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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UMG RECORDINGS, INC., CAPITOL §
RECORDS, LLC, WARNER BROS. §
RECORDS INC., SONY MUSIC §
ENTERTAINMENT, ARISTA RECORDS §
LLC, ARISTA MUSIC, ATLANTIC §
RECORDING CORPORATION, CAPITOL §
CHRISTIAN MUSIC GROUP, INC., §
ELEKTRA ENTERTAINMENT GROUP §
INC., FONOVisA, INC., FUELED BY §
RAMEN LLC, LAFACE RECORDS LLC, §
NONESUCH RECORDS INC., RHINO §
RECORDS, INC., ROC-A-FELLA §
RECORDS, LLC, TOOTH & NAIL, LLC, §
ZOMBA RECORDING LLC, §
PLAINTIFFS, §

V. §

GRANDE COMMUNICATIONS §
NETWORKS LLC, AND PATRIOT §
MEDIA CONSULTING, LLC, §
DEFENDANTS. §

CAUSE NO. 1:17-CV-365-LY

ORDER ON REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Before the court in the above styled and numbered cause are Grande Communications Networks LLC’s (“Grande”) Motion to Dismiss Plaintiffs’ Complaint filed June 19, 2017 (Dkt. No. 28), Plaintiffs UMG Recordings, Inc.¹ Plaintiffs’ Opposition to Defendant Grande Communications Networks LLC’s Motion to Dismiss filed July 21, 2017 (Dkt. No. 33), Defendant Grande Communications Networks LLC’s Reply in Support of Motion to Dismiss filed August 4, 2017 (Dkt. No. 37), Defendant Patriot Media Consulting, LLC’s (“Patriot Media”) Motion to

¹ As the Plaintiffs’ interests in this action do not diverge, for convenience the court refers to the Plaintiffs collectively as “UMG Recordings.”

Dismiss for Failure to State a Claim filed June 18, 2017 (Dkt. No. 29), UMG Recordings Plaintiffs' Opposition to Defendant Patriot Media Consulting, LLC's Motion to Dismiss filed July 21, 2017 (Dkt. No. 34), and Defendant Patriot Media Consulting, LLC's Reply in Support of Motion to Dismiss filed August 4, 2017 (Dkt. No. 38).

The motions were referred to a United States Magistrate Judge on August 14, 2017, for a report and recommendation. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72; Loc. R. W. D. Tex. Appx. C, R. 1(c). The magistrate judge signed a report and recommendation on February 28, 2018 (Dkt. No. 72), recommending that this court grant in part Grande's motion to dismiss to the extent that the court dismiss UMG Recordings' vicarious-copyright-infringement claim, and deny the motion in all other respects. The magistrate judge also recommends that this court grant Patriot Media's motion to dismiss and dismiss with prejudice all claims alleged by UMG Recordings against Patriot Media.

A party may serve and file specific written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation and thereby secure *de novo* review by the district court. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). The record reflects that the parties received the report and recommendation on February 28, 2018, and objections if any, were due to be filed on March 14, 2018. Grande Communications and Patriot Media filed objections on March 14, 2018 (Dkt. Nos. 73 & 74). Patriot Media filed amended objections on March 22, 2018.

In light of Defendants' objections, the court has undertaken a *de novo* review of the entire case file. Having considered the motions, responses, replies, objections, the case file, and the applicable law, the court will accept and adopt the report and recommendation for substantially the reasons stated therein.

IT IS ORDERED that Defendants' objections to the report and recommendation (Dkt. Nos. 73, 74, & 76) are **OVERRULED**.

IT IS FURTHER ORDERED that for substantially the reasons stated therein the Report and Recommendation of the United States Magistrate Judge (Dkt. No. 72) is **ACCEPTED AND ADOPTED** by the court.

IT IS FURTHER ORDERED that Grande Communications Networks LLC's Motion to Dismiss Plaintiffs' Complaint filed June 19, 2017 (Dkt. No. 28) is **GRANTED IN PART** and to the extent that UMG Recordings's claim of vicarious copyright infringement alleged against Grande Communications is **DISMISSED WITH PREJUDICE**. In all other respects, this motion is **DENIED**.

IT IS FURTHER ORDERED that Defendant Patriot Media Consulting, LLC's Motion to Dismiss for Failure to State a Claim filed June 19, 2017 (Dkt. No. 29) is **GRANTED**. All claims against Patriot Media Consulting, LLC are **DISMISSED WITH PREJUDICE**.

SIGNED this 26th day of March, 2018.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE