

1 LAW OFFICES OF JEFFREY L. GRAUBART, P.C.  
Jeffrey L. Graubart (State Bar No. 42250)  
2 *info@jlgraubart.com*  
800 East Colorado Boulevard, Suite 840  
3 Pasadena, California 91101-2173  
Telephone: (626) 304-2800  
4 Facsimile: (626) 381-9601

5 BLECHER COLLINS PEPPERMAN & JOYE, P.C.  
Maxwell M. Blecher (State Bar No. 26202)  
6 *mblecher@blechercollins.com*  
Donald R. Pepperman (State Bar No. 109809)  
7 *dpepperman@blechercollins.com*  
John E. Andrews (State Bar No. 105336)  
8 *jandrews@blechercollins.com*  
515 South Figueroa Street, Suite 1750  
9 Los Angeles, California 90071-3334  
Telephone: (213) 622-4222  
10 Facsimile: (213) 622-1656

11 Attorneys for Plaintiff  
RICHARD FRIEDMAN

12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION

15 RICHARD FRIEDMAN, an individual,

16 Plaintiff,

17 vs.

18 HANS ZIMMER, individually, and doing  
19 business as REMOTE CONTROL SONGS;  
20 TWENTIETH CENTURY FOX FILM  
CORPORATION; FOX SEARCHLIGHT  
21 PICTURES, INC.; FOX  
ENTERTAINMENT GROUP, INC.; NEW  
22 REGENCY PRODUCTIONS, INC.;  
MONARCHY ENTERPRISES, S.A.R.L.,  
23 individually, and doing business as  
REGENCY ENTERPRISES; RIVER ROAD  
24 ENTERTAINMENT, LLC; PLAN B  
ENTERTAINMENT, INC.; REMOTE  
25 CONTROL PRODUCTIONS, INC.; SONY  
MUSIC ENTERTAINMENT; DOES ONE  
through TEN, inclusive,

26 Defendants.  
27

Case No. 2:15-CV-00502

**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF  
FOR: (1) COPYRIGHT  
INFRINGEMENT; (2) UNFAIR  
COMPETITION; AND (3)  
VIOLATION OF MORAL  
RIGHTS**

**[DEMAND FOR JURY TRIAL]**

Blecher Collins  
Pepperman & Joye



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

adv.  
IMAGEM PRODUCTION MUSIC LLC,  
individually, and doing business as  
ALARM MUSIC, and also doing business as  
CYPRESS CREEK MUSIC,  
Involuntary Plaintiff.



1 Plaintiff Richard Friedman (“Plaintiff”) files this Complaint against the  
2 above-named defendants (“Defendants”) to secure damages and injunctive and  
3 declaratory relief, and demanding trial by jury, claims and alleges:

4 **I.**

5 **SUMMARY OF THE CASE**

6 This Complaint seeks legal and injunctive relief for copyright infringement  
7 and related claims arising out of Defendants’ unauthorized use of Plaintiff’s  
8 copyrighted music in the soundtrack for the film, *12 Years a Slave* (hereinafter,  
9 “*12YAS*”).

10 **II.**

11 **JURISDICTION AND VENUE**

12 1. This Complaint is filed and this action is instituted under §101, *et seq.*,  
13 of the Copyright Act to recover the damages caused by, and to secure injunctive and  
14 declaratory relief against the above-named Defendants for their past and continuing  
15 violations of 17 U.S.C. §101, *et seq.* and common law unfair competition laws, as  
16 alleged herein.

17 2. This Court has original and exclusive jurisdiction over the subject  
18 matter of this civil action under the Copyright Act 17 U.S.C. §§ 411 and 501.  
19 Pursuant to 28 U.S.C. §1367, the Court has supplemental jurisdiction over the  
20 substantially related state law unfair competition claim that forms part of the same  
21 case or controversy.

22 3. Venue is proper in this District because defendants transact business on  
23 a systematic and continuous basis within this District and may be found here within  
24 the meaning of 28 U.S.C. §1391(b) and §1400. Further, many of the infringing and  
25 unlawful acts were performed and occurred within this District.

