

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MAVERICK RECORDING CO., <i>et al.</i> ,	§	
	§	
Plaintiffs,	§	CIVIL ACTION NO. 5:07-CV-026-XR
	§	
vs.	§	JUDGE XAVIER RODRIGUEZ
	§	
WHITNEY HARPER,	§	
	§	
Defendant.	§	

MOTION FOR ENTRY OF JUDGMENT

Plaintiffs respectfully move for entry of Judgment and state as follows:

1. On August 7, 2008, the Court issued an Order granting, in part, Plaintiffs' motion for summary judgment ("Order," Doc. No. 48). In the Order, the Court found that: (1) Plaintiffs own the copyrights to the 37 sound recordings at issue (the "Sound Recordings") (*id.* at 9), and (2) that Defendant infringed Plaintiffs' exclusive rights under the Copyright Act in regards to each of 37 Sound Recordings (*id.* at 10-11). The Court also granted Plaintiffs' request for an injunction prohibiting Defendant from further violating Plaintiffs' copyrights. (*Id.* at 14-15.)
2. On August 22, 2008, the parties filed cross motions seeking reconsideration of certain aspects of the Court's Order. The Court denied both motions for reconsideration on September 16, 2008. (Doc. No. 74.)
3. The Court's Order establishes Defendant's liability for her infringement of the 37 Sound Recordings. The Copyright Act provides that, in lieu of actual damages, a plaintiff may elect to recover statutory damages under 17 U.S.C. § 504(c)(1). The minimum amount of statutory damages is \$750 per infringed work, unless the defendant establishes that they were an innocent infringer, in which case the Court, in its discretion, may reduce the amount to \$200. 17 U.S.C. § 504(c)(2). While Defendant has not established that she was an innocent infringer, for

judicial economy and solely for purposes of this motion, Plaintiffs move for entry of Judgment against Defendant in the amount of \$7,400 (\$200 per infringed work). Plaintiffs cannot receive less than this amount under the Copyright Act. *See* 17 U.S.C. § 504(c)(2). Should Defendant appeal the summary judgment rulings and obtain a reversal that results in a trial on liability, Plaintiffs reserve the right to seek a higher statutory amount.

WHEREFORE, Plaintiffs move for entry of Judgment against Defendant in the amount of \$7,400. A form of Judgment is attached for the Court's convenience.

Respectfully submitted,

/s/ Daniel C. Scott

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

This certifies that counsel for Plaintiffs contacted Defendant, through counsel, on September 30, 2008, regarding the relief requested in this motion, and Defendant's counsel indicated Defendant is opposed.

/s/ Daniel C. Scott _____
Daniel C. Scott

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:

Donald Scott Mackenzie
Attorney at Law
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/s/ Daniel C. Scott _____
Daniel C. Scott

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MAVERICK RECORDING CO., *et al.*,

Plaintiffs,

vs.

WHITNEY HARPER,

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CIVIL ACTION NO. 5:07-CV-026-XR

JUDGE XAVIER RODRIGUEZ

JUDGMENT

The Court, having previously found Defendant liable for copyright infringement and having entered a permanent injunction in connection therewith (Doc. No. 48, granting Plaintiffs' motion for summary judgment on liability and as to the permanent injunction requested), which findings and injunction are expressly incorporated by reference herein and made a part of this Judgment, and having left open for further determination the amount of damages to be awarded,

IT IS NOW HEREBY ORDERED AND ADJUDGED THAT:

1. Judgment shall further enter in favor of Plaintiffs and against Defendant in the amount of \$7,400.00.
2. The Court shall maintain continuing jurisdiction over this action for the purpose of enforcing this Judgment.

DONE this ____ day of _____ 2008.

HON. XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE