

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Sony BMG Music Entertainment, UMG)	
Recordings, Inc., Arista Records, LLC, and)	
BMG Music,)	C.A. No.: 6:06-3097-CWH
)	
Plaintiffs,)	
)	Answer
vs.)	
)	
Sandra DeMaria,)	
)	
Defendant.)	

Defendant Sandra DeMaria, by and through her undersigned attorneys, answers the Complaint of the Plaintiffs as follows:

FOR A FIRST DEFENSE

1. The Defendant denies each and every allegation of the Complaint not specifically admitted, qualified or explained and demands strict proof thereof.
2. The allegations of paragraphs 1 and 2 constitute conclusions of law requiring no response. To the extent a response is necessary, the Defendant denies the allegations of these paragraphs and demands strict proof thereof.
3. The Defendant admits the allegations of paragraph 3 to the extent that she resides in this District and denies the remaining allegations of the paragraph and demands strict proof thereof.
4. As to the allegations of paragraphs 4, 5, 6, and 7, Defendant lacks knowledge and information sufficient to form a belief as to the allegations of these paragraphs and therefore denies the same and demands strict proof thereof.
5. Defendant admits the allegations of paragraph 8.

6. Answering the allegations of Paragraph 9, the foregoing responses are incorporated herein by reference as fully as if repeated verbatim.

7. As to the allegations of paragraph 10, Defendant lacks knowledge and information sufficient to form a belief as to the allegations of this paragraph and therefore denies the same and demands strict proof thereof.

8. The allegations of paragraph 11 constitute a conclusion of law requiring no response. To the extent a response is necessary, the Defendant denies the allegations of this paragraph and demands strict proof thereof.

9. Defendant denies the allegations of paragraph 12.

10. As to the allegations of paragraph 13, Defendant lacks knowledge and information sufficient to form a belief as to the allegations of these paragraphs and therefore denies the same and demands strict proof thereof.

11. Defendant denies the allegations of paragraphs 14 and 15 and specifically denies any allegations of intent, willfulness, or entitlement to attorneys' fees and costs.

12. Defendant denies the allegations of paragraph 16.

13. The Final Paragraph of the Complaint (and its sub-paragraphs), which is unnumbered (beginning with "WHEREFORE,") constitutes a prayer for relief which requires no response from the Defendant. To the extent any response may be required, the Defendant denies the allegations of the Final Paragraph of the Complaint.

FOR A FACTUAL BACKGROUND

FOR THE REMAINING DEFENSES

14. Upon information and belief, the Plaintiffs, who are competitors, have conspired with one another, other competitors, and a company called Settlement Support Center, LLC to demand

monies from innocent computer users through a pattern of oppressive, unfair, and immoral litigation.

15. Upon information and belief, in furtherance of this enterprise, the Plaintiffs have misused the Federal District Courts by filing “John Doe” lawsuits they have no intention of fully litigating, in district courts far-removed from the domiciles of their defendants.

16. Upon information and belief, under the pretext of performing lawful activities, the Plaintiffs have obtained private information from Internet Service Providers (“ISPs”) through the use of subpoenas in these “John Doe” lawsuits.

17. Upon information and belief, using this unfairly, unlawfully, and immorally acquired information, the Plaintiffs and their co-conspirators have filed lawsuits across the nation against, to wit: indigent persons, handicapped persons, children, persons who do not own computers, deceased persons, and recently, an elderly survivor of hurricane Rita.

FOR A SECOND DEFENSE

18. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

19. The Complaint fails to state a claim for which relief can be granted, and therefore should be dismissed pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure.

FOR A THIRD DEFENSE

20. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

21. The Complaint fails to join an indispensable party or parties, including but not limited to the “online media distribution system” identified in paragraph 12 of Plaintiffs’ Complaint and the person or persons, also identified in paragraph 12 who obtained copies of the works allegedly

distributed by the Defendant, and therefore should be dismissed pursuant to Rule 12(b)(7), Federal Rules of Civil Procedure.

FOR A FOURTH DEFENSE

22. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

23. Plaintiffs' claims may be barred by any judgment or settlement in Arista Records et al. v. Lime Group, LLC et al., 06-05936 (GEL) currently pending in the Southern District of New York.

FOR A FIFTH DEFENSE

24. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

25. Upon information and belief, computer music files like the MPEG 1 audio layer 3 ("mp3") files allegedly shared by the Defendant have a value of approximately one dollar (\$1.00).

26. The statutory damages sought by Plaintiffs in the amount of \$750.00 per song title are approximately seven hundred fifty (750) times the value of the damages actually sustained by the Plaintiff.

27. These damages are unconstitutionally excessive and grossly disproportionate to any actual damages that may have been sustained, and therefore the Plaintiffs' claims are barred.

FOR A SIXTH DEFENSE

28. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

29. Plaintiffs have acted unfairly in the matter that is the subject of this litigation, in particulars not limited to those described previously.

30. Plaintiffs' unfair actions in this matter, violative of public policy, federal antitrust law, the federal RICO Act, and other laws, have prejudiced the Defendant, and therefore the Plaintiffs' claims are barred by the doctrine of unclean hands.

FOR A SEVENTH DEFENSE

31. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

32. Plaintiffs' claims are barred by the doctrines of laches, waiver, and/or estoppel.

FOR AN EIGHTH DEFENSE

33. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

34. Plaintiffs' claims are barred by fair use.

FOR A NINTH DEFENSE

35. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

36. The Plaintiffs' aforementioned despicable behavior constituted and constitutes misuse of copyright, and therefore the Plaintiffs' Complaint should be dismissed.

FOR A TENTH DEFENSE

37. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

38. Upon information and belief, the alleged conduct was authorized.

FOR AN ELEVENTH DEFENSE

39. The foregoing defenses are incorporated herein by reference as fully as if repeated verbatim.

40. Defendant asserts that some or all of the claims against this Defendant are barred by applicable statutes of limitation or statutes of repose.

FOR A TWELFTH DEFENSE

41. The foregoing defenses and allegations are incorporated herein by reference as fully as if repeated verbatim.

42. Any recovery by Plaintiffs must be reduced or offset by amounts Plaintiff has received or will receive from others for the same injuries claimed in this lawsuit. This includes, but is not limited to, any payment made to Plaintiffs in regards to Arista Records et al. v. Lime Group, LLC et al., 06-05936 (GEL) currently pending in the Southern District of New York.

WHEREFORE, having fully answered the Plaintiffs' Complaint, the Defendant prays:

- a) That the Plaintiffs' Complaint be dismissed with prejudice and their prayers for relief be denied;
- b) that the Defendant be awarded costs and attorneys' fees pursuant to appropriate statutory and case law; and
- c) for such other and further relief as this Honorable Court may deem just and proper.

[signature page follows]

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