

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
BAY CITY DIVISION

PRIORITY RECORDS LLC, a California limited liability company; ELEKTRA ENTERTAINMENT GROUP INC., a Delaware corporation; MOTOWN RECORD COMPANY, L.P., a California limited partnership; WARNER BROS. RECORDS INC., a Delaware corporation; SONY MUSIC ENTERTAINMENT INC., a Delaware corporation; UMG RECORDINGS, INC., a Delaware corporation; and ARISTA RECORDS LLC, a Delaware limited liability company,

Plaintiffs,

v.

BRITTANY CHAN,

Defendant.

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ANNA DIGGS TAYLOR

Hon.:

Case:

05-73727

MAGISTRATE JUDGE R. STEVEN WHALEN

FILED  
2005 SEP 29 P 2:26  
U.S. DIST. COURT CLERK  
EAST DIST. MICH  
ANN ARBOR

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, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that the Defendant resides in this District, and the acts of infringement complained of herein occurred in this District.

### **PARTIES**

4. Plaintiff Priority Records LLC is a limited liability company with its principal place of business in the State of California.

5. 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.

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6. Plaintiff Motown Record Company, L.P. is a limited partnership duly organized and existing under the laws of the State of California, with its principal place of business in the State of New York.

7. 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.

8. Plaintiff Sony Music Entertainment 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.

9. 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.

10. Plaintiff Arista Records LLC is a limited liability company duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of New York.

11. Plaintiffs are informed and believe that Defendant is an individual residing in this District.

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## COUNT I

### INFRINGEMENT OF COPYRIGHTS

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

13. 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.

14. 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.

15. Plaintiffs are informed and believe that Defendant, without the permission or consent of Plaintiffs, has used, and continues 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, Defendant has violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiffs' copyrights and exclusive rights under copyright.

16. Plaintiffs previously brought an action for copyright infringement against Defendant's mother, Candy Chan, styled *Priority Records L.L.C. v. Chan*, Case No. 04-CV-73645-DT ("*Chan I*") in this Court.

17. During the course of *Chan I*, Candy Chan disclaimed any knowledge or involvement in the downloading or distribution of the Copyrighted Recordings through the use of an online media distribution system but refused to provide the identity of the direct infringer in response to informal inquiries or formal discovery requests.

18. Finally, at her deposition in *Chan I* on February 8, 2005, Candy Chan identified Defendant as the individual who used the name “*Spicybrwneyedgrl*,” which was the name used to commit the copyright infringement in this case.

19. Candy Chan rebuffed Plaintiffs’ offers to settle the complaint in *Chan I* on behalf of Defendant, even though Plaintiffs made it clear that they would be left with no alternative but to file an action against Defendant in order to pursue their claims for copyright infringement referenced herein.

~~20. When the Court granted Plaintiffs leave to amend the complaint to add Defendant~~  
to the *Chan I* action, Candy Chan stipulated to the appointment of an independent, third-party guardian *ad litem* to act on behalf of Defendant, stating that there was a conflict of interest between Candy Chan and Defendant, her daughter, such that Ms. Chan could not act as her guardian in the action.

21. On May 19, 2005, pursuant to Plaintiffs’ voluntary motion to dismiss Candy Chan, the Court dismissed Candy Chan from *Chan I* with prejudice, denied Candy Chan’s motion for attorneys’ fees and costs, and dismissed Plaintiffs’ claims against all other individuals

without prejudice. The Court's stated reason for the dismissal of the full action was that Plaintiffs had not yet added the Defendant as a party. Plaintiffs, however, were awaiting the appointment of a guardian *ad litem* before they added Defendant to the action.

22. In a later order, the Court specifically noted that Plaintiffs were not prevented from filing a new action against Defendant.

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

24. 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.~~

25. 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 the appointment of an independent, third-party guardian *ad litem* to act on behalf of Defendant.
4. For Plaintiffs' costs in this action.
5. For Plaintiffs' reasonable attorneys' fees incurred herein.
6. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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Dated: September 29, 2005