

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ATLANTIC RECORDING
CORPORATION, LAFACE
RECORDS LLC, SONY MUSIC
ENTERTAINMENT, UMG
RECORDINGS, INC., WARNER
BROS. RECORDS INC., ARISTA
MUSIC, ARISTA RECORDS LLC,
BAD BOY RECORDS LLC,
CAPITOL RECORDS, LLC,
ELECTRA ENTERTAINMENT
GROUP INC., SONY MUSIC
ENTERTAINMENT US LATIN LLC,
ZOMBA RECORDING LLC, ROC-A-
FELLA RECORDS, LLC,

Plaintiffs,

v.

SPINRILLA, LLC and JEFFERY
DYLAN COPELAND,

Defendants.

Civil Action No.
1:17-CV-00431-AT

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' FOURTH
MOTION IN LIMINE TO PRECLUDE DEFENDANTS FROM
INTRODUCING THE FINANCIAL STATEMENTS OF PLAINTIFFS'
PARENT CORPORATIONS**

Pursuant to Rules 402 and 403 of the Federal Rules of Evidence, Plaintiffs move in limine to preclude Defendants from introducing any evidence or making any argument at trial pertaining to the financial information of Plaintiffs' parent corporations. Specifically, Defendants have included on their exhibit list over **2,000** pages of consolidated financial reports for Universal Music Group B.V., Sony Corporation, and Warner Music Group Corp., none of which is a party to this case. Evidence or argument related to Plaintiffs' parent corporations has *no* bearing on the issues to be tried, is certain to cause jury confusion as to the significance of such materials in setting an appropriate amount of statutory damages, and would be highly prejudicial to the Plaintiffs.

Given the irrelevant and prejudicial nature of this evidence and argument, the financial statements, and any related testimony, should be excluded at trial.

BACKGROUND

Defendants seek to introduce three exhibits related to the financial information of Plaintiffs' parent corporations. *See* Dkt. 440 (Pretrial Order) at 161 (identifying Defendants' trial exhibits 35, 37, and 38).

First, Defendants' trial exhibit 35 is a 306-page prospectus prepared in connection with the public offering of shares of Universal Music Group B.V. on Euronext Amsterdam, a regulated stock market in Amsterdam, the Netherlands. Ex. A (Defs.' Ex. 35). Universal Music Group B.V. is not a party to this lawsuit. It is

the ultimate parent corporation of Plaintiffs UMG Recordings, Inc. and Capitol Records, LLC, as well as dozens of other subsidiary companies located both in the United States and abroad.¹ Indeed, Defendants' exhibit outlines this corporate structure, conclusively demonstrating that Universal Music Group B.V.'s holdings include many material subsidiaries that are not Plaintiffs here and that operate in countries across the world. *See id.* at 167. The prospectus also includes Universal Music Group B.V.'s combined financial statements for 2018 through June 2021. However, those statements do not include any individual reporting for any of the Plaintiffs.

Second, Defendants seek to introduce 319 pages of consolidated financial results for Sony Corporation for fiscal years 2013 through 2021. Ex. B (Defs.' Ex. 37). Sony Corporation is not a party to this lawsuit. It is a publicly traded Japanese company and is the ultimate parent corporation of many subsidiary companies in various industries, including home entertainment and mobile devices, video games, and motion pictures. Sony Corporation's holdings also include Plaintiffs LaFace Records LLC, Sony Music Entertainment, Arista Music, Arista Records LLC, Sony Music Entertainment US Latin, and Zomba Recordings LLC. The consolidated financial statements do not include any individual reporting for any of the individual

¹ Plaintiff Roc-A-Fella Records, LLC is no longer an active business entity and assigned all of its assets to UMG Recordings, Inc.

Plaintiffs. Indeed, even where the reporting identifies “music” as a category among Sony Corporation’s many operations, the data consolidates the results of Sony Corporation’s recorded music and music publishing businesses *worldwide*. *See id.* at 6.

