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12 ENTERTAINMENT, LLC erroneously sued as
13 RIMAS MUSIC, LLC and BENITO
14 ANTONIO MARTINEZ OCASIO P/K/A BAD
15 BUNNY

16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 CLEVELAND CONSTANTINE
19 BROWNE., an individual, et al.

20 Plaintiffs,

21 RODNEY SEBASTIAN CLARK
22 DONALDS, an individual, et al.,

23 Defendants.

CASE NO. 2:21-cv-02840-AB-AJR

Assigned To: Hon. Andre Birotte Jr.

**NOTICE OF MOTION AND
MOTION OF DEFENDANTS RIMAS
ENTERTAINMENT, LLC
erroneously sued as RIMAS MUSIC,
LLC AND BENITO ANTONIO
MARTINEZ OCASIO P/K/A BAD
BUNNY FOR (i)
RECONSIDERATION OF THE
COURT'S JULY 1, 2026, ORDER
(DKT. No 841) OR (ii) FOR
CERTIFICATION OF THE ISSUE
FOR IMMEDIATE APPEAL TO
THE NINTH CIRCUIT**

**PURSUANT TO LOCAL RULE 7-18
AND 28 U.S.C. § 1292(b)**

**Date: Aug. 14, 2026
Time: 10:00 a.m.
Courtroom: 7B, 7th Floor**

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27 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**
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**NOTICE OF MOTION AND MOTION OF DEFENDANTS RIMAS ENTERTAINMENT,
LLC erroneously sued as RIMAS MUSIC, LLC AND BENITO ANTONIO MARTINEZ
OCASIO P/K/A BAD BUNNY FOR RECONSIDERATION TO NINTH CIRCUIT**

1 **PLEASE TAKE NOTICE** that on August 14, 2026, at 10:00 a.m., or as
2 soon thereafter as the matter may be heard in Courtroom 7B located at 350 W. 1st
3 Street, Los Angeles, CA 90012, Defendants Rimas Entertainment LLC erroneously
4 sued as Rimas Music, LLC and Benito Antonio Martínez Ocasio p/k/a Bad Bunny
5 (collectively, the “Rimas Defendants”) hereby move for (i) reconsideration of this
6 Court’s July 1, 2026, Order Denying Defendants’ Motion for Summary Judgment
7 (Dkt. No. 841, the “Order”) or (ii) for certification of the issue for immediate appeal
8 to the Ninth Circuit. This Motion is made pursuant to Central District Local Rule 7-
9 18(c) and 28 U.S.C. §1292 (b).

10 While the Order reflects the Court’s determination that the parties’ dispute
11 over the protectability of the Plaintiffs’ supposed selection and arrangement (what
12 the Court calls the “Fish Market Elements”) is a question for the trier of fact, it does
13 not reflect consideration of a distinct, antecedent question the Court raised at the
14 outset of the hearing: whether a single work even exists that contains all of the so-
15 called “Fish Market Elements” claimed by Plaintiffs to constitute their selection and
16 arrangement. If answered in the negative, Plaintiffs’ claim for compositional
17 copyright infringement must fail.¹

18 This Motion is based upon this Notice of Motion and Motion, as well as the
19 following Memorandum of Points and Authorities and the accompanying
20 Declaration of Counsel (“Counsel Decl.”), together with the pleadings and papers
21 on file in this action and any further arguments or evidence that the Court may
22 receive before or at the hearing on this Motion.

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27 ¹ That would leave the remaining alleged sound recording infringement claims to be
28 litigated.

L.R. 7-3 Statement of Compliance

This Motion is made following the videoconference of counsel pursuant to Local Rule 7-3 which took place on July 10, 2026.