26 **III.**

27 **THE PARTIES**

28 4. Plaintiff Richard Friedman, an individual, is a resident of Culver City

1 and the County of Los Angeles, California.

2 5. Plaintiff is informed and believes and thereon alleges that Defendant  
3 Hans Zimmer, is an individual, and is also doing business as Remote Control Songs  
4 (hereinafter, collectively, “Zimmer”), and is a resident of the County of Los  
5 Angeles, California.

6 6. Plaintiff is informed and believes and thereon alleges that Defendant  
7 Twentieth Century Fox Film Corporation (hereinafter “Fox”) is a Delaware  
8 corporation, qualified to do business in California, having a place of business at  
9 10201 West Pico Boulevard, Los Angeles, California.

10 7. Plaintiff is informed and believes and thereon alleges that Defendant  
11 Fox Searchlight Pictures, Inc. (hereinafter “Searchlight”) is a Delaware corporation,  
12 qualified to do business in California, and having a principal place of business at  
13 10201 West Pico Boulevard, Los Angeles, California.

14 8. Plaintiff is informed and believes and thereon alleges that Defendant  
15 Fox Entertainment Group, Inc. (hereinafter “FEG”) is a Delaware corporation,  
16 qualified to do business in California, and having a principal place of business at  
17 10201 West Pico Boulevard, City of Los Angeles, State of California.

18 9. Plaintiff is informed and believes and thereon alleges that Defendant  
19 New Regency Productions, Inc. (hereinafter “New Regency”) is a California  
20 corporation, having a principal place of business at 1801 Century Park West, Los  
21 Angeles, California.

22 10. Plaintiff is informed and believes and thereon alleges that Defendant  
23 Monarchy Enterprises S.a.r.l. (hereinafter, collectively, “Monarchy”) is a  
24 Luxembourg corporation, not qualified to do business in California, but it is doing  
25 business at 1801 Century Park West, Los Angeles, California, under the trade name  
26 Regency Enterprises.

27 11. Plaintiff is informed and believes and thereon alleges that Defendant  
28 River Road Entertainment, LLC (hereinafter “River Road”) is a Minnesota

1 corporation qualified to do business in California, and having a principal place of  
2 business at 2000 Avenue of the Stars, Suite 620, Los Angeles, California.

3 12. Plaintiff is informed and believes and thereon alleges that Defendant  
4 Plan B Entertainment, Inc. (hereinafter “Plan B”) is a California corporation, having  
5 a principal place of business at 10201 West Pico Boulevard, Los Angeles,  
6 California.

7 13. Plaintiff is informed and believes and thereon alleges that Defendant  
8 Remote Control Productions, Inc., is a California corporation, with its principal  
9 place of business at 1547 14th Street, Santa Monica, California, 90404.

10 14. Plaintiff is informed and believes and thereon alleges that Defendant  
11 Sony Music Entertainment (hereinafter “Sony”) is a Delaware general partnership,  
12 having a principal place of business at 9830 Wilshire Boulevard, Beverly Hills,  
13 California.

14 15. Involuntary plaintiff Iagem Production Music LLC (“Iagem”), is a  
15 New York corporation, not qualified to do business in California, but doing business  
16 in California as 5 Alarm Music, and also doing business in California as Cypress  
17 Creek Music, at 44 West Green Street, Pasadena, California. Plaintiff is informed  
18 and believes, and thereon alleges that Iagem is the successor-in-interest to  
19 ABACO Productions, Inc. (“ABACO”), the original copyright claimant to *To Our*  
20 *Fallen*.

21 16. Plaintiff does not know the true names of Defendants designated as  
22 Does 1 through 50, inclusive, and therefore sues them by said fictitious names.  
23 Plaintiff is informed and believes that said fictitiously named Defendants are  
24 responsible in some manner for Plaintiff’s damage herein, and will amend this  
25 complaint to allege their true names when ascertained. Plaintiff is informed and  
26 believes, and thereon alleges that, in doing the acts herein alleged, each Defendant  
27 was the agent, employee, co-conspirator and/or attorney for each co-defendant, and  
28 each was acting within the scope of said agency, employment and/or conspiracy.