Third, Defendants seek to introduce 2,217 pages of Warner Music Group Corp.’s Form 10-K reports for fiscal years 2013 through 2020. Ex. C (Defs.’ Ex. 38). Warner Music Group Corp. is not a party to this lawsuit. It is a Delaware corporation and is the ultimate parent corporation of Plaintiffs Atlantic Recording Corporation, Elektra Entertainment Group Inc., and Warner Records Inc., formerly known as Warner Bros. Records Inc., as well as other subsidiary companies. Again, the financial statements do not include any individual reporting pertaining to any Plaintiff and reflect results from both Warner Music Group Corp.’s sound recording and music publishing operations. *See id.* at 2.

LEGAL STANDARD

Evidence is relevant only if “(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Fed. R. Evid. 401. “Irrelevant evidence is not admissible.” Fed. R. Evid. 402. Moreover, relevant evidence can be precluded “if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay,

wasting time, or needlessly presenting cumulative evidence.” Fed. R. Evid. 403. The decision to “admit or exclude evidence at trial rests squarely within the discretion of the trial judge.” *United States v. Perez–Garcia*, 904 F.2d 1534, 1544 (11th Cir. 1990).

ARGUMENT

Plaintiffs have elected to seek statutory damages in this action. *See* 17 U.S.C. § 504(c). In determining the appropriate amount of statutory damages to award to Plaintiffs for each of the infringed works in suit, the jury will consider “the profits [Defendants] earned because of the infringement; the revenues that [Plaintiffs] lost because of the infringement; the difficulty of proving [Plaintiffs’] actual damages; the circumstances of the infringement; whether [Defendants] intentionally infringed [Plaintiffs’] copyright; and deterrence of future infringement.” *MidlevelU, Inc. v. ACI Info. Grp.*, 989 F.3d 1205, 1218 (11th Cir. 2021) (quoting *Eleventh Circuit Pattern Jury Instructions (Civil Cases)* § 9.32 (2022)).

The financial statements of Plaintiffs’ parent corporations are not relevant to *any* of these factors. The statements report the *consolidated* financial information for each of the respective parent corporations of the Plaintiffs, which accounts for many other subsidiary companies and revenue streams that have *no* relation to this case. For example, Sony Corporation’s financial statements include its sales and operating revenue from devices such as semiconductors and batteries, as well Sony

Corporation's film and television revenues through its subsidiary company Sony Pictures Entertainment. Ex. B (Defs.' Ex. 37) at 5-6. None of the financial statements report the individual revenues of Plaintiffs, and they certainly do not report any information that would be remotely relevant to calculating the revenues that Plaintiffs lost because of Defendants' infringement.

Presumably, Defendants only seek to introduce this information to create a misleading and prejudicial impression of the resources of the Plaintiffs that they can improperly compare to the revenues of the Defendants to obtain sympathy from the jury. Overwhelming the jury with voluminous combined financial statements of Plaintiffs' parent corporations would confuse the jury, who would be left to wonder about the relevance of this information in calculating the amount of statutory damages they should award. The simple and undeniable fact is that this information has absolutely no relevance to that calculation. It is being offered to create improper prejudice and jury confusion, and therefore must be excluded from the trial.

CONCLUSION

For the foregoing reasons, the Court should grant Plaintiffs' motion in limine to preclude Defendants from introducing the financial statements of Plaintiffs' parent corporations, and any related testimony, at trial.

This 8th day of March, 2023.

Respectfully submitted,

JENNER & BLOCK LLP

TROUTMAN PEPPER HAMILTON
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/s/ Andrew H. Bart

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CERTIFICATE OF COUNSEL REGARDING FONT SIZE

I, Andrew H. Bart, an attorney, hereby certify that the foregoing has been prepared with a font size and point selection (Times New Roman, 14 pt. which is approved by the Court pursuant to Local Rules 5.1(C) and 7.1(D).

/s/ Andrew H. Bart
ANDREW H. BART

CERTIFICATE OF SERVICE

I, Andrew H. Bart, hereby certify that on this 8th day of March, 2023, the foregoing papers were electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send electronic notification and a service copy of this filing to all counsel of record who have appeared in this matter.

/s/ Andrew H. Bart
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