

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SONY BMG MUSIC ENTERTAINMENT,
a Delaware general partnership, UMG
RECORDINGS, INC., a Delaware corporation,
BMG MUSIC, a New York general partnership,
WARNER BROS. RECORDS, INC., a
Delaware corporation, and CAPITOL
RECORDS, INC., a Delaware corporation,

ORDER

Plaintiffs,

05-C-679-C

v.

WILLIAM C. MAROSE,

Defendant.

On November 17, 2005, plaintiffs filed this civil action for injunctive and monetary relief, contending that defendant William A. Marose electronically downloaded and distributed copyrighted music licensed to plaintiffs without their permission in violation of 17 U.S.C. § 101 et seq.. Jurisdiction is present under 28 U.S.C. §§ 1331 and 1338(a).

Now before the court are defendant's motion pursuant to Fed. R. Civ. P. 12(e) for a more definite statement from plaintiff and plaintiffs' motion to set briefing on defendant's motion. Because plaintiffs' complaint plainly meets the pleading requirements of Fed. R.

Civ. P. 8, briefing is unnecessary; both motions will be denied.

Rule 8 of the Federal Rules of Civil Procedure requires a party to include in its complaint a short, plain statement of the claim showing that the plaintiff is entitled to relief, as well as a demand for appropriate relief. Of course, a short plain statement is different from an incomprehensible one. When the allegations of a complaint are so vague or ambiguous that a party cannot “reasonably be required to frame a responsive pleading,” the defendant may move for a more definite statement under Fed. R. Civ. P. 12(e).

The Court of Appeals for the Seventh Circuit has held that complaints for copyright infringement are sufficient when they allege present copyright ownership by the plaintiff, registration in compliance with the applicable statute, and infringement by the defendant. Mid-America Title Co. v. Kirk, 991 F.2d 417, 421 (7th Cir. 1993) (citing 5 Charles A. Wright & Arthur A. Miller, Federal Practice and Procedure, § 1237, at 283 (1990)). In their complaint, plaintiffs allege that they possess exclusive rights to certain copyrighted sound recordings, that these recordings are marked on their album covers with notices of copyright as required by 17 U.S.C. § 401 and that without their permission, defendant has used and continues to use an online media distribution system to download, distribute and make available for distribution the copyrighted recordings. In addition, defendant attached to its complaint a list of eight recordings owned by plaintiffs that defendant allegedly copied or distributed, as well a thirty-page printout of what appear to be recordings linked to a Kazaa

user account for the user identified as “Broadkill@KaZaA.”¹ Plaintiffs have met the requirements of Rule 8 and have provided defendant with sufficient information to allow him to respond to the allegations contained in the complaint.

Although I will deny defendant’s motion, that does not mean he cannot obtain the information he is seeking. In his motion, defendant asks plaintiffs to provide him with (1) the dates of his alleged downloading and file-sharing; (2) the means by which plaintiffs accessed defendant’s online account records; and (3) any additional information plaintiffs possess that supports their allegations against defendant. This information is properly obtained through the discovery process. Fed. R. Civ. P. 26(b)(1) (“Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party.”) Discovery begins following the preliminary pretrial conference, which in this case has been scheduled for February 8, 2006, at 9:00 a.m. Fed. R. Civ. P. 26(d).

ORDER

IT IS ORDERED that

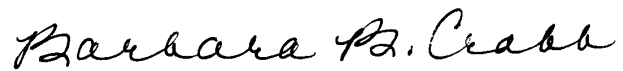
1. Defendant’s motion for a more definite statement is DENIED; and

¹On its Web page, Kazaa is described as a program that enables users to “search for and download music, movies, games, software, images and documents.” A warning posted at the top of its home page indicates that it has also been banned by the Federal Court of Australia. Kazaa, <http://www.kazaa.com/us/index.htm> (last visited January 18, 2006).

2. Plaintiffs' motion to set briefing on defendant's motion for a more definite statement is DENIED as unnecessary.

Entered this 20th day of January, 2006.

BY THE COURT:

A handwritten signature in cursive script, reading "Barbara B. Crabb".

BARBARA B. CRABB
District Judge