording of the Arlen composition *I Gotta Right To Sing*  
 20 *The Blues*. Capitol sells the recording on the Amazon music store in direct  
 21 competition with Defendants, who sell their pirated copy for a deep discount. In  
 22 addition, Defendants have appropriated album artwork (eliminating the Capitol logo)  
 23 as evidenced by the following the Amazon screenshot:

24  
 25  
 26 <sup>1</sup> "263) The Genius of Ray Charles". Rolling Stone. New York. November 1, 2003. Archived from the  
 27 original on June 15, 2009. Retrieved May 27, 2013.  
 28 [https://web.archive.org/web/20090615041624/http://www.rollingstone.com/news/story/6626052/263\\_the\\_genius\\_of\\_r  
 ay\\_Charles](https://web.archive.org/web/20090615041624/http://www.rollingstone.com/news/story/6626052/263_the_genius_of_ray_charles) (11/29/2019)

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