

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

AUG 28 2007

JAMES W. MCCORMACK, CLERK
By:  DEPT. CLERK

ARISTA RECORDS LLC, a Delaware limited liability company; ATLANTIC RECORDING CORPORATION, a Delaware corporation; BMG MUSIC, a New York general partnership; CAPITOL RECORDS, INC., a Delaware corporation; ELEKTRA ENTERTAINMENT GROUP INC., a Delaware corporation; EMI CHRISTIAN MUSIC GROUP INC., a California corporation; INTERSCOPE RECORDS, a California general partnership; LAVA RECORDS LLC, a Delaware limited liability company; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; UMG RECORDINGS, INC., a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; WARNER BROS. RECORDS INC., a Delaware corporation; and ZOMBA RECORDING LLC, a Delaware limited liability company,

Plaintiffs,

v.

DOES 1 - 10,

Defendants.

4.07-CV-00000782

SWW

CASE NUMBER _____

This case assigned to District Judge  and to Magistrate Judge 

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiffs, by their attorneys, for their complaint against Defendants, allege:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 *et seq.*).

2. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).

3. Venue in this District is proper. See 28 U.S.C. §§ 1391(b), 1400(a). Although the true identity of each Defendant is unknown to Plaintiffs at this time, on information and belief, a substantial part of the acts of infringement complained of herein occurred in this District. On information and belief, personal jurisdiction in this District is proper because each Defendant, without consent or permission of the copyright owner, disseminated over the Internet copyrighted works owned and/or controlled by Plaintiffs. On information and belief, such illegal dissemination occurred in every jurisdiction in the United States, including this one. In addition, each Defendant contracted with an Internet Service Provider (“ISP”) found in this District to provide each Defendant with the access to the Internet which facilitated Defendants’ infringing activities.

PARTIES

4. Plaintiff Arista Records LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

5. Plaintiff Atlantic Recording Corporation is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

6. Plaintiff BMG Music is a general partnership duly organized and existing under the laws of the State of New York, with its principal place of business in the State of New York.

7. Plaintiff Capitol Records, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

8. Plaintiff Elektra Entertainment Group Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

9. EMI Christian Music Group Inc is a corporation duly organized and existing under the laws of the State of California, with its principal place of business in the State of Tennessee.

10. Plaintiff Interscope Records is a California general partnership, with its principal place of business in the State of California.

11. Plaintiff Lava Records LLC, a limited liability company, is a joint venture between Atlantic Recording Corporation and Diamond Music LLC, and is duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

12. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general partnership, with its principal place of business in the State of New York.

13. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.

14. Plaintiff Virgin Records America, Inc. is a corporation duly organized and existing under the laws of the State of California, with its principal place of business in the State of New York.

15. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of California.

16. Plaintiff ZOMBA RECORDING LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

17. The true names and capacities of Defendants are unknown to Plaintiffs at this time. Each Defendant is known to Plaintiffs only by the Internet Protocol (“IP”) address assigned to that Defendant by his or her ISP on the date and time of that Defendant’s infringing activity. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of each Defendant’s true name.

18. Although Plaintiffs do not know the true names of Defendants, each Defendant is alleged to have committed violations of the same law (e.g., copyright law), by committing the same acts (e.g., the downloading and distribution of copyrighted sound recordings owned by Plaintiffs), and by using the same means (e.g., a file-sharing network) that each Defendant accessed via the same ISP. Accordingly, Plaintiffs’ right to relief arises out of the same series of transactions or occurrences, and there are questions of law or fact common to all Defendants such that joinder is warranted and appropriate here.

COUNT I
INFRINGEMENT OF COPYRIGHTS

19. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

20. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including, but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the “Copyrighted Recordings”). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights to each Plaintiff as specified on each page of Exhibit A.

21. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

22. Plaintiffs are informed and believe that each Defendant, without the permission or consent of Plaintiffs, has continuously used, and continues to use, an online media distribution system to download and/or distribute to the public certain of the Copyrighted Recordings. Exhibit A identifies on a Defendant-by-Defendant basis (one Defendant per page) the IP address with the date and time of capture and a list of copyrighted recordings that each Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through his or her continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted Recordings, each Defendant has violated Plaintiffs’ exclusive rights of reproduction and distribution. Each Defendant’s actions constitute infringement of Plaintiffs’ copyrights and/or exclusive rights under copyright. (In addition to the sound recordings listed for each Defendant on Exhibit A, Plaintiffs are informed and believe that each Defendant

has, without the permission or consent of Plaintiffs, continuously downloaded and/or distributed to the public additional sound recordings owned by or exclusively licensed to Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are ongoing. Exhibit A includes the currently-known total number of audio files being distributed by each Defendant.)

23. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on each respective album cover of each of the sound recordings identified in Exhibit A. These notices of copyright appeared on published copies of each of the sound recordings identified in Exhibit A. These published copies were widely available, and each of the published copies of the sound recordings identified in Exhibit A was accessible by each Defendant.

24. Plaintiffs are informed and believe that the foregoing acts of infringement have been willful, intentional, and in disregard of and with indifference to the rights of Plaintiffs.

25. As a result of each Defendant's infringement of Plaintiffs' copyrights and exclusive rights under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) against each Defendant for each infringement by that Defendant of each copyrighted recording. Plaintiffs further are entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

26. The conduct of each Defendant is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and 503, Plaintiffs are entitled to injunctive relief

prohibiting each Defendant from further infringing Plaintiffs' copyrights, and ordering that each Defendant destroy all copies of copyrighted sound recordings made in violation of Plaintiffs' exclusive rights.

WHEREFORE, Plaintiffs pray for judgment against each Defendant as follows:

1. For an injunction providing:

“Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiffs' rights under federal or state law in the Copyrighted Recordings and any sound recording, whether now in existence or later created, that is owned or controlled by Plaintiffs (or any parent, subsidiary, or affiliate record label of Plaintiffs) (“Plaintiffs' Recordings”), including without limitation by using the Internet or any online media distribution system to reproduce (*i.e.*, download) any of Plaintiffs' Recordings or to distribute (*i.e.*, upload) any of Plaintiffs' Recordings, except pursuant to a lawful license or with the express authority of Plaintiffs. Defendant also shall destroy all copies of Plaintiffs' Recordings that Defendant has downloaded onto any computer hard drive or server without Plaintiffs' authorization and shall destroy all copies of those downloaded recordings transferred onto any physical medium or device in Defendant's possession, custody, or control.”

2. For statutory damages for each infringement of each Copyrighted

Recording pursuant to 17 U.S.C. § 504.

3. For Plaintiffs' costs in this action.

4. For Plaintiffs' reasonable attorneys' fees incurred herein.

5. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: August 28, 2007

By: _____


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EXHIBIT A

EXHIBIT A DOE LIST

Doe # 1 IP Address: 139.55.39.90 2007-07-23 23:08:11 EDT
Doe # 2 IP Address: 207.155.80.235 2007-07-23 23:04:50 EDT
Doe # 3 IP Address: 67.141.167.185 2007-07-23 19:25:34 EDT
Doe # 4 IP Address: 69.40.44.230 2007-07-30 01:46:59 EDT
Doe # 5 IP Address: 71.28.160.201 2007-07-25 00:05:16 EDT
Doe # 6 IP Address: 71.28.175.149 2007-07-16 22:21:10 EDT
Doe # 7 IP Address: 71.30.233.231 2007-08-02 06:37:52 EDT
Doe # 8 IP Address: 71.31.37.140 2007-08-01 00:47:01 EDT
Doe # 9 IP Address: 71.31.58.45 2007-08-02 02:10:00 EDT
Doe # 10 IP Address: 75.91.36.190 2007-08-06 05:06:54 EDT

EXHIBIT A

IP Address: 139.55.39.90 2007-07-23 23:08:11 EDT

CASE ID# 136795940

P2P Network: Gnutella

Total Audio Files: 829

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Elektra Entertainment Group Inc.	The Cars	Dangerous Type	Candy - O	10-621
UMG Recordings, Inc.	Semisonic	Closing Time	Feeling Strangely Fine	251-980
BMG Music	Clint Black	Walkin' Away	Killin' Time	105-436
UMG Recordings, Inc.	10 Years	Fault Line	The Autumn Effect	376-935
UMG Recordings, Inc.	Weezer	Island in the Sun	Weezer (Green Album)	297-030
Warner Bros. Records Inc.	Morrissey	Billy Budd	Vauxhall And I	190-666
Capitol Records, Inc.	Sinead O'Connor	The Emperor's New Clothes	I Do not want What I haven't Got	114-910
SONY BMG MUSIC ENTERTAINMENT	The Clash	Clash City Rockers	The Clash	11-222
Elektra Entertainment Group Inc.	The Cure	Push	The Head On The Door	65-872

