

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

**VIRGIN RECORDS AMERICA, INC.,)
a California corporation; UMG)
RECORDINGS, INC., a Delaware)
corporation; ARISTA RECORDS LLC,)
a Delaware limited liability company;)
SONY BMG MUSIC)
ENTERTAINMENT, a Delaware)
general partnership; and BMG MUSIC,)
a New York general partnership,)**

Case No. 1:08-cv-01240-JDB-egb

Plaintiffs,

v.

HANNAH RENEE PARSONS,

Defendant.

**ORDER GRANTING PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AND
PERMANENT INJUNCTION**

Plaintiffs have moved for a default judgment against Defendant Hannah Renee Parsons pursuant to Rule 55 of the Federal Rules of Civil Procedure. A complaint against Defendant was filed on October 10, 2008. Defendant was served with process on November 3, 2008. Default was entered against Defendant on December 3, 2008. As of this date, Defendant has not filed an answer or otherwise responded to the complaint. Plaintiffs seek the minimum statutory damages for copyright infringement provided by the Copyright Act, 17 U.S.C. §504. Plaintiffs also seek costs pursuant to Section 505 of the Copyright Act.

If a defendant fails to plead or defend as required by the Rules, the clerk or judge may enter default upon a plaintiff's request. Rule 55(a); Shepard Claims Service, Inc. v. William Darrah & Associates, 796 F.2d 190, 194 (6th Cir. 1986) (When a defendant fails to file a responsive answer, he is in default, and an entry of default may be made by either the clerk or the

judge.) Then, if no hearing is needed to ascertain damages, judgment by default may be entered. Rule 55(b). United Coin Meter Co., Inc. v. Seaboard Coastline RR., 705 F.2d 839, 844 (6th Cir. 1983) (citing Meehan v. Snow, 652 F.2d 274 (2nd Cir. 1981))

When a court determines that a defendant is in default, the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true. Geddes v. United Financial Group, 559 F.2d 557, 560 (9th Cir. 1977); Fed. R. Civ. P. 8(d); Wright, Miller & Kane, *Federal Practice and Procedure: Civil 2d* 2688. Therefore, after receiving a default, plaintiff must still establish the extent of damages to which he is entitled. Kelley v. Carr, 567 F. Supp. 831, 841 (W.D. Mich.1983). However, if the damages sought by the plaintiff are a sum certain or a sum that can be made certain by computation, judgment will generally be entered for that amount without an evidentiary hearing. Wright, Miller & Kane, *Federal Practice and Procedure: Civil 2d* 2688.

In the present case, Plaintiffs seek the minimum statutory damages under the Copyright Act, which is \$750 for each of the ten infringements involved in the action. Therefore, Plaintiffs' Motion for Default Judgment is GRANTED. Judgment will be entered in favor of Plaintiffs and against Defendant in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00). Defendant is further ORDERED to pay Plaintiffs' costs of suit in the amount of Four Hundred Twenty Dollars (\$420.00) pursuant to 17 U.S.C. §505.

Plaintiffs have also moved for a permanent injunction, pursuant to §§ 502 and 503 of the Copyright Act. For good cause shown, Defendant is enjoined from directly or indirectly infringing on Plaintiffs' rights in the following copyrighted sound recordings:

- "Burn One Down," on album "Fight For Your Mind," by artist "Ben Harper" (SR# 210-135);

- "It's My Life," on album "Crush," by artist "Bon Jovi" (SR# 281-803);
- "Summer Girls," on album "LFO," by artist "LFO" (SR# 306-981);
- "Bring It All To Me," on album "Blaque," by artist "Blaque NSync" (SR# 267-457);
- "Dream Lover," on album "Music Box," by artist "Mariah Carey" (SR# 178-631);
- "All Out Of Love," on album "Lost In Love," by artist "Air Supply" (SR# 38-070);
- "How Forever Feels," on album "Everywhere We Go," by artist "Kenny Chesney" (SR# 263-302);
- "Faithfully," on album "Frontiers," by artist "Journey" (SR# 43-223);
- "Open Arms," on album "Escape," by artist "Journey" (SR# 30-088);
- "Margaritaville," on album "Feeding Frenzy," by artist "Jimmy Buffett" (SR# 124-218);

and in any other sound recording, whether now in existence or later created, that is owned or controlled by the 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.

IT IS SO ORDERED.

s/ Edward G. Bryant
EDWARD G. BRYANT
United States Magistrate Judge

March 25, 2009
Date