

ORIGINAL

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

AUG 25 2004

CIVIL ACTION FILE

No. \_\_\_\_\_

LUTHER A. THOMAS, Clerk  
By *Chlusker*  
Deputy Clerk

CAPITOL RECORDS, INC., a  
Delaware corporation; BMG MUSIC, a  
New York general partnership; SONY  
MUSIC ENTERTAINMENT INC., a  
Delaware corporation; ARISTA  
RECORDS, INC., a Delaware  
corporation; WARNER BROS.  
RECORDS INC., a Delaware  
corporation; UMG RECORDINGS,  
INC., a Delaware corporation; and  
VIRGIN RECORDS AMERICA, INC.,  
a California corporation,

Plaintiffs,

v.

DOES 1 - 2,

Defendants.

1:04-CV-2506

JTC

COMPLAINT FOR COPYRIGHT INFRINGEMENT

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.).

FORMS RECEIVED  
Consent To US Mag.  
Pretrial Instructions  
Title VII NIC

*CK*

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 under 28 U.S.C. § 1391(b) and/or 28 U.S.C. § 1400(a). Although the true identity of each Defendant is unknown to Plaintiffs at this time, on information and belief, each Defendant may be found in this District and/or 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 the 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 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.

5. 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.

6. Plaintiff Sony Music Entertainment 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.

7. Plaintiff Arista 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 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.

9. 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.

10. 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.

11. The true names and capacities of the 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 at which the infringing activity of each Defendant was observed. See Exhibit A. Plaintiffs believe that information obtained in discovery will lead to the identification of each Defendant's true name.

**COUNT I**  
**INFRINGEMENT OF COPYRIGHTS**

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

13. 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.

14. 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.

15. Plaintiffs are informed and believe that each Defendant, without the permission or consent of Plaintiffs, has used, and continues to use, an online media distribution system to download, distribute to the public, and/or make available for distribution to others, certain of the Copyrighted Recordings. Exhibit A identifies on a Defendant-by-Defendant basis (one Defendant per page) a list of copyrighted recordings that each Defendant has, without the permission or consent of Plaintiffs, downloaded, distributed to the public, and/or made available for distribution to others. In doing so, 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, downloaded, distributed to the public, and/or made available for distribution to others additional sound recordings owned by or exclusively licensed to the Plaintiffs or Plaintiffs' affiliate record labels.)

16. 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.

17. 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 the Defendant of each copyrighted recording. Plaintiffs further are entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

18. 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, to distribute (*i.e.*, upload) any of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings available for distribution to the public, 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."

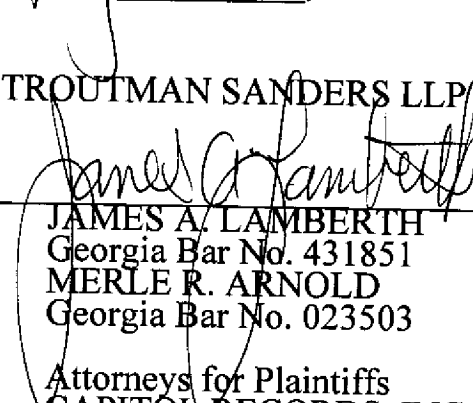
2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.
3. For Plaintiffs' costs in this action.
4. For Plaintiffs' reasonable attorneys' fees incurred herein.



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

Submitted this 25<sup>th</sup> day of August, 2004

TROUTMAN SANDERS LLP

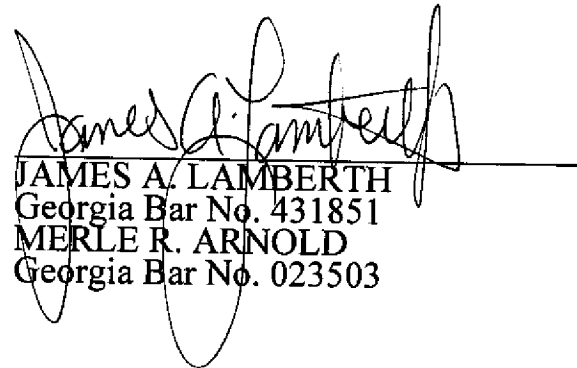
  
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Georgia Bar No. 023503

Attorneys for Plaintiffs  
CAPITOL RECORDS, INC.; BMG  
MUSIC; SONY MUSIC  
ENTERTAINMENT INC.; ARISTA  
RECORDS, INC.; WARNER  
BROS. RECORDS INC.; UMG  
RECORDINGS, INC.; and VIRGIN  
RECORDS AMERICA, INC.

