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<ul><li>6</li><li>7</li></ul>	Attorneys for Plaintiff, CHRISTIAN COPYRIGHT LICENSING INTERNATIONAL, LLC	
8		
9	UNITED STATES DISTR	ICT COURT
10	DISTRICT OF ARI	ZONA
11	PHOENIX DIVIS	ION
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13	CHRISTIAN COPYRIGHT LICENSING INTERNATIONAL, LLC,	
<ul><li>14</li><li>15</li></ul>	Plaintiff,	Case No
16	VS.	
17	MULTITRACKS.COM LLC	COMPLAINT
18 19	Defendant.	
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Plaintiff Christian Copyright Licensing International, LLC ("CCLI"), by and through undersigned counsel, for its Complaint against Multitracks.com LLC ("MTC"), states as follows:

#### **INTRODUCTION**

1. MTC chose to initiate this dispute with CCLI by filing an administrative complaint. MTC's filing of that complaint is part and parcel of its ongoing effort to disrupt CCLI's business. MTC has forced CCLI to file this action in order to respond and protect its own rights.

#### **PARTIES**

- 2. CCLI is a limited liability company organized under the laws of Oregon with its principal place of business in Vancouver, Washington.
- 3. Upon information and belief, MTC is a limited liability company organized under the laws of Texas with its principal place of business in Cedar Park, Texas.

#### **JURISDICTION AND VENUE**

- 4. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 (federal-question jurisdiction) and 1338(a) (any act of Congress relating to patents, copyrights, and trademarks), as this case arises under the Lanham Act of 1946, 15 U.S.C. § 1051, *et seq.*, as amended, and the Anticybersquatting Consumer Protection Act, 15 U.S.C. §§ 1114(2)(d)(v), 1125(d)(1)(B)(ii) (the "ACPA").
- 5. MTC consented to personal jurisdiction and venue before this Court pursuant to the Uniform Domain-Name Dispute Resolution Policy ("UDRP") of the Internet Corporation for Assigned Names and Numbers ("ICANN"), due to the location of the relevant domain-name registrar, GoDaddy Inc. ("GoDaddy"), whose principal place of business is in Tempe, Arizona.

### FACTUAL BACKGROUND

#### **CCLI**

6. Founded in 1988, CCLI is the preeminent provider of copyright licenses that facilitate worship services across the United States. CCLI offers licenses for various

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uses of musical compositions to churches, e.g., the reproduction and distribution of praise and worship songs in connect with congregational worship activities including rehearsing, singing, and online streaming.

In 2020, CCLI acquired Omnisonic Media Group LLC d/b/a Loop 7. Community ("Loop Community"). Loop Community is a leader in the multitracks-forworship licensing industry. Loop Community provides, inter alia, licenses to churches and worship leaders to use multitrack sound recordings in connection with congregational worship activities. Among other things, Loop Community offers the Prime iOS app, which is widely used for the playback of multitrack sound recordings during worship services.

#### MULTITRACKS

- 8. Multitracks are the individual audio parts that are recorded separately for audio production.
- 9. Often, each track is a different instrument—a separate track for keyboard, drums, guitars, bass, etc.
- 10. Multitracks are useful for worship music in numerous ways. For example, a musician is able to practice and learn the part for his or her individual instrument by listening to one track. Or, if a bass player is sick, a band can playback the sound recording of the bass part for a particular song while the other band members play along.
- 11. Multitracks' roots trace back to Les Paul, the renowned American jazz, country, and blues guitarist, songwriter, luthier, and inventor. In 1955, Mr. Paul worked with engineers at Ampex to create the first eight-track recorder, which he dubbed the "Octopus."
- 12. Multitracking is now a common and integral part of modern sound recording. Among other benefits, multitracking produces higher fidelity sound recordings.
- 13. The term "multitrack" means "using more than one audio track." See multitrack, Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/

1	multitrack; see also multitrack, Cambridge Dictionary, https://dictionary.cambridge.org		
2	dictionary/english/multitrack ("involving the mixing of several separately recorded		
3	tracks (= pieces of music or sound), or made using this method").		
4	14. "Multitrack" is simply the common name for a class of products that		
5	facilitate the recording, playback, and/or mixing of sound recordings.		
6	15. Consistent with the definition of "multitrack," the term is commonly		
7	understood by the public to refer to audio files containing individual parts, or so-called		
8	"stems," of a sound recording.		
9	16. Numerous entities who offer products that utilize or involve multitracks		
10	use the term "multitrack" or "multitracks" to describe themselves and their products,		
11	including their music applications.		
12	17. The term "multitrack" is widely used to describe the licensing of audio		
13	tracks and so-called "stems" for worship music.		
14	18. The terms "multitrack" and "multitracks" are used by numerous entities as		
15	a descriptive part of their products and website domain names.		
16	CCLI REGISTERS THE DOMAIN NAME "MULTITRACK.COM"		
17	19. In 2021, CCLI used the domain-name broker service GoDaddy to register		
18	the domain name <u>multitrack.com</u> . <sup>1</sup>		
19	20. The domain name <u>multitrack.com</u> resolved to <u>loopcommunity.com</u> and,		
20	later, a blog owned and maintained by CCLI at worshipfuel.com.		
21	21. CCLI registered the domain name <u>multitrack.com</u> in good faith.		
22	22. Because CCLI, through its affiliate Loop Community, is in the business of		
23	licensing multitracks, CCLI had a legitimate interest in using the domain name		
24	multitrack.com to provide information about, and sell, multitrack licenses to consumers.		
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<ul><li>27</li><li>28</li></ul>	<sup>1</sup> For reasons unknown to CCLI, GoDaddy recorded the name of the registrant organization in its system as "George George," apparently using the first name of the CCLI employee who completed the registration.		