1 IV.

2 **FIRST CLAIM FOR RELIEF**

3 (Copyright Infringement Against All Defendants Except SME)

4 17. Plaintiff incorporates paragraphs 1 through 16 herein, as if fully set  
5 forth.

6 18. In or about 2004, Plaintiff wrote and composed a musical composition  
7 entitled *To Our Fallen* (hereinafter referred to as “the Composition”).

8 19. In or about May, 2004, ABACO, a commercial music library, caused to  
9 be recorded a derivative work of the Composition which was included in a recorded  
10 music sampler entitled *American Heart*, containing the Composition and additional  
11 compositions by Plaintiff, as well as other compositions by a second composer.

12 That sound recording was widely distributed in or about 2004, and, thus, (i) the  
13 Composition and (ii) the sound recording of *To Our Fallen* contained therein  
14 (hereinafter referred to as the “Sound Recording”) were published at that time.

15 20. In 2006, ABACO, applied for and was issued by the Register of  
16 Copyrights Certificate of Registration of a Claim to Copyright in and to the  
17 Composition, No. SR 392-592. Plaintiff is the beneficial owner of the Composition,  
18 and the Sound Recording.

19 21. The Composition and the Sound Recording were embodied in the  
20 episode of the television show *Desperate Housewives* entitled “The Juiciest Bites --  
21 In Memoriam,” aired on the ABC Television Network in April, 2008, and October,  
22 2009. Plaintiff is informed and thereon alleges that the string overdub portions of  
23 the music for “The Juiciest Bites -- In Memoriam” was recorded at Remote Control  
24 Productions, a recording facility owned in whole or in part by Defendant Hans  
25 Zimmer, as was all or most of the musical score for *12YAS*. The foregoing is  
26 compelling evidence of access by Defendants to the Composition.

27 22. In or about 2013, Defendants produced and distributed the motion  
28 picture *12YAS* in the United States and throughout the world. *12YAS* reproduced

1 and embodied musical compositions and cues ostensibly composed by Defendant  
2 Zimmer, including, *inter alia*, the main musical theme entitled *Solomon Northup*.  
3 Later in 2013, *I2YAS* received widespread critical acclaim, and was named the best  
4 film of 2013 by several media outlets. The film was awarded the Golden Globe  
5 Award for the Best Motion Picture -- Drama, the British Academy of Film and  
6 Television Arts (“BAFTA”) recognized it with the Best Film Award, and it went on  
7 to win the Academy of Motion Picture Arts and Sciences Best Picture of the Year  
8 “Oscar.” Zimmer was nominated for the Golden Globe award for the best musical  
9 score of 2013 for *I2YAS*, his purported creation. *I2YAS* has generated substantial  
10 worldwide profits for all of the Defendants.

11 23. Notably, (a) the main theme, *Solomon Northup*, (b) the music for the  
12 closing credits, and (c) eleven of the other musical cues embodied in *I2YAS* are  
13 based upon, and substantially similar to, the Composition and the Sound Recording,  
14 and infringe Plaintiff’s rights in and to the Composition and the Sound Recording  
15 (collectively “Plaintiff’s Copyrighted Works”), but neither Plaintiff, nor any other  
16 person or entity in privity with plaintiff, has been asked by Defendants, at any time,  
17 for permission to use or license Plaintiff’s Copyrighted Works in *I2YAS*.

18 24. Plaintiff is informed and believes that Defendant Hans Zimmer claims  
19 that he owns and/or controls all of the musical score and cues embodied in *I2YAS*,  
20 and based on Zimmer’s false claims, the other Defendants, erroneously, and in  
21 violation of the moral rights of Plaintiff pursuant to the copyright laws of the  
22 numerous foreign nations where the motion picture and the phonorecord of *I2YAS*  
23 have been distributed and exhibited, have credited Defendant Zimmer rather than  
24 Plaintiff as the composer of the Composition and the Sound Recording.