Dated: July 15, 2026

FREUNDLICH LAW

BY: 

Kenneth D. Freundlich

Jonah A. Grossbardt

Attorneys for Defendants

RIMAS ENTERTAINMENT LLC

erroneously sued as RIMAS MUSIC, LLC

and BENITO ANTONIO MARTINEZ

OCASIO P/K/A BAD BUNNY

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MEMORANDUM OF POINTS AND AUTHORITIES

PRELIMINARY STATEMENT

At the hearing's outset, the Court identified a fundamental defect in Plaintiffs' case: "I think there's no single work that contains all of the 'Fish Market' elements. So how do you reconcile that with the notion that we need to have a coherent pattern? It seems to be problematic." (Hr'g Tr. at 11.)

Having identified this foundational issue and having expressed its own view that none of Plaintiffs' claimed works embodied the claimed combination of "Fish Market Elements," the Court's Order does not address or even consider the issue. Instead, it appears to assume that one or more of Plaintiffs' alleged three works contains all of the "Fish Market Elements" and focuses solely on whether Plaintiffs' supposed selection and arrangement is original or commonplace (which the Order decided was a disputed issue of fact). Thus, the Court issued its ruling without addressing the logically antecedent and foundational question, the answer to which would determine whether the Court needed to reach the further question of whether Plaintiffs' supposed selection and arrangement is original and protectable or commonplace and unprotectable: **whether Plaintiffs own any single copyrighted work in which their claimed combination exists.**

The Court was entirely correct in its initial observation at the hearing: this question must be answered prior to any question is submitted to the trier of fact because the law is clear that Plaintiffs cannot claim exclusive rights in a selection and arrangement that does not exist in a single work (nor, indeed, would Defendants have any work against which to compare the accused works). And this fundamental question regarding whether Plaintiffs' claimed selection and arrangement even exists in any single work is resolved by the registrations, pleadings and Plaintiffs' own admissions (and is not and could not be disputed by the musicologists).

1 The defense extensively briefed, argued, and pressed that question, and the
2 undisputed record conclusively establishes that Plaintiffs are asserting exclusive
3 rights in a “Frankenstein” combination pieced together from three different works
4 (including one work, “Pounder,” that is solely a sound recording copyright), **none**
5 **of which contains all of the required seven “Fish Market Elements” elements**
6 that Plaintiffs claim comprise their allegedly protectable selection and arrangement.
7 (*See, e.g.*, Dkt. Nos. 706-1 and 739, DSUF 31, 130, 133, 136 (it is undisputed that:
8 (i) “Pounder” is not identical to “Fish Market” because there are no tambourines in
9 “Pounder,”; (ii) the tambourine element appears in “Fish Market” but not
10 “Pounder”; and (iii) the deposit copy of “Fish Market” filed with the United States
11 Copyright Office does not contain a timbales roll at the end of every other bar as
12 alleged in the SCAC.) Yet the Order did not decide whether a selection and
13 arrangement can be cobbled together from parts of multiple works, none of which
14 contain the alleged selection and arrangement, and thus the Court’s Order, which
15 did not address those antecedent and foundational issues, warrants reconsideration
16 based on the failure to consider material facts presented to the Court before the
17 Order was entered.

18 **BACKGROUND**

19 This phase of the case was limited to whether Plaintiffs’ Claimed Works,
20 “Fish Market,” “Dem Bow,” and “Pounder (Dub Mix II),” or portions thereof, are
21 original and protectable. (Order at 4.) As the Court recognized, to prevail, Plaintiffs
22 must own a valid copyright and prove copying of original constituent elements
23 from that work. (Order at 6.)

24 Plaintiffs allege infringement of a supposed “combination of many rhythms
25 on different instruments acting all in concert to form an entire protectable section of
26 music.” (SCAC at 219.) They describe that combination variously in Paragraph 180
27 and Paragraph 648 of their operative complaint (SCAC at 33, 34, 219.)

1 The Court denied both sides’ motions for summary judgment because it
2 found genuine disputes over “the identification, characterization, and protectability
3 of the Fish Market Elements²,” (Order at 40) and it described the expert conflict as
4 reaching “whether [the Fish Market Elements] form a coherent and protectable
5 selection and arrangement.” (Order at 40.) Despite being extensively briefed and
6 argued based on admitted and undisputed facts, and despite identifying the issue
7 during the hearing, the Court did not consider or determine whether the supposed
8 selection and arrangement exists in any of Plaintiffs’ Claimed Works. And, of
9 course, no expert can testify a non-existent work or “selection and arrangement”
10 into existence.

11 **ARGUMENT**

12 **I. RECONSIDERATION IS PROPER UNDER LOCAL RULE 7-18.**

13 A denial of summary judgment is interlocutory and stays open to
14 reconsideration at any time. *Hoffman v. Tonnemacher*, 593 F.3d 908 (9th Cir.
15 2010). Local Rule 7-18 allows reconsideration on a manifest showing of a failure to
16 consider material facts presented to the Court before the Order was entered. The
17 Rimas Defendants invoke that ground and ask that the Court reconsider the Order to
18 the extent that it did not consider the above-identified foundational issue (which, if
19 the Court concludes no single work contains the alleged selection and arrangement,
20 is outcome determinative of Plaintiffs’ compositional infringement claim).

21
22 ² The “Fish Market Elements” label is a convenience, not a finding that a single
23 protectable work exists. (Order at 5.) Whether the pleaded combination even exists
24 in a single work that Plaintiffs’ own, which is Plaintiffs’ burden to plead and
25 establish, is a foundational part of the protectability inquiry this phase presented,
26 not a separate question for a later phase. (Order at 7.) Courts decline to recognize a
27 claimed combination the plaintiff cannot show its authors actually created “rather
28 than a creature of its litigation strategy.” *Cisco Sys. Inc v. Arista Networks, Inc.*,
No. 14-CV-05344-BLF, 2016 WL 4440239 (N.D. Cal. Aug. 23, 2016)

II. THE EXISTENCE OF A SINGLE WORK CONTAINING ALL OF THE “FISH MARKET” ELEMENTS IS A QUESTION OF LAW FOR THE COURT

As noted above, early on during the hearing, the Court asked Plaintiff if there was a single work at issue (Hr’g Tr. at 11), clearly recognizing that a selection and arrangement claim requires a coherent pattern that exists in a single work, not something pasted together from multiple works but existing in none. But when it ruled, having asked the question, the Court never decided if there was such a work – and it is undisputed and indisputable that there is none.

The Court found genuine disputes over the “identification, characterization, and protectability of the Fish Market Elements” and whether they “form a coherent and protectable selection and arrangement.” (Order at 40). But having acknowledged that Plaintiffs’ claim required a “coherent and protectable selection and arrangement” the Court’s Order left untouched the key question it posed: what is the single copyrighted work Plaintiffs claim to own in which the alleged coherent selection and arrangement is fixed?

That question is answered by Plaintiffs’ registrations, pleading, and admissions, not by a contest between musicologists. And it is dispositive as a matter of law, because a selection-and-arrangement claim is protectable only where the combination “constitutes an original work of authorship,” *Skidmore ex rel. Randy Craig Wolfe Trust v. Led Zeppelin*, 952 F.3d 1051, 1074 (9th Cir. 2020) (en banc), whose original synthesis exists within a single work the plaintiff owns. A protectable work cannot exist where, as here, the claimed work is stitched together from three separate songs, one of which Plaintiffs (claim to) own only as a (belatedly registered) sound recording. *See Corbello v. Valli*, 974 F.3d 965, 974 (9th Cir. 2020).

1 The Ninth Circuit has been emphatic that not just any grouping of elements
2 will do: a combination is protectable “only if those elements are numerous enough
3 and their selection and arrangement original enough that their combination
4 constitutes an original work of authorship.” *Satava v. Lowry*, 323 F.3d 805, 811
5 (9th Cir. 2003). The word “combination” “cannot mean any ‘set’ of artistic building
6 blocks”; only a “new combination” or “novel arrangement” the authors in fact
7 created qualifies. *Skidmore*, 952 F.3d at 1076. A plaintiff therefore may not
8 reconstitute a work as a combination of unprotectable elements after the fact and
9 hold the result out as a protectable selection and arrangement. *Id.* Because the
10 question turns on the pleadings and registrations rather than the disputed expert
11 record, it should be decided as a matter of law.

12 **III. PLAINTIFF’S SUPPOSED SELECTION AND ARRANGEMENT**
13 **DOES NOT EXIST IN ANY SINGLE WORK; THEY HAVE**
14 **ASSEMBLED A ‘FRANKENSTEIN’ ACROSS THREE SEPARATE**
15 **SONGS.**

16 When the Court made its initial comment to Plaintiff’s counsel questioning
17 whether there is a single work that contains all of the “Fish Market” elements,
18 Plaintiffs’ answer was an evasion, contrary to what was plain and what Plaintiffs
19 had already admitted: counsel asserted that “Fish Market” contains all of the
20 elements and that “Pounder” merely recreates it. (Hr’g Tr. at 11.) But the
21 undisputed record shows that **none of Plaintiffs’ claimed works** contains all of the
22 alleged “Fish Market Elements” that Plaintiffs claim as their selection and
23 arrangement. (Dkt. Nos. 706-1 and 739, DSUF 31, 130, 133, 136.) In fact, the
24 only work that contains the claimed two-bar timbale loop is “Pounder”, which
25 Plaintiffs claim to own solely as a sound recording and which does not contain the
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1 claimed tambourine part. (DSUF 133; Order at 39.)³ Moreover, Plaintiffs have
2 expressly and unequivocally admitted that the timbale loop in “Pounder” does not
3 exist in “Fish Market”; rather, in Plaintiff Browne’s own words, it was “taken from
4 two different segments of Fish Market.” (Dkt No. 752-35 (Tookey Decl Ex 102) at
5 84:13-20). ***Simply put, the two-bar chart at Paragraph 188 of the SCAC that***
6 ***Plaintiffs hold out as a transcription of their supposedly original selection and***
7 ***arrangement nowhere exists in any of Plaintiffs’ Claimed Works.*** (Hr’g Tr. at 46;
8 (Dkt. Nos. 706-1 and 739, DSUF 31, 130, 133, 136.)).

9 The defense made the point plainly at the hearing and it was extensively
10 briefed. (*See* PC Defs.’ Reply ISO Summary Judgment (Dkt. No. 772) at 12–15;
11 Hr’g Tr. at 46–48, 50.) And, importantly, there is no dispute on this point—that no
12 single work contains Plaintiffs’ claimed selection and arrangement is irrefutable
13 and undisputed as evidenced by Plaintiffs’ own admissions. Plaintiffs’ claimed
14 selection and arrangement does not exist anywhere, so Plaintiffs are trying to
15 manufacture a work that does not exist from three separate works, none of which
16 includes all of the alleged “Fish Market Elements.” There is no support in the case
17 law for a selection and arrangement claim being fabricated from bits and pieces
18 pulled from separate works. *Skidmore*, 952 F.3d at 1074–76; *Corbello*, 974 F.3d at
19 974; *Satava*, 323 F.3d at 811.

20 Furthermore, nor can Plaintiffs supply what they claim as a crucial element
21 of their supposed claimed “selection and arrangement” that nowhere exists in the
22 compositions they claim to own by borrowing it from the sound recording of
23 “Pounder,” in which they claim only a sound recording copyright. A sound-

24
25 ³ The timbale and tambourine are the only two of the seven “Fish Market Elements”
26 that Plaintiffs have not conceded are independently or collectively commonplace.
27 Regardless, Plaintiffs themselves admit that a “single element, the kick on its own,
28 the hi-hat on its own is not compositionally protectable. We have not claimed that.
We have claimed their originality and protectability in their entire selection and
arrangement which is the seven [Fish Market Elements].” (Hr’g Tr. at 57.)

