

1 Michael Machat, Esq.  
2 MACHAT & ASSOCIATES, P.C.  
3 8730 W. Sunset Blvd., Ste. 250  
4 West Hollywood, California 90069  
5 Telephone: (310) 860-1833  
6 Telefax: (310) 860-1837  
7 Email: info@machatlaw.com

8 Attorneys for Plaintiff  
9 JohannSongs – Publishing, Ltd

10  
11  
12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14 **WESTERN DISTRICT**

15 JOHANNSONGS - PUBLISHING,  
16 LTD,

17 Plaintiff,

18 vs.

19 ROLF LØVLAND, BRENDAN  
20 GRAHAM, PEERMUSIC, LTD,  
21 UNIVERSAL MUSIC PUBLISHING  
22 GROUP, WARNER MUSIC GROUP,  
23 UMG RECORDINGS, INC., APPLE,  
24 INC., SPOTIFY TECHNOLOGY S.A.  
25 and DOES 1 – 20,

26 Defendants.

) CASE NO.

) **COMPLAINT FOR COPYRIGHT**  
) **INFRINGEMENT AND UNJUST**  
) **ENRICHMENT**

) **DEMAND FOR JURY TRIAL**

27 For its Complaint, Plaintiff JOHANNSONGS – PUBLISHING, LTD.,  
28 (“JOHANNSONGS”) hereby alleges and asserts as follows:

29 **I. INTRODUCTORY BACKGROUND**

30 1. Plaintiff brings this action for declaratory relief, injunctive relief and  
31 damages arising out of defendant Rolf Løvland’s unauthorized, unfair, blatant and  
32 unrepentant copying of the famous Icelandic song “Soknudur”, written by Johann  
33 Helgason (music) and Vilhjalmur Vilhjalmsson (lyrics).

34 2. “Soknudur”, written in 1977, has become perhaps the most famous

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 song in Iceland. Løvland, a Norwegian national and member of the band Secret  
2 Garden has a reputation for plagiarizing music from others. During Løvland’s  
3 frequent travels to Iceland, he undoubtedly heard “Soknudur,” became mesmerized  
4 by the music of “Soknudur,” and recorded an unauthorized derivative version of  
5 “Soknudur,” which he called “YOU RAISE ME UP,” copying the music and lyrical  
6 theme of “SOKNUDUR.”

7 3. This first unauthorized derivative version of “Soknudur” was released  
8 in Norway, in 2001 on Løvland’s album, “Once in a Red Moon,” that was recorded  
9 by Løvland’s band, Secret Garden. That version became moderately successful,  
10 and it continues to be sold throughout the world today, including in the United  
11 States. Recently in 2018, Løvland’s band, Secret Garden, released a new  
12 unauthorized derivative version of “Soknudur” which is available for the public to  
13 stream and/or buy on iTunes and Spotify.

14 4. In 2003, a version of “YOU RAISE ME UP” was subsequently  
15 produced by David Foster and performed by Josh Groban. This recording of “You  
16 Raise Me Up” became a massive hit throughout the world. The Josh Groban album,  
17 entitled “Closer” featuring Johann Helgason’s derivative work, “You Raise Me Up”  
18 was, upon information and belief, the number one album on the US Billboard chart  
19 in 2003, selling over six million copies in the US alone. That album was sold and  
20 continues to be sold by defendant Warner Music Group today as well.

21 5. Since then Johann Helgason’s unauthorized derivate work has been  
22 covered by over 100 artists and is played throughout the world repeatedly at solemn  
23 occasions including weddings and funerals. The song has been repeatedly played  
24 on US Radio, garnering over half a million plays in a single year alone. It is the  
25 best or one of the best selling pieces of sheet music in all time.

26 6. Numerous recordings of “You Raise Me Up” continue to be sold  
27 today, and are available for download and/or for streaming on iTunes, Spotify, and  
28 elsewhere. CD’s of the unauthorized derivative works of “Soknudur” are sold

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 nationwide in big box stores such as Target, Walmart, and Best Buy for instance.  
2 7. In fact, according to Martin Ingestrom – CEO of Universal Music  
3 Publishing Sweden, “The total sale of “You Raise Me Up” is approaching 100  
4 million units. The total earnings of the song make it one of the world’s top songs in  
5 terms of copyright<sup>1</sup>.”

6 8. “You Raise Me Up” is featured in James E. Peron’s book, “Smash Hit  
7 – the 100 Songs That Defined America”, published by Greenwood October 17,  
8 2016.

9 9. It is clear each of the named defendants in this lawsuit have earned  
10 tremendous profits from the unauthorized exploitation of Plaintiff’s “Soknudur”  
11 and continue to do so today, unlawfully benefitting from the unauthorized copying,  
12 distribution and performance of Plaintiff’s musical copyright. Meanwhile, the true  
13 author of the song, Johann Helgason has been ignored. Due to lack of funds, he  
14 had been unable to take legal action to stop the worldwide plagiarism of his song  
15 “Soknudur.” Until now, that is.

16  
17 **II. JURISDICTION AND VENUE**

18  
19 10. This action arises under the Copyright Laws of the United States, 17  
20 U.S.C. 101 *et seq*, which is within the exclusive jurisdiction of this court pursuant  
21 to 28 U.S.C. §1331 and §1338.

22 11. This Court has personal jurisdiction over the defendants because they  
23 either may be found here and/or otherwise conduct systematic and continuous  
24 business in and/or have executed agreements relating to the unauthorized derivative  
25 version of “Soknudur” in this Judicial district. In the case of defendant Rolf  
26 Løvland, his business relations and career have depended upon his business  
27

28 <sup>1</sup> This quote comes from defendant Rolf Løvland’s book, “You Raise Me Up: The Story of Secret Garden”, Dreamcatcher Productions, 2015  
3

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 relationships with many of his co-defendants based in this judicial district such that  
2 Rolf Løvland has had regular visits within this judicial district for the sole purpose  
3 of exploiting his unauthorized derivative work of Plaintiff’s musical composition,  
4 “Soknudur.”