25 25. The foregoing conduct of Defendants, in copying protected elements of  
26 Plaintiff’s works, is without any authorization or license from Plaintiff, and,  
27 therefore, constitutes copyright infringements, as to the Composition, as well as to  
28 the Sound Recording. Plaintiff seeks, as damages, appropriate amounts to be



1 determined at trial, according to 17 U.S.C. §501, *et seq.*, from each of the  
2 Defendants named herein for each such infringement. Pursuant to 17 U.S.C. §504,  
3 Plaintiff is entitled to recover the actual damages suffered as a result of the  
4 infringement, and any profits of the Defendants that are attributable to the  
5 infringement. Furthermore, because the acts of Defendants, and such other persons  
6 who may be responsible for the infringements of Plaintiff’s copyright, have been  
7 deliberate and willful, and have been guilty of malice, oppression, and malice,  
8 Plaintiff will seek an award of punitive damages pursuant to California Civil Code §  
9 3294.

10 26. Defendants’ infringing conduct has also caused and is causing  
11 substantial and irreparable injury and damage to Plaintiff in an amount not capable  
12 of determination, and, unless restrained, will cause further irreparable injury, leaving  
13 plaintiff with no adequate remedy at law. Plaintiff accordingly requests injunctive  
14 relief pursuant to 17 U.S.C. §502.

15 V.

16 **SECOND CLAIM FOR RELIEF**

17 (Copyright Infringement Against Defendant SME)

18 27. Plaintiff incorporates paragraphs 1 through 26 herein, as if fully set  
19 forth.

20 28. Plaintiff is informed and believes and thereon alleges that the musical  
21 score for *I2YAS*, including material portions of Plaintiff’s Copyrighted Works were  
22 reproduced and distributed on phonorecords by Defendant Sony Music  
23 Entertainment (“SME”) through its division, Columbia Records. Plaintiff is  
24 informed and believes, and thereon alleges, that SME licensed, and distributed  
25 throughout the United States and many countries of the world, and sold many  
26 hundreds of thousands of copies of the phonorecord embodying the “soundtrack”  
27 music from *I2YAS*, which includes Plaintiff’s Copyrighted Works.

28 29. The foregoing conduct of Defendant SME is without any authorization



1 or license from Plaintiff, and, therefore, constitutes copyright infringements both as  
2 to the Composition as well as the Sound Recording. Plaintiff seeks, as damages,  
3 appropriate amounts to be determined at trial according to 17 U.S.C. §501, *et seq.*,  
4 from defendant SME for each infringement. Pursuant to 17 U.S.C. §504, Plaintiff is  
5 entitled to recover the actual damages suffered as a result of the infringement, and  
6 any profits of the Defendants that are attributable to the infringement.

7 30. Defendants' infringing conduct has also caused and is causing  
8 substantial and irreparable injury and damage to Plaintiff in an amount not capable  
9 of determination, and, unless restrained, will cause further irreparable injury, leaving  
10 Plaintiff with no adequate remedy at law. Plaintiff accordingly requests injunctive  
11 relief pursuant to 17 U.S.C. §502.

12 **VI.**

13 **THIRD CLAIM FOR RELIEF**

14 (Common Law Unfair Competition Against All Defendants)

15 31. Plaintiff incorporates paragraphs 1 through 30 herein, as if fully set  
16 forth.

17 32. The acts and activities outside of the United States by Defendants and  
18 those acting in concert with them as hereinabove set forth, constitute unfair  
19 competition with Plaintiff under the laws of the State of California and at common  
20 law. Plaintiff seeks an award of exemplary and punitive damages pursuant to  
21 California Civil Code §3294, based upon the fact that the unauthorized uses by  
22 Defendants of the Sound Recording and the Composition outside of the United  
23 States was fraudulent, oppressive and malicious, in that Defendants consciously  
24 disregarded the rights of Plaintiff in and to the Sound Recording and the  
25 Composition.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VII.**  
**FOURTH CLAIM FOR RELIEF FOR COPYRIGHT**  
**INFRINGEMENT AND VIOLATION OF MORAL RIGHTS**  
**UNDER THE COPYRIGHT LAW OF THE**  
**FEDERAL REPUBLIC OF GERMANY**

(Against All Defendants)

33. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through 32, inclusive of the Complaint above, with the same force and effect as though set forth completely herein.

