

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
ELEKTRA ENTERTAINMENT GROUP INC., a
Delaware corporation; VIRGIN RECORDS
AMERICA, INC., a California corporation; UMG
RECORDINGS, INC., a Delaware corporation;
BMG MUSIC, a New York general partnership;
and SONY BMG MUSIC ENTERTAINMENT, a
Delaware general partnership,

Plaintiffs,

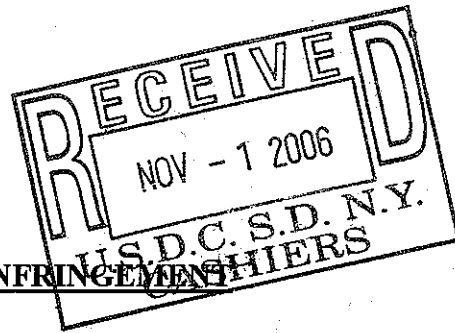
-against-

MICHELLE SANTANGELO and ROBERT
SANTANGELO, JR.,

Defendants.
----- x

JUDGE ROBINSON
Civil Action No.:

06 CV 11520



COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiffs, by their attorneys Holme Roberts & Owen LLP and Robinson & Cole LLP, for their complaint against Defendants, allege:

INTRODUCTION

1. This case arises out of a copyright infringement action filed against Patricia Santangelo in this Court on or about February 28, 2005 in Civil Action No. 05 Civ. 2414 (CM) (MDF) (the "Patricia Santangelo Action"). Defendants Michelle Santangelo and Robert Santangelo, Jr. are the daughter and son, respectively, of Patricia Santangelo. As more fully set forth below, notwithstanding the vigorous and public denials by Patricia Santangelo and by these Defendants of their involvement in the substantial copyright infringement alleged, which denials

went on for over one year, the evidence developed from these Defendants themselves and other witnesses in the Patricia Santangelo Action has conclusively established that these Defendants are, indeed, responsible for the infringement at issue, having downloaded the file-sharing programs and having downloaded and distributed over 1,000 sound recordings through such file-sharing programs.

2. Ever since the Plaintiffs filed suit against Patricia Santangelo, she has vehemently denied that she, her children, or her neighbors engaged in the substantial piracy alleged by Plaintiffs. As it turns out, the Defendants have stood by silently as Patricia Santangelo made her pronouncements in the media and before this Court knowing that they were, in fact, the infringers.

3. As more fully set forth below, after a year of hard-fought and expensive discovery and investigation, Plaintiffs have discovered that both Defendants engaged in the massive infringement at issue here. Indeed, notwithstanding their prior denials of their involvement, Defendant Michelle Santangelo has now admitted under oath to substantial and ongoing infringement of Plaintiffs' significant copyright interests. Similarly, although Defendant Robert Santangelo, Jr. testified under oath that he took no part in the infringement at issue, his former neighbor and best friend testified at length as to how he and Defendant Robert Santangelo, Jr. had together downloaded a file-sharing program and then downloaded sound recordings on that program almost daily and distributed those same recordings (the neighbor has settled Plaintiffs' claims against him by paying a settlement amount and by agreeing to the same injunctive language that Plaintiffs seek to have entered in this case).

4. In short, each of the Defendants participated in the substantial violations of Plaintiffs' copyrights at issue and then concealed their involvement, standing idly by as Patricia Santangelo repeatedly protested their innocence and chastised Plaintiffs for filing allegedly frivolous litigation.

5. Plaintiffs now bring this action against Defendants to protect their substantial copyright interests and to seek redress for the substantial infringement of Plaintiffs' rights committed by these Defendants.

JURISDICTION AND VENUE

6. 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.*).

7. 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).

8. This Court has personal jurisdiction over the Defendants, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that the Defendants reside in this District, and the acts of infringement complained of herein occurred in this District.

PARTIES

9. 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.

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. 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.

12. 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.

13. Plaintiff Sony BMG Music Entertainment is a Delaware general partnership, with its principal place of business in the State of New York.

14. Plaintiffs are informed and believe that Defendants are individuals residing in this District.

COUNT I
INFRINGEMENT OF COPYRIGHTS

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

16. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright with respect to certain copyrighted sound recordings (the "Copyrighted Recordings"). The Copyrighted Recordings include but are not limited to each of the copyrighted sound recordings identified in Exhibit A attached hereto, each of which is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights. In addition to the sound recordings listed on Exhibit A, Copyrighted Recordings also include certain of the sound recordings listed on Exhibit B which are owned by or exclusively licensed to one or more of the Plaintiffs or Plaintiffs' affiliate record labels, and which are subject to valid Certificates of Copyright Registration issued by the Register of Copyrights.

17. 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.

18. Plaintiffs are informed and believe that Defendants, without the permission or consent of Plaintiffs, have used, and, until in or about early 2005, continued to use, an online media distribution system to download the Copyrighted Recordings, to distribute the

Copyrighted Recordings to the public, and/or to make the Copyrighted Recordings available for distribution to others. In doing so, Defendants have violated Plaintiffs' exclusive rights of reproduction and distribution. Defendants' actions constitute infringement of Plaintiffs' copyrights and exclusive rights under copyright.

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

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

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

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. For an injunction providing:

"Defendants shall be and hereby are 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. Defendants also shall destroy all copies of Plaintiffs' Recordings that Defendants have 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 Defendants' possession, custody, or control."

2. For statutory damages for each infringement of each Copyrighted Recording pursuant to 17 U.S.C. § 504.

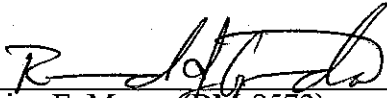
3. For Plaintiffs' costs in this action.

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

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

Dated: New York, New York
November 1, 2006

ROBINSON & COLE LLP
Attorneys for Plaintiffs

By: 

Brian E. Moran (BM-8573)
Richard J. Guida (RG-5147)
885 Third Avenue, Suite 2800
New York, New York 10022-4834
Telephone: (212) 451-2900
Fax: (212) 451-2999
Fax: (212) 575-0671

-and-

Richard L. Gabriel (RG-5065)
HOLME ROBERTS & OWEN LLP
1700 Lincoln, Suite 4100
Denver, Colorado 80203
Telephone: (303)861-7000
Fax: (303)866-0200