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#### **ANTICYBERSQUATTING CONSUMER PROTECTION ACT**

- 23. Congress enacted the ACPA to address the problem of cybersquatting, which is the registration, trafficking in, or use of a domain name with a bad-faith intent to profit from a trademark that is identical or confusingly similar to such domain name.
- 24. The ACPA sought to address "'cybersquatters' or 'cyberpirates' " who abuse the rights of actual trademark holders by purposely and maliciously registering as a domain name the trademark name of another company to divert and confuse customers." 106 Cong. Rec., S10517.
- 25. Around the same time, ICANN promulgated the UDRP to provide an administrative remedy, dictated by contract, to address cybersquatting.
- 26. ICANN adopted the UDRP to address the "deliberate, bad faith registration of domain names of well-known and other trademarks." WIPO Final Report, Par. 23 (1999).
- 27. When drafting the ACPA, Congress was concerned that overreaching cybersquatting claims could be asserted by an entity who did not actually have trademark rights and take a domain name from a registrant who did not possess the bad-faith intent specifically required under the ACPA and administrative policies such as the UDRP.
- 28. In light of the potential for such overreaching claims, Congress provided domain-name owners with a cause of action to determine that they have not violated the ACPA. 15 U.S.C. § 1114(2)(d)(v), 1125(d)(1)(B)(ii).

#### MTC Interferes with CCLI'S Domain-Name Registration

- 29. MTC's actions in the present case are precisely the type of overreaching behavior that motivated Congress to establish a cause of action for lawful use under the ACPA.
- 30. MTC is another company that offers licenses for multitracks for use in worship services. Upon information and belief, MTC selected multitracks.com as its company domain name precisely because the term "multitracks" is a generic, or at least merely descriptive, term that describes the type of product being offered.

31. Indeed, MTC's own website refers to "multitracks" as what it offers to consumers for sale:

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# Get one custom plan for all your resources

- ✓ RENT MULTITRACKS
- MULTITRACKS PLAYER
- 32. In recent years, MTC has begun acting in bad faith by trying to corner the market for multitrack licensing by monopolizing the generic terms "multitrack" and "multitracks." In essence, MTC has sought to deploy trademark law to stifle, rather than foster, competition—in direct contravention of the law.
- 33. On November 21, 2022, MTC launched its latest effort to try to unfairly stifle competition and interfere with CCLI's business. MTC filed a UDRP Complaint against CCLI before FORUM, a private dispute-resolution company. MTC sought an order requiring the registrar, GoDaddy, to transfer the domain name <u>multitrack.com</u> from CCLI to MTC.
- 34. In its UDRP Complaint, MTC claimed to have trademark rights in three purported marks: MULTITRACKS CLOUD, MULTITRACKS STREAMING, and MULTITRACKS.COM (collectively, the "Purported Marks").
- 35. MTC made this claim even though *none* of the Purported Marks are registered on the United States Patent and Trademark Office's ("USPTO") Principal Register.
- 36. In fact, MTC had previously sought to register MULTITRACKS CLOUD on the Principal Register, but the USPTO *denied* that registration because the term was merely descriptive.
- 37. MTC attempted to register MULTITRACKS STREAMING in 2017 but quickly abandoned that effort after the USPTO refused registration because—yet againthe purported mark is, at best, merely descriptive.

