

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

|                        |   |          |
|------------------------|---|----------|
|                        | ) |          |
| RUDE MUSIC, INC.,      | ) |          |
|                        | ) |          |
| Plaintiffs,            | ) | Case No. |
| v.                     | ) |          |
|                        | ) |          |
| NEWT 2012, INC., NEWT  | ) |          |
| GINGRICH, and AMERICAN | ) |          |
| CONSERVATIVE UNION,    | ) |          |
|                        | ) |          |
| Defendants.            | ) |          |
|                        | ) |          |

**COMPLAINT**

Rude Music, Inc. (“Rude Music”) for its complaint against Newt 2012, Inc., Newt Gingrich and the American Conservative Union, alleges:

**NATURE OF THE CASE**

1. This is an action for copyright infringement, in violation of 17 U.S.C. § 501, arising from the defendants’ unauthorized public performances and distribution of Rude Music’s copyrighted musical composition.

**JURISDICTION AND VENUE**

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

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as Defendants solicit and are doing business in this district, and Rude Music is being injured in this district.

### **PARTIES**

3. Rude Music is an Illinois corporation, with its principal place of business at 5140 Grove Road, Palatine, Illinois. Rude Music is owned solely by Frank M. Sullivan III, and operates as the publisher of Sullivan's musical compositions.

4. Newt 2012, Inc. is a Georgia corporation, having a principal place of business at 3110 Maple Drive, Suite 400, Atlanta, Georgia.

5. Upon information and belief, Newt Gingrich is an individual residing in McLean, Virginia, and is chief executive officer of Newt 2012, Inc.

6. The American Conservative Union is a membership organization, having a principal place of business at 1331 H Street N.W., Washington, D.C.

### **FACTS**

7. The musical band SURVIVOR was formed in 1977, with Sullivan as one of its founding members.

8. Sullivan is a co-author of the musical composition "Eye of the Tiger," which was the principal theme song for the movie *Rocky III* and achieved number one status in the United States and throughout the world. The song won Grammy and People's Choice awards and was Oscar-nominated.

9. "Eye of the Tiger" is the subject of a valid copyright, which is co-owned by Rude Music and was duly registered in the Copyright Office on June 7, 1982 (PA 141854).

10. On information and belief, since at least as early as 2009, Mr. Gingrich took the stage at political conferences and similar public events as a

recording of "Eye of the Tiger" was played over the public address system. The events at which the song was featured included, at least, the Conservative Political Action Conference ("CPAC") in 2009, 2010 and 2011, and the Southern Republican Leadership Conference in 2010. The CPAC is hosted by the American Conservative Union's fundraising arm, the American Conservative Union Foundation.

11. The American Conservative Union has posted on the internet video recordings of at least the 2010 and 2011 conferences, featuring Mr. Gingrich and "Eye of the Tiger." The reproduction and distribution of these recorded performances of the copyrighted composition is unlicensed and unauthorized.

12. As his campaign for the Republican presidential nomination has ramped up, Mr. Gingrich and Newt 2012, Inc. have caused a recording of "Eye of the Tiger" to be publicly performed at numerous campaign appearances by Mr. Gingrich. For example, in Doylestown, Pennsylvania, Mr. Gingrich entered the packed Moose Lodge for a speech as the song "pulsed," according to the Newt 2012, Inc. website. More recently, during the campaign's pre-caucus swing through Iowa, the copyrighted song played as Mr. Gingrich made his entrance and exit at an event in Des Moines; heralded his arrival at an event in Burlington, Iowa; and blared as his campaign bus rolled into an excavation business in Walford, Iowa. Newt 2012, Inc.'s and Mr. Gingrich's use of the copyrighted work is unlicensed and unauthorized.

13. Newt 2012's and Mr. Gingrich's unauthorized public performance, or inducement of or contribution to the public performance, of the copyrighted

work infringes Rude Music's copyright. Similarly, the American Conservative Union's reproduction and distribution of the video recordings, featuring Mr. Gingrich and "Eye of the Tiger" is unlicensed and unauthorized, and also infringes Rude Music's copyright in the composition.

14. Mr. Gingrich's and Newt 2012, Inc.'s infringement of "Eye of the Tiger" is willful. Mr. Gingrich is sophisticated and knowledgeable concerning the copyright laws, both as a private individual and business owner, and as a former elected official. According to the records of the United States Copyright Office, Mr. Gingrich is the author or co-author of over forty copyrighted works. During his tenure in the United States House of Representatives, the Copyright Act was extensively amended. Mr. Gingrich is chief executive officer of Gingrich Productions, Inc., a Washington, D.C. multimedia production company that features the work of Mr. Gingrich and his wife, Callista Gingrich. Through Gingrich Productions, Inc., they have produced historical and public policy documentaries, produced photographic essays, written books, and recorded audio books. According to election disclosure filings, Mr. Gingrich earned between \$500,000 and \$1,000,000 from Gingrich Productions, and in a recent interview, he estimated that he could have sold could be "hundreds of thousands." Moreover, Newt 2012 also has a legal team. Finally, at a recent debate in South Carolina, Mr. Gingrich criticized the proposed Stop Online Piracy Act, stating, "We have a patent office, we have copyright law. If a company finds that it has genuinely been infringed upon, it has the right to sue...."

15. As a result of the defendants' willful infringement of Rude Music's copyright, Rude Music has been damaged.

**PRAYER FOR RELIEF**

WHEREFORE, Rude Music asks that the Court enter judgment in its favor and

1. Order that defendants, and all those in active concert or participation with them, be preliminarily and permanently enjoined from unauthorized performances of the copyrighted work;

2. Award Rude Music damages in an amount to be determined by the Court, including but not limited to actual damages and defendants' profits or statutory damages, pursuant to 17 U.S.C. § 504(a)(2), enhanced to reflect the defendants' willful infringement;

3. Award Rude Music its reasonable attorney fees, disbursements and costs, pursuant to 17 U.S.C. § 505; and

4. Such further relief that this Court deem just.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

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