EXHIBIT A

IP Address: 207.155.80.235 2007-07-23 23:04:50 EDT

CASE ID# 136793421

P2P Network: Gnutella

Total Audio Files: 107

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
SONY BMG MUSIC ENTERTAINMENT	System of a Down	Old School Hollywood	Mezmerize	372-792
UMG Recordings, Inc.	50 Cent	Hate It Or Love It	The Massacre	366-051
EMI Christian Music Group Inc.	Carman	Awesome God	Passion For Praise, Volume 1	264-160
Warner Bros. Records Inc.	Orgy	Dissention	Candyass	246-523
Interscope Records	Limp Bizkit	Behind Blue Eyes	Results May Vary	346-261

EXHIBIT A

IP Address: 67.141.167.185 2007-07-23 19:25:34 EDT

CASE ID# 136773746

P2P Network: Gnutella

Total Audio Files: 81

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
BMG Music	Lit	My Own Worst Enemy	A Place in the Sun	264-272
SONY BMG MUSIC ENTERTAINMENT	Howie Day	She Says	Stop All The World Now	377-947
BMG Music	Avril Lavigne	Together	Under My Skin	332-312
Interscope Records	Enrique Iglesias	Hero	Escape	303-794
SONY BMG MUSIC ENTERTAINMENT	Train	Train	Train	298-334

EXHIBIT A

IP Address: 69.40.44.230 2007-07-30 01:46:59 EDT

CASE ID# 137575648

P2P Network: Gnutella

Total Audio Files: 1224

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
SONY BMG MUSIC ENTERTAINMENT	Good Charlotte	Hold On	The Young and the Hopeless	309-099
Atlantic Recording Corporation	Pretty Ricky	Your Body	Bluestars	376-229
BMG Music	Kenny Chesney	Young	No Shoes, No Shirt, No Problem	308-547
UMG Recordings, Inc.	Hinder	Better Than Me	Extreme Behavior	379-192
SONY BMG MUSIC ENTERTAINMENT	B2K	Bump, Bump, Bump	Pandemonium	322-761
Virgin Records America, Inc.	Spice Girls	Spice Up Your Life	Spiceworld	261-523
Capitol Records, Inc.	Richard Marx	Right Here Waiting	Repeat Offender	103-712
SONY BMG MUSIC ENTERTAINMENT	Mariah Carey	Hero	Music Box	178-631
Warner Bros. Records Inc.	Disturbed	Land of Confusion	Ten Thousand Fists	380-289
Capitol Records, Inc.	Everclear	Brown Eyed Girl	Songs from an American Movie - Vol. 1, Learning How to Smile	284-811

EXHIBIT A

IP Address: 71.28.160.201 2007-07-25 00:05:16 EDT

CASE ID# 136934130

P2P Network: Gnutella

Total Audio Files: 377

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Capitol Records, Inc.	Thomas Dolby	She Blinded Me With Science	The Golden Age Of Wireless	46-842
Capitol Records, Inc.	Pink Floyd	Hey You	The Wall	14-787
SONY BMG MUSIC ENTERTAINMENT	Incubus	Stellar	Make Yourself	278-818
Interscope Records	Puddle of Mudd	Blurry	Come Clean	301-465
UMG Recordings, Inc.	Nirvana	Come As You Are	Nevermind	135-335
SONY BMG MUSIC ENTERTAINMENT	Keb' Mo'	Am I Wrong	Keb' Mo'	195-944
UMG Recordings, Inc.	Shania Twain	Forever and for Always	Up!	326-255
BMG Music	Alan Jackson	A Woman's Love	High Mileage	295-185
UMG Recordings, Inc.	Steely Dan	Deacon Blues	Gold (Expanded Edition)	37-058
SONY BMG MUSIC ENTERTAINMENT	Keb' Mo'	Love In Vain	Slow Down	237-597

EXHIBIT A

IP Address: 71.28.175.149 2007-07-16 22:21:10 EDT

CASE ID# 136381083

P2P Network: Gnutella

Total Audio Files: 167

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Zomba Recording LLC	Ciara	Oh	Goodies	355-316
BMG Music	Kenny Chesney	You Had Me From Hello	Everywhere We Go	263-302
BMG Music	Martina McBride	Valentine	Evolution	240-332
UMG Recordings, Inc.	Sheryl Crow	The First Cut is the Deepest	The Very Best of Sheryl Crow	350-992
UMG Recordings, Inc.	Berlin	Take My Breath Away	Count Three and Pray	72-521
Warner Bros. Records Inc.	Faith Hill	Fireflies	Fireflies	374-377
UMG Recordings, Inc.	Vanessa Williams	Save the Best for Last	Comfort Zone	141-365
Warner Bros. Records Inc.	Blake Shelton	Some Beach	Blake Shelton's Barn & Grill	359-309
SONY BMG MUSIC ENTERTAINMENT	Celine Dion	The Power of Love	The Colour of My Love	191-558
UMG Recordings, Inc.	Sheryl Crow	If It Makes You Happy	Sheryl Crow	245-347

