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Jonathan G. Fetterly (State Bar No. 228612)  
HOLME ROBERTS & OWEN LLP  
777 South Figueroa Street, Suite 2800  
Los Angeles, CA 90017-5826  
Telephone: (213) 572-4300  
Facsimile: (213) 572-4400  
E-mail: jon.fetterly@hro.com

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *gf*

DEPUTY

Attorney for Plaintiffs  
INTERSCOPE RECORDS; UMG RECORDINGS,  
INC.; and ATLANTIC RECORDING  
CORPORATION

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

**VIA FAX**

INTERSCOPE RECORDS, a California general  
partnership; UMG RECORDINGS, INC., a  
Delaware corporation; and ATLANTIC  
RECORDING CORPORATION, a Delaware  
corporation,

Plaintiffs,

vs.

YOLANDA RODRIGUEZ,

Defendant.

Case No.: 06cv2485-B (NLS)

PLAINTIFFS' FIRST AMENDED  
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.*).

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).

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#6595 v1



1           10.     Among the exclusive rights granted to each Plaintiff under the Copyright Act are the  
2 exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings  
3 to the public.

4           11.     Much of the unlawful distribution of copyrighted sound recordings over the Internet  
5 occurs via "peer-to-peer" ("P2P") file copying networks or so-called online media distribution  
6 systems. P2P networks, at least in their most popular form, refer to computer systems or processes that  
7 enable Internet users to search for files (including audio recordings) stored on other users' computers  
8 and transfer exact copies of files from one computer to another via the Internet, which can include both  
9 downloading an exact copy of that file onto the user's own computer and distributing an exact copy of  
10 that file to other Internet users on the same P2P network. P2P networks enable users who otherwise  
11 would have no connection with, or knowledge of, each other to provide a sophisticated search  
12 mechanism by which users can locate these files for downloading and to reproduce and distribute files  
13 off of their personal computers.

14           12.     Users of P2P networks who distribute files over a network can be identified by using  
15 Internet Protocol ("IP") addresses because the unique IP address of the computer offering the files for  
16 distribution can be captured by another user during a search or a file transfer. Users of P2P networks  
17 can be identified by their IP addresses because each computer or network device (such as a router) that  
18 connects to a P2P network must have a unique IP address within the Internet to deliver files from one  
19 computer or network device to another. Two computers cannot effectively function if they are  
20 connected to the Internet with the same IP address at the same time.

21           13.     Plaintiffs identified an individual using LimeWire on the P2P network Gnutella at IP  
22 address 68.105.100.130 on October 2, 2005 at 05:21:57 distributing 330 audio files over the Internet.  
23 The Defendant was identified as the individual responsible for that IP address at that date and time.  
24 Exhibit A identifies the date and time of capture and a list of Copyrighted Recordings that Defendant  
25 has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public.  
26 Plaintiffs are informed and believe that as of October 2, 2005, Defendant, without the permission or  
27 consent of Plaintiffs, had continuously used, and continued to use, a P2P network to download and/or  
28

1 distribute to the public the Copyrighted Recordings. Through Defendant's continuous and ongoing  
2 acts of downloading and/or distributing to the public the Copyrighted Recordings, which acts Plaintiffs  
3 believe to have been ongoing for some time, Defendant has violated Plaintiffs' exclusive rights of  
4 reproduction and distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights  
5 and exclusive rights under copyright.

6 14. In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and  
7 believe that Defendant has, without the permission or consent of Plaintiffs, continuously downloaded  
8 and/or distributed to the public additional sound recordings owned by or exclusively licensed to  
9 Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are  
10 ongoing.

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

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

18 17. As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
19 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for  
20 Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to their  
21 attorneys' fees and costs pursuant to 17 U.S.C. § 505.

22 18. The conduct of Defendant is causing and, unless enjoined and restrained by this Court,  
23 will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated or  
24 measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502 and  
25 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing Plaintiffs'  
26 copyrights, and ordering Defendant to destroy all copies of sound recordings made in violation of  
27 Plaintiffs' exclusive rights.

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WHEREFORE, Plaintiffs pray for judgment against 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.

Dated: August 22, 2007

JONATHAN G. FETTERLY  
HOLME ROBERTS & OWEN LLP

By:

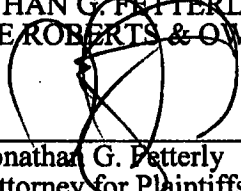
  
Jonathan G. Fetterly  
Attorney for Plaintiffs  
INTERSCOPE RECORDS; UMG RECORDINGS,  
INC.; and ATLANTIC RECORDING  
CORPORATION

EXHIBIT A

**EXHIBIT A**

**YOLANDA RODRIGUEZ**

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**IP Address:** 68.105.100.130 2005-10-02 05:21:57

**CASE ID#** 93667290

**P2P Network:** Gnutella

**Total Audio Files:** 330

| <u>Copyright Owner</u>            | <u>Artist</u> | <u>Recording Title</u> | <u>Album Title</u>         | <u>SR#</u> |
|-----------------------------------|---------------|------------------------|----------------------------|------------|
| Interscope Records                | Dr. Dre       | Still D.R.E.           | 2001                       | 277-983    |
| UMG Recordings, Inc.              | DMX           | Party Up               | ...And Then<br>There Was X | 279-017    |
| Atlantic Recording<br>Corporation | Trick Daddy   | I'm A Thug             | Thugs Are Us               | 303-748    |
| Interscope Records                | Eve           | Let Me Blow Ya Mind    | Scorpion                   | 293-364    |
| UMG Recordings, Inc.              | Shaggy        | Angel                  | Hot Shot                   | 286-657    |

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PROOF OF SERVICE  
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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 777 South Figueroa Street, Suite 2800, Los Angeles, CA 90017-5826.

On August 22, 2007, I served the foregoing document described as **PLAINTIFFS' FIRST AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT** on the interested party in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

**SEE ATTACHED SERVICE LIST**

**BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**BY PERSONAL SERVICE:** I caused the above-mentioned document to be personally served to the offices of the addressee.

**BY FACSIMILE:** I communicated such document via facsimile to the addressee as indicated on the attached service list.

**BY FEDERAL EXPRESS:** I caused said document to be sent via Federal Express to the addressee as indicated on the attached service list.

**BY ELECTRONIC MAIL:** I communicated such document via electronic mail to the addressee on the attached service list.

Executed on August 22, 2007, at Los Angeles, California.

**X (FEDERAL)** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

  
\_\_\_\_\_  
BARBARA E. PETERS

PROOF OF SERVICE

**SERVICE LIST**

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Yolanda Rodriguez  
13031 South Mountain Drive  
Lakeside, CA 92040-3337

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PROOF OF SERVICE