

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SONY MUSIC ENTERTAINMENT; UMG RECORDINGS, INC.; ELEKTRA ENTERTAINMENT GROUP INC.; ATLANTIC RECORDING CORPORATION; and WARNER BROS. RECORDS INC.

(b) County of Residence of First Listed Plaintiff New York, NY
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Matthew E. Krichbaum
Soble Rowe Krichbaum, LLP
221 North Main Street, Suite 200
Ann Arbor, MI 48104

Telephone: (734) 996-5600
Facsimile:

DEFENDANT

BRITTANY R. KRUGER

County of Residence of First Listed Defendant Marquette
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)



II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZEN

(For Divers

Citizen of 1

Citizen of 2

Citizen or Subject of a Foreign Country 3 3 Foreign Nation 6 6

2:09-cv-97

Paul L. Maloney, Chief Judge
United States District Court

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES																
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">PERSONAL INJURY</th> <th style="width: 50%;">PERSONAL INJURY</th> </tr> <tr> <td> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury </td> <td> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability </td> </tr> <tr> <th colspan="2">PERSONAL PROPERTY</th> </tr> <tr> <td colspan="2"> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> </table>	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. 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Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. 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V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 another district (specify)
- 6 Multidistrict Litigation
- 7 District Judge from Magistrate Judgment

Transferred from

Appeal to

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

17 U.S.C. § 501 et seq.

Brief description of the cause: copyright infringement

VII. REQUESTED IN COMPLAINT

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$ _____
- Statutory damages; injunction
- CHECK YES only if demanded in complaint
- JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE Paul L. Maloney DOCKET NUMBER 1:08-cv-00074-PLM

DATE

SIGNATURE OF ATTORNEY OF RECORD

April 23, 2008

FOR OFFICE USE ONLY

RECEIPT# _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

April 23, 2009 3:20 PM

TRACEY CORDES, CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SONY MUSIC ENTERTAINMENT, a
Delaware general partnership; UMG
RECORDINGS, INC., a Delaware corporation;
ELEKTRA ENTERTAINMENT GROUP
INC., a Delaware corporation; ATLANTIC
RECORDING CORPORATION, a Delaware
corporation; and WARNER BROS.
RECORDS INC., a Delaware corporation,

2:09-cv-97
Paul L. Maloney, Chief Judge
United States District Court

Plaintiffs,

v.

BRITTANY R. KRUGER,

Defendant.

MATTHEW E. KRICHBAUM (P52491)
SOBLE ROWE KRICHBAUM, LLP
Attorneys for Plaintiffs
221 North Main Street, Suite 200
Ann Arbor, Michigan 48104
(734) 996 5600

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).

3. This Court has personal jurisdiction over the Defendant, Brittany R. Kruger, and venue in this District is proper under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400, because, on information and belief, the Defendant resides in this District and/or a substantial part of the acts of infringement complained of herein occurred in this District.

PARTIES

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

5. 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.

6. 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.

7. 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.

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. Plaintiffs are informed and believe that Defendant is an individual who resided in Marquette, Michigan, within this District at the time of the infringement complained of herein. Upon information and belief, Defendant may still be found in this District.

COUNT I

INFRINGEMENT OF COPYRIGHTS

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

11. 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, for which the Plaintiffs are the owners as specified on Exhibit A.

12. 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.

13. Much of the unlawful distribution of copyrighted sound recordings over the Internet occurs via “peer-to-peer” (“P2P”) file copying networks or so-called online media distribution systems. P2P networks, at least in their most popular form, refer to computer systems or processes that enable Internet users to search for files (including audio recordings) stored on other users’ computers and transfer exact copies of files from one computer to another via the Internet, which can include both downloading an exact copy of that file onto the user’s own computer and distributing an exact copy of that file to other Internet users on the same P2P network. P2P networks enable users who otherwise would have no connection with, or

knowledge of, each other to provide a sophisticated search mechanism by which users can locate these files for downloading and to reproduce and distribute files off of their personal computers.