EXHIBIT A

IP Address: 71.30.233.231 2007-08-02 06:37:52 EDT

CASE ID# 137956467

P2P Network: Gnutella

Total Audio Files: 594

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Atlantic Recording Corporation	Pretty Ricky	Chevy	Bluestars	376-229
Zomba Recording LLC	J-Kwon	Tipsy	Hood Hop	354-780
Capitol Records, Inc.	Yellowcard	Lights And Sounds	Lights and Sounds	SRu 587-735
Lava Records LLC	Simple Plan	I'm Just a Kid	No Pads, No Helmets...Just Balls	351-060
Capitol Records, Inc.	OK Go	You're So Damn Hot	Ok Go	322-969
Warner Bros. Records Inc.	Avenged Sevenfold	M.I.A.	City Of Evil	374-368
Interscope Records	Enrique Iglesias	Hero	Escape	303-794
Arista Records LLC	Kelis	Milkshake	Tasty	353-969
SONY BMG MUSIC ENTERTAINMENT	Modest Mouse	Float On	Good News For People Who Love Bad News	353-218

EXHIBIT A

IP Address: 71.31.37.140 2007-08-01 00:47:01 EDT

CASE ID# 137796111

P2P Network: Gnutella

Total Audio Files: 854

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Akon	Gangsta	Trouble	361-456
UMG Recordings, Inc.	Michael McDonald	Ain't No Mountain High Enough	Motown	334-553
SONY BMG MUSIC ENTERTAINMENT	Celine Dion	I'm Alive	A New Day Has Come	311-366
Atlantic Recording Corporation	Trick Daddy	I'm A Thug	Thugs Are Us	303-748
Zomba Recording LLC	311	Amber	From Chaos	301-893
SONY BMG MUSIC ENTERTAINMENT	Michael Bolton	Missing You Now	Time, Love & Tenderness	132-494
UMG Recordings, Inc.	Elton John	Candle in the Wind	Goodbye Yellow Brick Road	N10950
UMG Recordings, Inc.	50 Cent	Patiently Waiting	Get Rich Or Die Tryin'	337-801
BMG Music	Kenny Chesney	Back Where I Come From	Me And You	188-603

EXHIBIT A

IP Address: 71.31.58.45 2007-08-02 02:10:00 EDT

CASE ID# 137932552

P2P Network: Gnutella

Total Audio Files: 1005

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
UMG Recordings, Inc.	Godsmack	Faceless	Faceless	329-097
SONY BMG MUSIC ENTERTAINMENT	Mandy Moore	So Real	I Wanna Be With You	305-059
Arista Records LLC	Brad Paisley	I'm Gonna Miss Her	Part II	298-930
BMG Music	Kenny Chesney	The Good Stuff	No Shoes, No Shirt, No Problem	308-547
UMG Recordings, Inc.	Blink-182	The Rock Show	Take Off Your Pants And Jacket	301-317
Warner Bros. Records Inc.	Faith Hill	Cry	Cry	321-377
Interscope Records	Puddle of Mudd	Blurry	Come Clean	301-465
UMG Recordings, Inc.	Josh Turner	Long Black Train	Long Black Train	344-336
Zomba Recording LLC	Three Days Grace	Let You Down	Three Days Grace	338-429

EXHIBIT A

IP Address: 75.91.36.190 2007-08-06 05:06:54 EDT

CASE ID# 138343918

P2P Network: Gnutella

Total Audio Files: 238

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
Warner Bros. Records Inc.	Faith Hill	Piece Of My Heart	Take Me As I Am	182-853
UMG Recordings, Inc.	Aqua	Barbie Girl	Aquarium	243-903
Atlantic Recording Corporation	Sugar Ray	Every Morning	14:59	262-149
UMG Recordings, Inc.	Weezer	Beverly Hills	Make Believe	376-565
Capitol Records, Inc.	Deana Carter	We Danced Anyway	Did I Shave My Legs For This?	229-757
SONY BMG MUSIC ENTERTAINMENT	Billy Joel	Captain Jack	Piano Man	N12214
BMG Music	Kenny Chesney	She's Got It All	I Will Stand	238-371
Capitol Records, Inc.	Keith Urban	Somebody Like You	Golden Road	323-344
Warner Bros. Records Inc.	Green Day	Wake Me Up When September Ends	American Idiot	362-125
UMG Recordings, Inc.	Sugarland	Something More	Twice the Speed of Life	364-758