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600 Peachtree Street, N.E.  
Atlanta, GA 30308-2216  
(404) 885-3000 (voice)  
(404) 885-3995 (facsimile)

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 5.1(B)**

I hereby certify that the foregoing Complaint has been prepared in a Times New Roman 14 point font, one of the font and point selections approved by the Court in Local Rule 5.1(B).

  
JAMES A. LAMBERTH  
Georgia Bar No. 431851  
MERLE R. ARNOLD  
Georgia Bar No. 023503

# EXHIBIT A

**Exhibit A****Doe #1 (68.106.60.207 2004-08-17 05:44:39 (EDT))**

COPYRIGHT OWNER	ARTIST	RECORDING TITLE	ALBUM TITLE	SR#
Warner Bros. Records Inc.	Orgy	Vapor Transmission (Intro)	Vapor Transmission	288-413
Sony Music Entertainment Inc.	Korn	Counting	Issues	276-133
UMG Recordings, Inc.	Godsmack	Awake	Awake	293-376
UMG Recordings, Inc.	Godsmack	Moon Baby	Godsmack	241-879
Virgin Records America, Inc.	A Perfect Circle	Three Libras	Mer De Noms	281-642
UMG Recordings, Inc.	Anthrax	Caught in a Mosh	Among The Living	79-031
UMG Recordings, Inc.	Beastie Boys	Girls	Licensed to Ill	79-470
Sony Music Entertainment Inc.	Cypress Hill	Boom Biddy Bye Bye	Cypress Hill III: Temples of Boom	215-690
Sony Music Entertainment Inc.	Cypress Hill	Tequila Sunrise	IV	264-715
UMG Recordings, Inc.	DMX	Bring Your Whole Crew	Flesh of My Flesh, Blood Of My Blood	188-987
UMG Recordings, Inc.	DMX	Look Thru My Eyes	It's Dark And Hell Is Hot	252-613
UMG Recordings, Inc.	DMX	Who We Be	The Great Depression	303-917

**Exhibit A****Doe #2 (68.96.138.228 2004-08-17 21:11:31 (EDT))**

<b>COPYRIGHT OWNER</b>	<b>ARTIST</b>	<b>RECORDING TITLE</b>	<b>ALBUM TITLE</b>	<b>SR#</b>
UMG Recordings, Inc.	Live	Lightning Crashes	Throwing Copper	187-926
Capitol Records, Inc.	Beastie Boys	Intergalactic	Hello Nasty	277-731
Warner Bros. Records Inc.	Barenaked Ladies	One Week	Stunt	257-724
UMG Recordings, Inc.	Bon Jovi	You Give Love a Bad Name	Slippery When Wet	71-794
Arista Records, Inc.	Usher	U Remind Me	8701	307-207
UMG Recordings, Inc.	Beastie Boys	(You Gotta) Fight for Your Right (To Party)	Licensed to Ill	79-470
Sony Music Entertainment Inc.	Shakira	Whatever, Whenever	Laundry Service	306-496
Sony Music Entertainment Inc.	System of a Down	Toxicity	Toxicity	301-897
BMG Music	Christina Aguilera	Genie in a Bottle	Christina Aguilera	274-004
Warner Bros. Records Inc.	Linkin Park	Crawling	Hybrid Theory	288-402
UMG Recordings, Inc.	Aerosmith	Cryin'	Get A Grip	153-061
UMG Recordings, Inc.	Bon Jovi	It's My Life	Crush	281-803