5 12. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and  
6 1391(c)(3) by virtue of the fact that a substantial part of the events or omissions  
7 giving rise to the claim occurred within this District, because the defendants are  
8 subject to personal jurisdiction in this Judicial District, the defendants have  
9 committed unlawful acts of infringement in this Judicial District, and because at  
10 least one of the defendants is not resident in the United States. Venue is also  
11 proper pursuant to 28 U.S.C. §1400(a).

12  
13 **III. THE PARTIES**  
14

15 13. Johann Helgason is one of Iceland’s most beloved singers and  
16 songwriters. He composed the music to “Soknudur” which has become a very  
17 popular song since its release in 1977 and one of the most commonly played  
18 melodies at funerals and memorial services in Iceland.

19 14. In the September of 2018, Plaintiff JohannSongs became the publisher  
20 and owner of Johann Helgason’s musical catalogue, which includes both the music  
21 to the musical composition “Soknudur” (released in 1977) as well as the  
22 instrumental version of “Soknudur” released in 1991. Applications to register the  
23 U.S. copyright for each of the two aforementioned versions of “Soknudur,” each, a  
24 foreign work, were filed in September, 2018, and are pending before the United  
25 States Copyright Office.

26 15. Defendant Rolf Løvland (aka Graham Løvland) is a Norwegian  
27 national, and upon information and belief, currently a resident of Norway. He has  
28 traveled to the United States and California repeatedly over the years, as a member

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 of his band Secret Garden.

2 16. Løvland recently wrote a fictional biography in which he claims to  
3 have written the music to “You Raise Me Up” without help and without copying.  
4 In the book, Løvland describes numerous trips he took to the United States  
5 including to California to promote Johann Helgason’s unauthorized derivative  
6 work.

7 17. In 2003, defendant Løvland traveled to Los Angeles a few times and  
8 had meetings with Universal Music, Creative Artists Agency, Dreamworks,  
9 Paramount, 21<sup>st</sup> Century Fox and others, all to advance his exploitation of Johann  
10 Helgason’s unauthorized derivative work. He describes his excitement in meeting  
11 with Josh Groban’s manager and learning that David Foster was going to re-record  
12 his unauthorized derivative version of “Soknudur.”

13 18. His book also recounts his memories of prior trips to California,  
14 including a memory of flying out from San Francisco and of his first US tour with  
15 his band Secret Garden in 1996.

16 19. In 2002, he toured the US in connection with his album, “Once in a  
17 Red Moon” which featured what would soon become a famous unauthorized  
18 derivative version of Johann Helgason’s “Soknudur” – so world famous that most  
19 of the world would come to know the unauthorized copy, “You Raise Me Up” and  
20 not know the original, “Soknudur.”

21 20. In his book, Løvland discusses his 1996 trip to Los Angeles where at  
22 the Grammy Awards he played a showcase in Los Angeles. He also discusses his  
23 tours to various Borders stores.

24 21. In 1997, he toured the US again from May 26, through June 18<sup>th</sup>,  
25 stopping to perform in Los Angeles on June 4<sup>th</sup>, in San Francisco on June 5<sup>th</sup> and  
26 Palo Alto June 5<sup>th</sup>.

27 22. In 1998, he again toured the US, in February that year, visiting  
28 Denver, Boulder, Albuquerque, Minneapolis, St. Paul, Short Hills, NJ and New

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 York.

2 23. Løvland further describes, “On a visit to Los Angeles in 1999, we met  
3 with Barbra’s [Streisand] executive producer Jay Landers. At his Hollywood home,  
4 he gave us his full insided version of the whole story<sup>2</sup>.”

5 24. On another trip he took to the US in 2005, Løvland expresses his  
6 dismay after Universal took over Polygram – who had originally signed him and  
7 purportedly obtained rights to the unauthorized derivative version of “Soknudur.”

8 25. Løvland has continued to travel to the US. In 2012 he met David  
9 Foster here in Los Angeles, and in 2017 he traveled to Atlanta to play a show for  
10 the Rotary International Convention. Since 2002, each of Løvland’s trips to the  
11 United States has been for the express purpose of furthering his infringement of  
12 Plaintiff’s song “Soknudur.”

13 26. As mentioned elsewhere herein, Løvland has a reputation for  
14 plagiarizing the songs of others. His winning song in the Eurovision Song Contest  
15 in 1995 is said to have been taken from a Belgian street band.

16 27. In his mostly fictional book, Løvland recounts his first meeting with  
17 David Foster in Los Angeles, in October of 2012 as follows, with David Foster  
18 asking,

19 “Congratulations on a great hit, Rolf”. . . “Do you know what  
20 the biggest problem is?”

21 “Eh, no,” [Rolf replied]

22 “To write the next one!”

23 One can safely say when you “nick” a song, it is very difficult to write the  
24 next one. Such is the case here. Rolf Løvland copied Plaintiff’s song “Soknudur”  
25 and he and his co-defendants have wrongfully profited from the plagiarism of  
26 Johann Helgason’s music.

27 28. Defendant Brendan Graham, is an Irish Citizen, credited with writing

28  

---

<sup>2</sup> Løvland book, page 90.