1 recording copyright does not protect against infringement of anything but
2 duplication of the exact sound recording. It does not protect the underlying musical
3 composition, which is a separate work with its own copyright. *See Newton v.*
4 *Diamond*, 388 F.3d 1189, 1193–94 (9th Cir. 2004); *VMG Salsoul, LLC v. Ciccone*,
5 824 F.3d 871, 877–78 (9th Cir. 2016); 17 U.S.C. § 114(b). Again, the seven-note
6 chart Plaintiffs first held out as their protected work, at Paragraph 188 of the
7 complaint, does not represent any two-bar portion of either of Plaintiffs’ claimed
8 compositional copyrights (“Fish Market” and “Dem Bow”). (Hr’g Tr. at 46).
9 Counsel showed at the hearing that, as set forth above, Plaintiffs have admitted that
10 they simply pasted together two disconnected and unrelated measures that are 20
11 bars apart. (Hr’g Tr. at 47; *see also* Hr’g Tr. At 28-31.) . These two disconnected
12 measures do not form part of any coherent pattern and most assuredly not a two-bar
13 looped pattern that exists only in the Pounder sound recording.

14 Plaintiffs’ counsel’s only retort to this problem was to say that “we gave
15 them the copyright registration”. (Hr’g Tr. At 50). But there is not one registration,
16 there are three, for three separate and distinct works, none of which contain the
17 selection and arrangement Plaintiffs claim is original and protectable and belongs
18 only to them and one of which, per the Court’s decision on the subject, cannot be a
19 basis for a compositional copyright claim.

20 Importantly, the Court denied summary judgment only because it determined
21 that the originality and protectability of the supposed selection and arrangement is
22 genuinely disputed and turns on competing expert testimony. (Order at 40). But the
23 Court’s decision addresses a question that is only relevant if the alleged selection
24 and arrangement actually exists in a single work claimed by Plaintiffs. And as set
25 forth above, it is undisputed that the alleged selection and arrangement **does not**
26 **exist in any of Plaintiffs’ claimed works.**

1 The consequence of this omission is concrete, and it is not merely a case
2 management problem: Plaintiffs are asserting exclusive rights in a supposed
3 selection and arrangement that does not exist. If the case proceeds as is, not only
4 would Plaintiffs impermissibly be asserting exclusive rights in a nonexistent work,
5 but none of the defendants would know what work is being compared to the
6 accused songs. (Hr’g Tr. at 47). Accordingly, the Court’s failure to consider these
7 material facts warrants reconsideration of the Order, and judgment for the defense
8 dismissing Plaintiffs’ compositional copyright claim because the selection and
9 arrangement claimed by Plaintiffs simply does not exist in any work. (Hr’g Tr. at
10 48).

11 **IV. IF THE COURT ADHERES TO ITS ORDER OR DECLINES TO**
12 **RECONSIDER ITS ORDER, IT SHOULD CERTIFY THE ISSUE FOR**
13 **IMMEDIATE APPEAL TO THE NINTH CIRCUIT UNDER 28 U.S.C.**
14 **§ 1292(b)**

15 If the Court should either deny this motion and adhere to its Order -
16 effectively determining that a selection-and-arrangement claim can be drawn from
17 more than one separate work where the alleged selection and arrangement does not
18 exist in any one single work - the Rimas Defendants respectfully request that the
19 Court grant certification of that issue for immediate appeal to the Ninth Circuit
20 under 28 U.S.C. § 1292(b).