34. At all times herein mentioned, there was in full force and effect in the Federal Republic of Germany the German Copyright Statute of 1965, as amended July 16, 1998, which provides [in its English language translation], in pertinent part:

*13. Recognition of Authorship --*

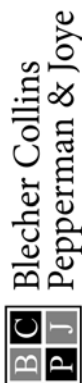
The author shall have the right of recognition of his authorship of the work. He can determine whether the work is to bear an author’s designation and what designation is to be used.

*14. Distortion of the Work --*

(1) The author shall have the right to prohibit any distortion or any other mutilation of his work which would prejudice his lawful intellectual or personal interests in the work.

*15. General --*

The author shall have the exclusive right to exploit his work in material form; the right shall comprise in



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

particular:

1. the right of reproduction (Article 16)
2. the right of distribution (Article 17)
3. the right of broadcast (Article 20).

*97. Actions for Injunction and Damages --*

(1) As against any person who infringes a copyright or any other right protected by this Law, the injured party may bring an action for injunctive relief requiring the wrongdoer to cease and desist if there is a danger of repetition of the acts of infringement, as well as an action for damages if the infringement was intentional or the result of negligence. In place of damages, the injured party may require surrender of the profits derived by the infringer from the acts of infringement together with detailed accounting reflecting such profits.

(2) Authors, including...performers (Section 73) may, if the infringement was intentional or the result of negligence, recover, as justice may require, a monetary indemnity for the injury caused to them even if no pecuniary loss has occurred.

35. Plaintiffs request that the Court take notice of the German Copyright Statute and award damages to plaintiffs for copyright infringement as well for the violation of Plaintiff's moral rights under the German Copyright Act.

36. Plaintiff seeks an award of exemplary and punitive damages based on the fact that the unauthorized uses by Defendants, and each of them, of Plaintiff's copyrighted musical composition and sound recording, in that Defendants, and each of them as joint-tortfeasors, willfully, wantonly, and consciously disregarded the

1 rights of Plaintiff's in and to Plaintiff's intellectual property.

2 **VIII.**

3 **FIFTH CLAIM FOR RELIEF FOR COPYRIGHT INFRINGEMENT**

4 **AND VIOLATION OF MORAL RIGHTS UNDER**

5 **THE COPYRIGHT LAW OF THE REPUBLIC OF FRANCE**

6 **(Against All Defendants)**

7 37. Plaintiffs repeat and reallege each and every allegation contained in  
8 paragraph 1 through 32, inclusive of the Complaint above, with the same force and  
9 effect as though set forth completely herein.

10 38. At all times herein mentioned, there was in full force and effect in the  
11 Republic of France the Code of Intellectual Property of 1992, as amended October  
12 1, 2010, which provides [in its unofficial English language translation], in pertinent  
13 part:

14 Article L121-1. An author shall enjoy the right to respect  
15 for his name, his authorship and his work. This right shall  
16 attach to his person. It shall be perpetual, inalienable and  
17 imprescriptible.

18 Article L121-2. The author alone shall have the right to  
19 divulge his work. He shall determine the method of  
20 disclosure and shall fix the conditions thereof....

21 Article L122-1. The right of exploitation belonging to the  
22 author shall comprise the right of performance and the  
23 right of reproduction.

24 39. Plaintiffs request that the Court take notice of the French Intellectual  
25 Property Code and award damages to Plaintiff's for copyright infringement as well  
26 for the violation of Plaintiff's moral rights under the French Intellectual Property  
27 Code.

28 40. Plaintiff seeks an award of exemplary and punitive damages based on

1 the fact that the unauthorized uses by Defendants, and each of them, of Plaintiff's  
2 copyrighted musical composition and sound recording, in that Defendants, and each  
3 of them as joint-tortfeasors, willfully, wantonly, and consciously disregarded the  
4 rights of Plaintiff's in and to Plaintiff's intellectual property.

5 **IX.**

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for judgment as follows:

8 1. On the First and Second Claims for Relief, for actual damages and  
9 profits, according to proof, based upon 17 U.S.C. §504;

10 2. On the Second Claim for Relief, for damages according to proof;

11 3. On the Third Claim for Relief, for damages according to proof;

12 4. On the Third Claim for Relief, for an award of exemplary and punitive  
13 damages according to proof;

14 5. On the Fourth and Fifth Claims for Relief that each Defendant be  
15 required to pay to Plaintiff such damages and profits as provided by the German  
16 Copyright Statute of 1965 and the French Intellectual Property Code of 1992, as  
17 amended October 1, 2010, for each separate infringement of Plaintiff's Copyrighted  
18 Works and, in addition, for the infringement of the neighboring rights of Plaintiff  
19 thereunder;

20 6. On the First, Second, Third, Fourth, and Fifth Claims for Relief, that  
21 each of the Defendants, and each of them, their officers, agents, servants, employees  
22 and all persons, firms, corporations, and associations in active concert or  
23 participation with them, be enjoined during the pendency of this action and  
24 permanently from:

25 (a) Producing, exhibition, publicly displaying, licensing,  
26 manufacturing, distributing, selling, or in any way using or transferring the  
27 copyrighted portions of the Works and that all videograms and phonorecords  
28

1 embodying the copyrighted portions of the Works be delivered up and destroyed as  
2 the Court shall direct pursuant to 17 U.S.C. §503; and

3 (b) Issuing any advertising or promotional material, making public  
4 statements or otherwise representing that any portion of the Copyright Works will  
5 be in any manner be associated with, authorized by, or sponsored by Defendant  
6 Zimmer; and

7 7. For a declaratory judgment that Plaintiff is the legal owner of (a)  
8 *Solomon Northup*, and (b) all other twelve musical cues embodied in the videograms  
9 and phonorecords of *12YAS*, and that all thirteen (13) of these musical compositions  
10 are based on *To Our Fallen*;

11 8. For an award of exemplary and punitive damages, pursuant to  
12 California Civil Code §3294, according to proof;

13 9. An award of pre-judgment and post judgment interest and costs of this  
14 action against all Defendants; and

15 10. For any further relief the Court should deem just and proper.

16 Dated: January 22, 2015 BLECHER COLLINS PEPPERMAN & JOYE, P.C.  
17 MAXWELL M. BLECHER  
18 DONALD R. PEPPERMAN  
19 JOHN E. ANDREWS

20  
21 By:           /s/ Maxwell M. Blecher            
22 Maxwell M. Blecher  
23 Attorneys for Plaintiff  
24 RICHARD FRIEDMAN  
25  
26  
27  
28





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial as provided for pursuant to Fed. R. Civ. P. 38, and Local Rule 38-1.

Dated: January 22, 2015                    BLECHER COLLINS PEPPERMAN & JOYE, P.C.  
MAXWELL M. BLECHER  
DONALD R. PEPPERMAN  
JOHN E. ANDREWS

By: \_\_\_\_\_ */s/ Maxwell M. Blecher*  
Maxwell M. Blecher  
Attorneys for Plaintiff  
RICHARD FRIEDMAN

Dated: January 22, 2015                    LAW OFFICES OF JEFFREY L. GRAUBART, P.C.  
JEFFREY L. GRAUBART

By: \_\_\_\_\_ */s/ Jeffrey L. Graubart*  
Jeffrey L. Graubart  
Attorney for Plaintiff  
RICHARD FRIEDMAN

Blecher Collins  
Pepperman & Joye



67871.7