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 the words to the unauthorized derivative version of “Soknudur” which goes by the  
2 name “You Raise Me Up.” As described herein below, the theme of the English  
3 lyrics to “You Raise Me Up” is substantially similar to the lyrics of “Soknudur.”  
4 Defendant Brendan Graham is being sued hereunder for contributing to the  
5 copyright infringement of “Soknudur” and for the benefits he received from the  
6 wide-scale copyright infringement of “Soknudur.”

7 29. Upon information and belief defendant Peermusic, Ltd (“Peermusic”)  
8 is a music publisher with numerous offices around the world, including one in  
9 Burbank, California. According to its website, Peermusic claims to control the  
10 publishing to the unauthorized derivative work, “You Raise Me Up.”

11 30. Defendant Universal Music Publishing Group (“Universal Music”) is a  
12 music publisher with numerous offices around the world, including offices in Los  
13 Angeles. According to its website, Universal Music also claims to control the  
14 publishing to the unauthorized derivative work, “You Raise Me Up.”

15 31. Defendant Warner Music Group (“Warner”) is upon information and  
16 belief a Delaware Corporation with offices around the world, including in Los  
17 Angeles County, California. Warner via its Reprise label sells a world wide hit  
18 unauthorized derivative version of “Soknudur” under the name “You Raise Me Up”  
19 which was performed by Josh Groban and produced by David Foster. Defendant  
20 Warner has sold over six million copies of an album called Closer that contains the  
21 unauthorized derivative work and continues to sell this album today without  
22 Plaintiff’s permission.

23 32. Defendant UMG Recordings, Inc. (“UMG Recordings”) is, upon  
24 information and belief, a Delaware Corporation with headquarters in Los Angeles,  
25 California. Defendant UMG Recordings, upon information and belief, sells, by  
26 itself and through its worldwide affiliate UMG and/or Universal Music Group  
27 labels, recordings of the unauthorized derivative work, “You Raise Me Up,” that  
28 have been recorded and performed by defendant Rolf Løvland and others.

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1           33. Upon information and belief, defendant Apple, Inc. (“Apple”) is based  
2 in Cupertino, California and via its iTunes store, streams unauthorized versions of  
3 Plaintiff’s “Soknudur” under the name “You Raise Me Up.” Versions currently  
4 available for streaming and download on iTunes include the Josh Groban version, a  
5 version by Kenny G, a version by Westlife, at least two versions by Løvland’s  
6 Secret Garden, a version by Selah and many more including even versions by Men  
7 of the Mormon Tabernacle Choir, Susan Boyle and Johnny Mathis.

8           34. Upon information and belief, defendant Spotify Technology S.A.  
9 (“Spotify”) is a Swedish company with offices around the world, including the  
10 United States, that streams music. Spotify currently streams unauthorized versions  
11 of Plaintiff’s “Soknudur” under the name “You Raise Me Up.” Versions currently  
12 available for streaming and download on Spotify include the Josh Groban version, a  
13 version by Kenny G, a version by Westlife, at least two versions by defendant  
14 Løvland’s Secret Garden, a version by Selah and more.

15           35. All of the defendants are selling unauthorized derivative copies of  
16 Plaintiff’s “Soknudur.”

17           36. Plaintiff is unaware of the true names and capacities of defendants  
18 sued herein as DOES 1-20, inclusive, and therefore sue these defendants by such  
19 fictitious names. Plaintiff will amend this complaint to allege their true names and  
20 capacities when ascertained. Whenever and wherever reference is made in this  
21 complaint to any act by a defendant or defendants, such allegations and reference  
22 shall also be deemed to mean the acts and failures to act of each defendant acting  
23 individually, jointly, and severally.

24           37. Upon information and belief, Plaintiff avers that each of the  
25 aforementioned named defendants are alter-egos of and or agents of the other  
26 aforementioned defendants and each of their acts and omissions have been done  
27 and committed with the acquiescence and permission of the other defendants for  
28 their mutual benefit so that an act or omission of one of these defendants should be



1 attributed as an act or omission of the other aforementioned defendants as well.

2  
3 **IV. FACTS GIVING RISE TO THIS ACTION**

4  
5 38. In 1976, one of Iceland’s most beloved singers, the late Vilhjálmur  
6 Vilhjálmsón (1945-1978) asked Johann Helgason if he would be willing to  
7 compose music to accompany Vilhjálmur’s lyrics for Vilhjálmur’s next solo album.

8 39. As Mr. Helgason describes it, “when composing music to accompany  
9 lyrics (as opposed to writing the music first), the composer is committed to  
10 following the lyrics in terms of form and atmosphere.” When Johann started  
11 composing music to accompany the lyrics of “Söknuður” (also referred to herein as  
12 “Soknudur” the English spelling), he was especially taken by the beauty and  
13 sadness of the lyrics. Accordingly, Plaintiff created a melody that captures and  
14 reflects the sense of mourning and missing someone that is echoed in Vilhjálmur  
15 Vilhjálmsón’ lyrics.

16 40. The finished song, “Soknudur,” comprised of Vilhjálmur  
17 Vilhjálmsón’s lyrics and Johann Helgason’s music was first released in Iceland in  
18 1977 and became a tremendous hit. It still is. According to a July 8<sup>th</sup>, 2007 news  
19 article appearing in Iceland’s leading newspaper Fréttablaðið, Söknuður was voted  
20 Iceland’s best pop song, and upon information and belief, it still is.

21 41. “Söknuður” or “Soknudur” (the English spelling of “Söknuður”) is  
22 played at more funerals and memorial services in Iceland than any other song. The  
23 song has been recorded many times over and over again in Iceland. (Attached as  
24 Exhibit 1 is a list of 47 instances in which “Söknuður” was re-recorded and released  
25 in Iceland. One of these recordings was featured on Icelandair.

