

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

ELEKTRA ENTERTAINMENT GROUP, INC., ET AL.

PLAINTIFFS

V.

CASE NO. 3:07CV39 DRJ-JCS

GEORGE DENNIS

DEFENDANT

**MOTION TO DISMISS AND/OR
MOTION FOR SUMMARY JUDGMENT**

In accordance with Fed. Rules Civ. Pro. 12(b)(6) and/or 56, George Dennis ("Dennis") moves the Court to dismiss this civil action and/or to render summary judgment against the Plaintiffs, in his favor, and award attorney fees and costs as follows:

1. The Plaintiffs filed suit against Dennis for damages for copyright infringement in accordance with 17 U.S.C. § 101 et seq.
2. Dennis did not engage in any of the activities alleged in the Complaint. To prove this, Dennis filed the Affidavit of George Dennis in Support of Motion to Dismiss/Motion for Summary Judgment ("Dennis Affidavit"). A copy of the Dennis Affidavit is attached as Exhibit "A".
3. The Complaint fails to state a claim against Dennis for violation of either 17 U.S.C. §106(1) or §106(3), among other reasons, because it fails to allege specific acts of infringement. Thus, the Complaint must be dismissed in accordance with Fed. Rules Civ. Pro. 12(b)(6).
4. Alternatively, the Complaint fails to state a claim for violation of 17 U.S.C. §106(3) because Section 106(3)'s distribution rights do not apply to electronic transmissions and, as such, the Section 106(3) claim must be dismissed in accordance with Fed. Rules Civ. Pro. 12(b)(6).
5. Further, Dennis did not engage in the activities alleged in the Complaint as established in the

Dennis Affidavit and, as such, Dennis is entitled to summary judgment in accordance with Fed. Rules Civ. Pro. 56.

WHEREFORE, the Defendant moves the Court to enter an order dismissing this civil action in accordance with Rule 12(b)(6) and/or render summary judgment against the Plaintiffs and award attorney fees and costs to the Defendant.

This the 29th day of March 2007.

Respectfully submitted,
GEORGE DENNIS
By his Attorneys,
SPENCER & SPENCER PLLC

BY: /s/ Karen H. Spencer
Karen H. Spencer

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CERTIFICATE OF SERVICE

I, Karen H. Spencer, one of the attorneys for the Defendant, do hereby certify that I have this day caused a true and correct copy of the foregoing Motion to Dismiss and/or Motion for Summary Judgment to be delivered to the following, via the means directed by the United States District Court ECF System:

Thomas C. Anderson, Esq.
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This the 29th day of March 2007.

/s/Karen H. Spencer
Karen H. Spencer