1	38.	With respect to MULTITRACKS.COM, MTC only recently filed an	
2	application on November 2, 2022, a mere nineteen days before filings its UDRP		
3	Complaint against CCLI, and the USPTO has not yet taken any action on that		
4	application.		
5	39.	MTC is not the exclusive owner of the generic and/or descriptive word	
6	"multitrack" throughout the world, nor is the term "multitrack" exclusively associated		
7	with MTC.		
8	40.	Simply put, MTC has not established that it has protectable rights, whether	
9	through registrations or by common law, in the Purported Marks.		
10	41.	In addition to claiming rights it has not established, MTC claimed that	
11	CCLI registered and used the domain name <u>multitrack.com</u> in bad faith.		
12	42.	In fact, CCLI did not register and use the domain name in bad faith.	
13	43.	CCLI has the right to use the generic term "multitrack," which is simply a	
14	class of products that CCLI offers through its affiliate Loop Community.		
15	44.	MTC has not established that it has rights in the Purported Marks, so CCLI	
16	necessarily could not, and did not, act in bad faith.		
17	45.	In a decision dated February 19, 2023, the UDRP panel—which consisted	
18	of one private-practice attorney based in England—granted MTC's complaint and		
19	ordered the t	ransfer of the domain name multitrack.com from CCLI to MTC.	
20	46.	The UDRP panelist cited zero case law in his decision. That is not	
21	surprising, given that MTC's claim to have rights it has not established in the Purported		
22	Marks defies well-established law and has no factual basis. The panelist's decision was		
23	obviously and egregiously wrong.		
24		<u>COUNT I</u>	
25	Г	DECLARATORY RELIEF – NO CYBERPIRACY/ BAD FAITH INTENT	
26	(15 U.S.C. §§ 1114(2)(d)(v), 1125(d)(1)(B)(ii))		
27	47.	CCLI realleges and incorporates each and every allegation set forth above	
28	as if fully se	t forth herein	

1	48. MTC has asserted that it has established rights in the Purported Marks;	
2	CCLI has no rights or legitimate interests with respect to the <u>multitrack.com</u> domain	
3	name; CCLI registered and used the multitrack.com domain name in bad faith; and	
4	CCLI's ownership of the <u>multitrack.com</u> domain name is likely to cause consumer	
5	confusion.	
6	49. In fact, MTC has <i>not</i> established that it has rights in any of the Purported	
7	Marks; CCLI has rights and legitimate interests with respect to the <u>multitrack.com</u>	
8	domain name; CCLI did not register or use the <u>multitrack.com</u> domain name in bad faith	
9	and CCLI's ownership of the <u>multitrack.com</u> domain name is not likely to cause	
10	consumer confusion.	
11	50. An actual and justiciable controversy exists between the parties regarding	
12	whether CCLI's use of the domain name <u>multitrack.com</u> is not unlawful.	
13	51. Accordingly, CCLI is entitled to and seeks a declaration under the ACPA	
14	that its registration and use of the domain name <u>multitrack.com</u> is not unlawful.	
15	COUNT II	
16	DECLARATORY JUDGMENT	
17	(28 U.S.C. §§ 2201, 2202)	
18	52. CCLI realleges and incorporates each and every allegation set forth above	
19	as if fully set forth herein.	
20	53. MTC has asserted that it has established rights in the Purported Marks;	
21	CCLI has no rights or legitimate interests with respect to the <u>multitrack.com</u> domain	
22	name; CCLI registered and used the <u>multitrack.com</u> domain name in bad faith; and	
23	CCLI's ownership of the <u>multitrack.com</u> domain name is likely to cause consumer	
24	confusion.	
25	54. In fact, MTC has <i>not</i> established that it has rights in any of the Purported	
26	Marks; CCLI has rights and legitimate interests with respect to the <u>multitrack.com</u>	
27	domain name; CCLI did not register and use the multitrack.com domain name in bad	

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faith; and CCLI's ownership of the multitrack.com domain name is not likely to cause

1	consumer co	onfusion.	
2	55.	55. An actual and justiciable controversy exists between the parties regarding	
3	whether CC	ner CCLI's use of the domain name <u>multitrack.com</u> is not unlawful.	
4	56.	Accordingly, CCLI is entitled to and see	eks a declaration that its registration
5	and use of the domain name multitrack.com is not unlawful.		
6	DEMAND FOR JURY TRIAL		
7	57.	CCLI requests a jury trial upon all claims and matters so triable.	
8	PRAYER FOR RELIEF		
9	WHEREFORE, CCLI respectfully requests that the Court:		
10	a)	Enter judgment on its behalf against MTC on all counts;	
11	b)	Enter an order declaring that CCLI's use of the domain name	
12		multitrack.com is not unlawful, within the meaning of the ACPA;	
13	c)	Enter an order enjoining MTC from any and all further efforts to cause the	
14		domain name multitrack.com to be trans	eferred to MTC;
15	d)	Award CCLI its costs and reasonable attorneys' fees; and	
16	e)	Award such other and further relief as the	ne Court deems just and proper.
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18	Dated	d: March 1, 2023 LOEB & LO	DEB LLP
19		By: <u>/s/ Andr</u>	ew M. Hutchison
20		Andre	ew M. Hutchison
21			neys for Plaintiff
22			ISTIAN COPYRIGHT NSING INTERNATIONAL, LLC
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