26  
27 **Rolf Løvland copies Söknuður**

MACCHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 42. Years later, defendant Rolf Løvland copied “Söknuður” and released a  
2 song called, “You Raise Me Up.” The song was included as a track on an album  
3 titled Secret Garden – Once in a Red Moon, and according to Discogs.com was  
4 released by Decca Records on CD format after previously being released in  
5 Scandinavia in 2001 on Mercury Records.

6 43. Defendant Rolf Løvland took credit for the music and Brendan  
7 Graham took credit for the lyrics. “You Raise Me Up” and “Soknudur” sound  
8 remarkably similar. Defendant Graham compounded defendant Løvland’s  
9 infringement of the music by copying the lyrical theme and replicating the lyrics to  
10 “Söknuður.”

11 44. In each version of Plaintiff’s song, the original “Soknudur” and the  
12 infringing “You Raise Me Up,” the narrator is depressed and bemoans his spiritual  
13 state. In both songs, the answer is the same: “Ef værir þú hjá mér...” (“If you were  
14 with me”) in one case, and in the other: “Until you come . . .” In short, proximity  
15 to the loved one is the only thing that can overcome the anguish. The same feeling  
16 of loss, (Icelandic: *söknuður*) predominates.

17 45. Although the two choruses do not exactly parallel each other, there is  
18 no denying that the thought reflected in the first verse of “Soknudur” reappears in  
19 the chorus of “You Raise Me Up”

20 46. “Nærvera þín fyllir mig löngun til að verða betri en ég er í raun og  
21 veru” (English: Your proximity/closeness fills me with a longing to be better than I  
22 really am: *Söknuður*). And in the case of the other song: “I am strong, when I am  
23 on your shoulders; You raise me up . . . to more than I can be” – *You Raise Me Up*.

24 47. *You Raise Me Up* went on to become a phenomenal worldwide  
25 success. At first, when the song was performed early in 2002, by Secret Garden  
26 and their invited lead singer, Brian Kennedy, the song only became a minor UK hit.  
27 But thereafter the song was recorded by more than a hundred other artists including  
28 Josh Groban, who popularized the song in 2003; his rendition became a hit in the

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 United States reaching number 1 on the adult contemporary list.

2 48. According to Defendant Løvland's Secret Garden website, "You Raise  
3 Me Up" was covered over 1000 times in 40 languages including hits by the  
4 Christian group Selah and the Irish band Westlife. Moreover, the song went on to  
5 have sold more sheet music than any other song. On 21 September 2006, "You  
6 Raise Me Up" became the first song to have sold over 76,000 copies of the score on  
7 the popular sheet music website musicnotes.com.

8 49. A special surprise performance by Groban, for Oprah Winfrey's 50th  
9 birthday, also gave "You Raise Me Up" massive international prominence.

10 50. On April 25, 2007, Groban also performed it at the first Idol Gives  
11 Back Concert, along with the African Children's Choir. This version was also  
12 released as a single and peaked at #76 on the Billboard Hot 100. Groban performed  
13 this version with the African Children's Choir again on The Ellen DeGeneres  
14 Show on August 10, 2007.

15 51. **Just like "Soknudur", "You Raise Me Up" has been performed at**  
16 **countless funerals.** According to The Telegraph (a popular and prestigious UK  
17 newspaper) (2009) it is the second most frequently played song at funerals in  
18 Britain, and according to avalonfuneralplans.com the Westlife cover makes the US  
19 top ten list at funerals.

20 52. "You Raise Me Up" has been performed at several major events in the  
21 US including:

- 22 - The commemorations of the terrorist attacks of September 11, 2001.
- 23 - The Super Bowl, 2004, in honor of the crew of *Columbia*.
- 24 - The 9/11 day of remembrance at Ground Zero in New York,

25 According to Wikipedia, the song was performed over 500,000 times on US  
26 Radio in 2004, alone.

27 The song continues to be performed daily. In fact, in June, 2017, Defendant  
28 Rolf Løvland performed the song live in concert in Atlanta, Georgia.

1 53. “You Raise Me Up” continues to be performed and sold by each of the  
2 defendants to this very day. As such each and every defendant continues to  
3 infringe upon Plaintiff’s copyright in Soknudur.

4 54. As previously mentioned, the lyrics to “You Raise Me Up“ are very  
5 similar to those of “Soknudur“ which is not surprising given that “You Raise Me  
6 Up” is an unauthorized copy and derivate work of “Soknudur”

7 **Indications of Access**

8 55. It is clear that there were several occasions on which Rolf Løvland  
9 would have had the opportunity to hear the song “Soknudur” before he wrote and  
10 released “You Raise Me Up.” The Eurovision Song Contest in Zagreb, Yugoslavia,  
11 in 1990 was one such occasion. Other occasions were Rolf Løvland’s later visits to  
12 Iceland.

13 **Access-- Eurovision Song Contest**

14 56. At the Eurovision Song Contest in Zagreb in 1990, the Icelandic and  
15 Norwegian delegations got well acquainted as they stayed at the same hotel. The  
16 Eurovision Song Contest is known as a venue for promoting songs, and cassettes  
17 with songs were exchanged between the two parties.

18 57. Escorting the Icelandic contestants in Zagreb, on behalf of their record  
19 company, Skífan (renamed Sena in 2005), was the late Pétur Kristjánsson. Mr.  
20 Kristjánsson had brought along a promotional audio cassette consisting of selected  
21 Icelandic songs, including Vilhjálmur Vilhjálmsson’s version of “Soknudur.” At  
22 the Eurovision Song Contest in Zagreb, Pétur Kristjánsson talked to representatives  
23 of publishers and record companies, as well as singers, arrangers etc., handing them  
24 a cassette.

25 58. Jon Kjell Seljeseth and Rolf Løvland (both Norwegians) first met at  
26 the Eurovision Song Contest in Zagreb in 1990, Jon Kjell Seljeseth being the  
27 arranger and conductor of the Icelandic entry and Rolf Løvland, the arranger of the  
28 Norwegian entry.

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1           59. The Icelandic contestants, Stjórnin, were a band led by Grétar  
2 Örvarsson and Sigríður Beinteinsdóttir. At the Eurovision Song Contest in Zagreb,  
3 Rolf Løvland and Sigríður Beinteinsdóttir got on well together, and during the  
4 years that followed, Sigríður Beinteinsdóttir worked for Rolf Løvland (sang lead  
5 vocals) on several occasions in both Norway and Iceland.

6           60. According to Jon Kjell Seljeseth and Grétar Örvarsson, the Icelanders  
7 and Norwegians stayed at the same hotel in Zagreb, and the two parties got very  
8 well acquainted. Pétur Kristjánsson met and chatted with Rolf Løvland on several  
9 occasions. Being familiar with Pétur Kristjánsson's promoting methods, they both  
10 can confirm it is most unlikely that he would have left Rolf Løvland out when  
11 handing around copies of the promotional cassette.

12           61. Furthermore, it is almost unthinkable that the Public Relations  
13 representative Pétur Kristjánsson would neglect Rolf Løvland, a previous winning  
14 composer at the Eurovision Song Contest with his song "La Det Swinge" (1985),  
15 which had earned him many contacts within the music business.

16           62. At gatherings like the Eurovision Song Contest, the distribution and  
17 exchange of music is a well-known occurrence. In Zagreb, a promotional cassette  
18 entitled *Typisk Løvland*, Typical Løvland) was handed to Jon Kjell Seljeseth by  
19 Rolf Løvland himself. Upon information and belief, Pétur Kristjánsson handed  
20 Rolf Løvland a copy of the Icelandic promotional cassette that contained  
21 "Soknudur."

22           **Access –Rolf Løvland's visits to Iceland**

23           63. An instrumental version of Söknuður performed by Gisli Helgason  
24 was featured on Icelandair Boarding Music playlist on board all Icelandair's aircraft  
25 from 1992 through 1996 (and in particular during both 1994 and 1995, the same  
26 years defendant Rolf Løvland was traveling to and from Iceland.) The boarding  
27 music played on board each of Icelandair's planes for fifteen to twenty minutes  
28 before take-off and fifteen to twenty minutes after landing.

1           64. In his first visit to Iceland in 1994, Rolf Løvland stayed at Sigríður  
2 Beinteinsdóttir's home. The occasion was to record a Christmas song with Sigríður  
3 Beinteinsdóttir ("Barn av samme vind" written by Rolf Løvland), which was  
4 arranged and produced by Jon Kjell Seljeseth and Rolf Løvland in Studio Sýrland  
5 in Reykjavík.

6           65. The lyricist Kristján Hreinsson recalls meeting Rolf Løvland at Grétar  
7 Örvarsson's home on this occasion. According to him, "Rolf Løvland had bought  
8 some Icelandic music CDs". At this time Vilhjálmur Vilhjálmsson's compilation  
9 CD, *Í tíma og rúmi* was one of the top selling albums, and very recognizable in the  
10 record stores. It, of course, included Vilhjálmur Vilhjálmsson's biggest hit,  
11 "Söknuður".

12           66. During Rolf Løvland's second visit to Iceland in 1995, Jon Kjell  
13 Seljeseth worked with him and the violinist Fionnuala Sherry (the instrumental duo  
14 Secret Garden) in Studio Sýrland, this time on Secret Garden's debut album, *Songs*  
15 *from a Secret Garden*. In the studio, Jon Kjell Seljeseth pointed out to Rolf Løvland  
16 that one of the songs, "Adagio" was identical to the jazz standard "Autumn  
17 Leaves" and urged him to drop the song.

18           67. Despite the suggestion from Jon Kjell Seljeseth and his awareness of  
19 the similarities, Rolf Løvland chose to keep "Adagio" on the album. Shortly after  
20 the release of the album in April 1996, the owners of copyright to "Autumn  
21 Leaves" accused Rolf Løvland of copyright infringement. (This particular incident  
22 reveals Rolf Løvland's attitude towards copyright. Among his colleagues in the  
23 business, he is notorious for his high rate of plagiarism).

24           68. It can be verified by Icelandic radio staff that "Soknudur," being an  
25 evergreen song performed by one of Iceland's most beloved singers, has been  
26 receiving a great deal of steady airplay ever since its release in 1977. At the  
27 recording studio, Sýrland, the Icelandic Radio Stations RUV and Bylgjan were  
28 often turned on and playing in the recreation area.

1           69. According to Jakob Magnússon, Chairman of STEF, Association of  
2 Icelandic Composers and Authors, “*Løvland may well have heard “Söknuður” on*  
3 *the radio while half asleep, and then woke up delighted at having received such*  
4 *inspiration. The ways of the mimic imp are difficult to establish.” Jakob*  
5 *Magnússon, Chairman of STEF, Association of Icelandic Composers and Authors.*  
6 (the Icelandic newspaper DV, 2007).

### 7           **Substantial Similarity**

8           70. The melodies of “Soknudur” and “You Raise Me Up” are so similar in  
9 sound and structure leading one to naturally conclude that “You Raise Me Up” is a  
10 copy of “Soknudur”. The defining composition elements are the same. Both are  
11 written in common time. Both melodies consist of eight phrases, each phrase being  
12 two bars in length and beginning in the second half of a bar. The basic metrical  
13 shape of the phrases is also very similar.