21 Certification would be warranted because the Order involves a controlling
22 question of law, there is substantial ground for difference of opinion, and an
23 immediate resolution may materially advance the ultimate termination of the
24 litigation. *ICTSI Oregon, Inc. v. Int’l Longshore & Warehouse Union*, 22 F.4th
25 1125 (9th Cir. 2022). The Ninth Circuit has certified precisely this kind of threshold
26 copyright question: in *Silvers*, the district court denied the defendant’s dispositive
27 motion and certified the controlling legal question for interlocutory appeal, and the
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1 Court of Appeals accepted and decided it. *Silvers v. Sony Pictures Ent., Inc.*, 402
2 F.3d 881 (9th Cir. 2005)) Each requirement is met here.

3 First, the question of law is controlling - whether a copyright plaintiff may
4 establish a protectable selection and arrangement by combining elements drawn
5 across more than one separately registered work where the claimed combination
6 exists in no single work the plaintiff owns is a pure question of law that “must be
7 one of law and not fact, and . . . must ‘materially affect the outcome of litigation in
8 the district court.” *Id.* It turns on the registrations and pleadings, not on any factual
9 dispute, and it is dispositive: an answer for the Rimas Defendants ends the case, and
10 an answer against them redefines what must be tried. The threshold copyright
11 question certified in *Silvers* was no less a question of law than this one. (*Silvers v.*
12 *Sony Pictures Ent., Inc.*, 402 F.3d 881 (9th Cir. 2005))

13 Second, there is clearly a substantial ground for difference of opinion here
14 where “where reasonable jurists might disagree on an issue’s resolution, not merely
15 where they have already disagreed,” and a novel issue “may be certified for
16 interlocutory appeal without first awaiting development of contradictory
17 precedent.” *Reese v. BP Expl. (Alaska) Inc.*, 643 F.3d 681 (9th Cir. 2011). It is
18 likewise satisfied where “novel and difficult questions of first impression are
19 presented.” *Couch v. Telescope Inc.*, 611 F.3d 629 (9th Cir. 2010).

20 Whether selection-and-arrangement protection may rest on elements
21 assembled across separate works is such a question, and the Court’s own
22 observation that “there’s no single work that contains all of the ‘Fish Market’
23 elements” and that this “seems to be problematic” (Hr’g Tr. at 11) confirms the
24 point is genuinely unsettled not mere disagreement with settled law.

25 Finally, an immediate appeal need not be fully dispositive; it is enough that
26 reversal “may materially advance” the case by removing claims or parties. *Reese v.*
27 *BP Expl. (Alaska) Inc.*, 643 F.3d 681 (9th Cir. 2011). Here the question clears that
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1 bar comfortably: because it is antecedent and dispositive, a reversal would end the
2 litigation as to Plaintiffs' composition claims, and even an affirmance ostensibly
3 would fix the identity of the work to be tried before the parties incur the cost of
4 expert proceedings and trial on a claim whose subject has never been defined.
5 Resolving it now "may appreciably shorten the time, effort, or expense of
6 conducting" the proceedings, *ICTSI Oregon, Inc. v. Int'l Longshore & Warehouse*
7 *Union*, 22 F.4th 1125 (9th Cir. 2022), especially where what lies ahead is a
8 substantial similarity analysis of over one thousand works.

9 Accordingly, in the event the Court adheres to its Order or declines to
10 reconsider the ruling, the Court should amend its July 1, 2026, Order to include the
11 statement required by 28 U.S.C. § 1292(b) so that the Rimas Defendants may
12 petition the Ninth Circuit for permission to appeal.

13 CONCLUSION

14 The Rimas Defendants ask the Court to (i) reconsider its July 1, 2026, Order
15 (Dkt. No. 841) and to determine based on the undisputed record that Plaintiffs do
16 not own a single copyrighted work containing the supposed selection and
17 arrangement they assert has been infringed. (Order at 1), or (ii) certify the issue for
18 interlocutory appeal to the Ninth Circuit.

19 Dated: July 15, 2026

20 FREUNDLICH LAW

21 BY: 

22 Kenneth D. Freundlich

23 Jonah A. Grossbardt

24 Hugh H. Rosenberg

25 Attorneys for Defendants

26 RIMAS ENTERTAINMENT LLC

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