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

15. Plaintiffs identified an individual using Ares on the P2P network AresWareZ at IP address 204.38.202.225 on January 17, 2007 at 20:33:30 EST distributing 1731 audio files over the Internet. The Defendant was identified as the individual responsible for that IP address at that date and time. Plaintiffs are informed and believe that as of January 17, 2007, Defendant, without the permission or consent of Plaintiffs, had continuously used, and continued to use, a P2P network to download and/or distribute to the public the Copyrighted Recordings. Exhibit A identifies the date and time of capture and a list of Copyrighted Recordings that Defendant has, without the permission or consent of Plaintiffs, downloaded and/or distributed to the public. Through Defendant’s continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted Recordings, which acts Plaintiffs believe to have been ongoing for some time, Defendant has violated Plaintiffs’ exclusive rights of reproduction and distribution. Defendant’s actions constitute infringement of Plaintiffs’ copyrights and exclusive rights under copyright.

16. In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and believe that 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.

17. 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 Defendant.

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

19. As a result of 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) for Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

20. The conduct of 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 Defendant from further infringing Plaintiffs' copyrights, and ordering Defendant to destroy all copies of sound recordings made in violation of Plaintiffs' exclusive rights.

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.

Respectfully submitted,

SOBLE ROWE KRICHBAUM, LLP

Dated: April 23, 2009

By:



Matthew E. Krichbaum (P52491)
Attorneys for Plaintiffs
221 N. Main Street, Suite 200
Ann Arbor, Michigan 48104
(734) 996-5600

Attorneys for Plaintiffs

EXHIBIT A**BRITTANY R. KRUGER****IP Address:** 204.38.202.225 2007-01-17 20:33:30 EST**CASE ID#** 114987888**P2P Network:** AresWarez**Total Audio Files:** 1731

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
SONY MUSIC ENTERTAINMENT	REO Speedwagon	Can't Fight This Feeling	Wheels Are Turnin'	64-148
UMG Recordings, Inc.	Nirvana	All Apologies	In Utero	172-276
Elektra Entertainment Group Inc.	The Cure	Close to Me	The Head on the Door	65-872
SONY MUSIC ENTERTAINMENT	Nine Days	Absolutely	The Madding Crowd	267-204
SONY MUSIC ENTERTAINMENT	Dixie Chicks	Cold Day In July	Fly	275-086
Atlantic Recording Corporation	Phil Collins	In The Air Tonight	Face Value	24-682
Elektra Entertainment Group Inc.	Third Eye Blind	Semi-Charmed Life	Third Eye Blind	188-673
Warner Bros. Records Inc.	Red Hot Chili Peppers	Give It Away	Blood Sugar Sex Magik	135-276
UMG Recordings, Inc. Elektra Entertainment Group Inc.	Guns N Roses	Welcome to the Jungle	Appetite for Destruction	85-358
	Third Eye Blind	Deep Inside of You	Blue	278-241
Warner Bros. Records Inc.	Red Hot Chili Peppers	The Zephyr Song	By The Way	316-878
Warner Bros. Records Inc.	Red Hot Chili Peppers	Scar Tissue	Californication	174-922
Warner Bros. Records Inc.	ZZ Top	Cheap Sunglasses	Deguello	13-884
Warner Bros. Records Inc.	ZZ Top	Sharp Dressed Man	Eliminator	45-132
UMG Recordings, Inc.	Godsmack	Serenity	Faceless	329-097
SONY MUSIC ENTERTAINMENT	Korn	Freak on a Leash	Follow the Leader	263-749
SONY MUSIC ENTERTAINMENT	REO Speedwagon	Take It on the Run	Hi Infidelity	24-298
SONY MUSIC ENTERTAINMENT	Dixie Chicks	Top of the World	Home	314-722
UMG Recordings, Inc.	Tonic	If You Could Only See	Lemon Parade	257-075

UMG Recordings, Inc.	Nirvana	Lithium	Nevermind	135-335
UMG Recordings, Inc.	Lynyrd Skynyrd	Free Bird	Pronounced Leh'-	
SONY MUSIC		Once You've Loved	nerd Skin'-nerd	N8871
ENTERTAINMENT	Dixie Chicks	Somebody	Wide Open Spaces	252-000