14           71. As reported in Icenews on April 6, 2018, according to STEF, the non-  
15 profit collective rights management society which administers Icelandic and  
16 international copyrights for music in Iceland, the two songs are 97% alike.

17           72. “Soknudur” is in the key of F major. The original version of “You  
18 Raise Me Up,” sung by Brian Kennedy, is also in F major. The later Josh Groban  
19 recording is sung in the lower key of E flat major, in a similar but different  
20 arrangement.

21           73. Ordinary observers would not only immediately recognize the  
22 substantial similarities between “Soknudur” and “You Raise Me Up”, but have  
23 publically so remarked as discussed herein. The songs’ substantial similarities  
24 reach the very essence of each work. For example, on or about May 16, 2007,  
25 when Josh Groban performed live in concert at the concert venue, Laugardalshöll,  
26 in Iceland, the Icelandic newspaper DV reported many who attended the concert  
27 sang the “Soknudur” lyrics while Groban performed “You Raise Me Up!”

28           74. As another example, there was an incident in which Karl Olgeirsson

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 was hired by the record company Sena to produce an album with the Icelandic  
2 tenor, Oskar Petursson, consisting of Icelandic and international pop standards,  
3 with Icelandic lyrics. While singing the song “You Raise Me Up”, the singer  
4 persistently found himself singing the original melody of “Soknudur,” instead of  
5 “You Raise Me Up”. The producer had to correct Oskar repeatedly throughout the  
6 entire vocal session.

7 75. The release of Oskar Petursson’s version of “You Raise Me Up”  
8 prompted the journalist Þorfinnur Ómarsson to write, “Horrible theft, cuts through  
9 the ears. But what is the Icelandic tenor doing participating in the theft? - has he  
10 never heard the original with [Vilhjálmur Vilhjálmsson]?!” This was one of many  
11 similar comments found on the internet.

12 76. As stated previously, Defendant Rolf Løvland, after hearing  
13 “Soknudur,” without authorization, and without giving songwriter credit to Johann  
14 Helgason, subsequently took the melody of “Soknudur” and created a derivative  
15 work of “Soknudur,” and used it as the musical foundation and essential backbone  
16 of the song later called “You Raise Me Up.”

17 77. Without Plaintiff’s permission, defendant Rolf Løvland created “You  
18 Raise Me Up” as an unauthorized derivative work of “Soknudur.”

19 78. Despite notice of his infringement, defendant Rolf Løvland has  
20 continued to intentionally infringe on the musical composition “Soknudur” by  
21 authorizing the other defendants to reproduce, display, distribute, exploit, license,  
22 and publicly perform the infringing “You Raise Me Up” derivative work.

23 79. Without Plaintiff’s permission this unauthorized derivative work has  
24 appeared on numerous recordings, including the big hit referenced herein  
25 performed by Josh Groban.

26 80. Without Plaintiff’s permission, defendants have manufactured, copied,  
27 produced, performed, published, distributed, and sold, and continue to manufacture,  
28 copy, produce, perform, publish, distribute and sell this unauthorized derivative



MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 version of “Soknudur”.

2 81. Without Plaintiff’s permission, defendants have made the unauthorized  
3 derivative version of “Soknudur” available for downloading and streaming on the  
4 Internet.

5 82. Without Plaintiff’s permission, defendants have performed and/or  
6 encouraged and licensed others to perform the unauthorized derivative version of  
7 “Soknudur” live and/or as a recording in front of live audiences at concerts, on  
8 television, on radio and/or at other establishments.

9 83. Upon information and belief, without Plaintiff’s permission, Plaintiff’s  
10 composition “Soknudur” and/or the unauthorized derivative work version of it  
11 continues to be performed in numerous places that remain unknown to Plaintiff.

12 84. Plaintiff and its predecessor in interest, Johann Helgason, never gave  
13 permission to defendants or anyone else to reproduce, distribute (by sales or in any  
14 other manner) or perform the unauthorized derivative work of “Soknudur,” known  
15 as “You Raise Me Up”.

16 85. Defendants never gave Johann Helgason writing or composing credit  
17 for the song “You Raise Me Up” which unlawfully contains material elements of  
18 Plaintiff’s composition “Soknudur.”

19 86. Defendants never paid Plaintiff or its predecessor in interest, Johann  
20 Helgason, any royalties or advances for the sales of copies of “You Raise Me Up”  
21 or for the public performance of “You Raise Me Up.”

22 87. A copyright registration application for the work “Soknudur” was filed  
23 on September 7, 2018 and remains pending. The date of creation for this particular  
24 work was 1977. The music was composed by Johann Helgason and the words  
25 written by Vilhjalmur Vilhjalmsson. Since the work is a foreign work, written by  
26 Icelandic citizens, it is not necessary to wait for the registration to issue prior to  
27 filing suit.

28 88. A further copyright registration application for the instrumental

1 version of “Soknudur” was filed on September 15, 2018 and remains pending. The  
2 music was composed by Johann Helgason. This particular version was created in  
3 1991, and it is this version that was on the playlist on board all Icelandair aircraft in  
4 both 1994 and 1995, that is during the years Rolf Løvland was travelling to and  
5 from Iceland. Since the work is a foreign work, written by an Icelandic citizen, it is  
6 not necessary to wait for the registration to issue prior to filing suit.

7  
8 **FIRST CLAIM FOR RELIEF**

9  
10 **(Copyright Infringement and Contributory Infringement)**

11 **(Against All Defendants – 17 U.S.C. Section 101 et seq)**

12 89. Plaintiff restates and incorporates by reference each and every  
13 allegation contained in paragraphs 1 through 88 inclusive of this Complaint as  
14 though fully set forth herein.

15 90. At all times, Plaintiff and/or its predecessor in interest, the composer  
16 Johann Helgason, has been the owner of all rights, title and interest to the copyright  
17 of the musical composition, “Soknudur” (other than the lyrics), created and first  
18 published in 1977, that is a subject of this lawsuit. Since “You Raise Me Up” is an  
19 unauthorized derivative work of the music to “Soknudur,” at all times, Plaintiff  
20 and/or its predecessor in interest, the writer Johann Helgason, has been the owner  
21 of the substantial portion of the rights, title and interest to the copyright of the  
22 composition, “You Raise Me Up” that is a subject of this lawsuit. Plaintiff’s  
23 copyrighted musical composition is original and copyrightable subject matter under  
24 the laws of the United States.

25 91. At all times, Plaintiff and/or its predecessor in interest, the composer  
26 Johann Helgason, has been the owner of all rights, title and interest to the copyright  
27 of the instrumental version of the musical composition, “Soknudur”, created and  
28 first published in 1991, that is a subject of this lawsuit. Since “You Raise Me Up”

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 is an unauthorized derivative work of the music to “Soknudur”, at all times,  
2 Plaintiff and/or its predecessor in interest, the writer Johann Helgason, has been the  
3 owner of the substantial portion of the rights, title and interest to the copyright of  
4 the composition, “You Raise Me Up” that is a subject of this lawsuit. Plaintiff’s  
5 copyrighted musical composition is original and copyrightable subject matter under  
6 the laws of the United States.

7 92. Plaintiff is informed and believes, and on that basis alleges, that the  
8 defendants, and each of them, have infringed, and unless enjoined, will continue to  
9 infringe Plaintiff’s copyright as set forth above, by selling, licensing,  
10 manufacturing, copying, publishing, distributing, performing, and otherwise  
11 permitting use of the copyright in violation of 17 U.S.C. Section 101, et seq.

12 93. Plaintiff is informed and believes, and on that basis alleges, that the  
13 defendants have knowingly induced, caused, materially contributed, and provided  
14 the means for others to infringe Plaintiff’s copyright as set forth above.

15 94. All of defendants acts of infringement were performed without the  
16 permission, license or consent of Plaintiff and/or its predecessor in interest, the  
17 composer Johann Helgason.

18 95. The wrongful acts of defendants have caused, and are causing, great  
19 injury to Plaintiff, which damage cannot be accurately computed, and unless this  
20 Court restrains the defendants from the further commission of these acts of  
21 infringement, Plaintiff will suffer irreparable injury, for all of which Plaintiff is  
22 without an adequate remedy at law.

23 96. By reason of defendants’ copyright infringement, Plaintiff has  
24 suffered substantial damages to its business in the form of diversion of trade, loss  
25 of profits, injury to goodwill and reputation, and a dilution of the value of its rights,  
26 in an amount to be established at trial.

27 97. Defendants have knowingly, willfully, and deliberately infringed  
28 Plaintiff’s copyright and upon information and belief, may be continuing to do so,

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

1 in conscious disregard and violation of Plaintiff’s exclusive rights.

2 98. By reason of Defendants and each of their acts of copyright  
3 infringement, Plaintiff is entitled to recover all profits received or otherwise  
4 achieved, directly or indirectly, by defendants in connection with their copyright  
5 infringement of “Soknudur.” Plaintiff is also entitled to recover from these  
6 infringing defendants its actual damages, including damage to its goodwill and  
7 reputation as a music publisher in an amount which, upon information and belief, is  
8 believed to be extremely substantial and which will be proven at trial. Plaintiff is  
9 also entitled to recover its full costs.

10 99. Defendants infringing conduct has been willful, wanton and malicious  
11 and done with an intent to deceive.

12 **SECOND CLAIM FOR RELIEF**

13 **(Unjust Enrichment)**

14 **(Against All Defendants)**

15 100. Plaintiff restates and incorporates by reference each and every  
16 allegation contained in paragraphs 1 through 99 inclusive as though fully set forth  
17 herein.

18 101. Defendants have received substantial benefits from using the music  
19 from both Plaintiff’s original composition “Soknudur” (released in 1977) and from  
20 Plaintiff’s instrumental version of “Soknudur” (released in 1991) as the melody,  
21 chorus, and verse, in the song “You Raise Me Up.”

22 102. Retention of the benefits received by Defendants, including, without  
23 limitation, compensation received for, or relating to, the song “You Raise Me Up,”  
24 compensation received for, or relating to, the Josh Groban album “Closer,” which  
25 due to its inclusion of the unauthorized derivative work “You Raise Me Up” has  
26 sold over six million copies, and retention from all other unauthorized derivative  
27 copies of “Soknudur” would be unjust.

28 103. Because of Defendants’ wrongful acts, each defendant holds the

1 wrongfully acquired moneys and rights, together with all profits and advantage  
2 derived from them, as constructive trustees for the benefit of Plaintiff.

3 104. As a direct and proximate result of such wrongful acts, Defendants,  
4 and each of them, have been unjustly enriched in an amount to be determined at  
5 trial.

6  
7 **WHEREFORE, Plaintiff prays for judgment against defendants, and**  
8 **each of them, for each claim of relief, as follows:**

9  
10 1. A declaration that defendants have willfully infringed “Soknudur” in  
11 violation of the Copyright Act;

12 2. A declaration that defendants are directly, vicariously and/or  
13 contributorily liable for copyright infringement as applicable;

14 3. That defendants, their officers, agents, servants, employees,  
15 representatives, and attorneys, and all persons in active concert or participation  
16 with them, be preliminarily and permanently enjoined from reproducing, copying,  
17 publishing, distributing, publicly displaying, televising and broadcasting Plaintiff’s  
18 copyrighted work of art, and from otherwise infringing upon Plaintiff’s copyright.

19 4. An award of damages pursuant to 17 U.S.C. § 504 (b), including  
20 actual damages, and the profits of defendants as will be proven at trial, or in the  
21 alternative, statutory damages pursuant to 17 U.S.C. §504(c), in the amount of  
22 \$150,000 for each act of infringement.

23 5. An accounting be made for all profits, income, receipts or other  
24 benefits derived by defendants from the copyright infringement;

25 6. Full costs pursuant to the Copyright Act;

26 7. Pre-judgment interest and post-judgment interest according to law, as  
27 applicable;

28 8. Punitive damages to the extent recoverable;

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

9. Attorney fees to the extent recoverable under law;

10. That Plaintiff be awarded such other and further relief as this Court deems just and appropriate.

Respectfully submitted,  
MACHAT & ASSOCIATES, P.C.

Dated: November 29, 2018

By: Michael Machat  
Michael Machat, Esq.  
Attorneys for Plaintiff

**DEMAND FOR JURY TRIAL**

Plaintiff hereby requests a trial by jury on all issues raised by the Complaint.

Respectfully submitted,  
MACHAT & ASSOCIATES, P.C.

Dated: November 29, 2018

By: Michael Machat  
Michael Machat, Esq.  
Attorneys for Plaintiff

MACHAT & ASSOCIATES, P.C.  
8730 W. Sunset Blvd., Ste. 250  
West Hollywood, CA 90069  
Telephone: (310) 860-1833

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

**EXHIBIT 1**  
**(Publications of “Soknudur” 1977 – 2016)**

**Publications of Söknuður 1977 - 2016** covers and re-releases

	<b>Artist</b>	<b>Album</b>	<b>Year</b>
1.	Vilhjálmur Vilhjálmsson	Hana nú	1977
2.	Vilhjálmur Vilhjálmsson	Hana nú (re-release)	1978
3.	Graham Smith	Þá og nú	1982
4.	Iceland Symphony Orchestra	Í takt við tímann	1986
5.	Vilhjálmur Vilhjálmsson	Hana nú (CD version)	1987
6.	Gísli Helgason	Heimur handa þér	1991
7.	Gully Hanna Ragnarsdóttir	*En hilsen til min hjemstavn	1991
8.	Garðar Cortes Pálmi Gunnarsson Kór Langholtskirkju	Það var lagið	1992
9.	Baldvin Kr. Baldvinsson	Baldvin Kr. Baldvinsson	1994
10.	Vilhjálmur Vilhjálmsson	Í tíma og rúmi	1994
11.	Martial Nardeau	Íslenskir tónar II.	1998
12.	Vilhjálmur Vilhjálmsson	Bítlabærinn Keflavík	1998
13.	Björgvin Halldórsson	Söknuður	1998
14.	Vilhjálmur Vilhjálmsson	Dans gleðinnar	1999
15.	Bjarni Arason	Trú von og kærleikur	2000
16.	Bjarni Arason	Ástin og lífið	2002
17.	Barna- og kammerkór Biskupstungna	Spjallað við bændur	2002
18.	Icelandic Guitar Moods	Icelandic Guitar Moods	2002
19.	Vilhjálmur Vilhjálmsson	Óskalögin 6	2002
20.	Jóhann Már Jóhansson	Frá mínum bæjardyrum séð	2004
21.	Vilhjálmur Vilhjálmsson	Brot af því besta	2005
22.	Magnús Halldórsson	Magnús Halldórsson	2005
23.	Jóhann Helgason	Söknuður	2006
24.	Edgar Smári Atlason	Íslandslög 7	2007
25.	Vilhjálmur Vilhjálmsson	Myndin af þér	2007
26.	Vilhjálmur Vilhjálmsson	Svona var það 1978-2008	2008
27.	Vilhjálmur Vilhjálmsson	100 bestu lög lýðveldisins	2008
28.	Vilhjálmur Vilhjálmsson	Hana-nú (Special edition)	2008
29.	Vilhjálmur Vilhjálmsson	Minningartónleikar	2008
30.	Karлакór Keflavíkur	Þú lýgur því	2008
31.	Vilhjálmur Vilhjálmsson	Kærleikur	2008
32.	Karлакórinn Fóstbræður	Fóstbræðralag	2008
33.	Edgar Smári Atlason	100 íslenskar ballöður	2009
34.	Vilhjálmur Vilhjálmsson	100 íslensk 70's lög	2009
35.	Jógvan Hansen og Friðrik Ómar	Vinalög	2009



36. Friðrik Karlsson	Rólegt og rómantískt	2010
37. Nicolina Hansen	Nicolina	2011
38. Magnús og Jóhann	Ástin og lífið 1971-2011	2011
39. Helgi Björnsson	Íslenskar dægurperlur	2011
40. KarlaKór Rangæinga Ómar Diðriks & Sveitasynir	Öðruvísi en áður	2011
41. Jóhann Helgason	Acoustic Iceland	2013
42. Friðrik Ómar	Kveðja	2013
43. Ólafur Þórarinsson	Lítið ljós	2014
44. Stefán Hilmarsson	Óskalög þjóðarinnar	2014
45. Vilhjálmur Vilhjálmsson	Fyrir landann	2014
46. Vilhjálmur Vilhjálmsson	Við eigum samleið	2015
47. Björgvin Halldórsson	40 Songs of Iceland	2016

\*released in Denmark

## General Information

<b>Court</b>	United States District Court for the Central District of California; United States District Court for the Central District of California
<b>Federal Nature of Suit</b>	Property Rights - Copyrights[820]
<b>Docket Number</b>	2:18-cv-10009