

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

BRIDGEPORT MUSIC, INC., et al., )  
  ) )  
  ) Plaintiffs, ) )  
  ) ) )  
  ) v. ) NO. 3:01-0412 )  
  ) ) Jury Demand )  
11C MUSIC, et al., ) ) Judge Campbell/Brown )  
  ) ) )  
  ) Defendants. ) )

O R D E R

A case management conference was held in this matter at the request of attorneys Kirkpatrick, Goldman, and Sullivan. Present on the telephone conference were these attorneys along with Mr. Bowen, Mr. Busch, and Ms. Davis.

As an initial matter, the Court has pending before it a motion by the plaintiffs to disqualify the law firm of Bowen, Riley, Warnock & Jacobson (Docket Entry No. 41), and a motion by the defendant Atlantic Recording and others to disqualify the law firm of King & Ballow as against the Time Warner defendants (Docket Entry No. 100). The Magistrate Judge had previously set a hearing on the motion to disqualify the Bowen firm for June 18, 2001. That hearing is **CANCELED**. The following scheduling order is entered for briefing the two disqualification motions.

This document was entered on the docket in compliance with Rule 58 and / or Rule 79 (a).

FRCP. on 6-18-01 By [Signature]

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Responses shall be due by **June 22, 2001**, and replies, limited to five pages, shall be due by **June 29, 2001**. The parties are reminded that Local Rule 8(a) requires that any exhibits be sequentially numbered with the main pleading.

A hearing on both of these motions is set for **July 2, 2001, at 10:00 a.m., in Courtroom 776, U.S. Courthouse, 801 Broadway, Nashville, TN.**

Next, the parties discussed with the Magistrate Judge requests by certain defendants for extension of time until August 15, 2001, to respond to the plaintiffs' first set of interrogatories and requests for production of documents.

The first of these is Docket Entry No. 81 by the defendant Palm Pictures. Palm Pictures has requested an additional twenty days to respond to the complaint, and an additional sixty days to serve responses to plaintiffs' first set of interrogatories. This motion is **CRANTED** in part and **DENIED** in part. The defendant may have until **June 29, 2001**, to respond to the complaint and they may have until **August 15, 2001**, to respond to the first set of interrogatories and requests for production of documents.

In the future, the Magistrate Judge would request that when the parties are requesting extensions they request extensions to specific dates, rather than using the generic "an additional twenty days". Given the complexity of this case, the Magistrate Judge does not want to have to look through voluminous records to attempt to determine where the twentieth day falls with respect to the requesting defendant. If the parties wish an extension, they shall request an extension to a specific date. Failure to request an extension to a specific date may result in a denial of the request.

Next is a request by the Warner and Sony defendants for an enlargement of sixty days (Docket Entry No. 83). These defendants are **GRANTED** until **August 15, 2001**, to respond to the first set of interrogatories and requests for production of documents.

The Universal defendants have likewise requested an extension of time to respond to the plaintiffs' interrogatories and requests for production of documents (Docket Entry No. 87). They have requested an extension of time until August 15, 2001. This motion is **GRANTED**.

The EMI and other defendants have likewise requested an extension until August 15, 2001, to reply to the first set of interrogatories and requests for production of documents (Docket Entry No. 92). This motion is **GRANTED**.

Next, the Famous Music and other defendants have filed a similar motion requesting until August 15, 2001, in which to respond to the first set of interrogatories and requests for production of documents (Docket Entry No. 94). This motion is **GRANTED**.

Finally, the BMG defendants have requested an additional sixty days in which to respond to the first set of interrogatories and requests for production of documents (Docket Entry No. 95). This motion is **GRANTED** in part and **DENIED** in part. The BMG defendants may have until **August 15, 2001**, in which to respond to the first set of interrogatories and requests for production of documents.

A copy of the first set of interrogatories and requests for production of documents was attached to Docket Entry No. 87. The Magistrate Judge *sua sponte* raised some concern about the scope of these requests, particularly since they did not appear to be particularized as to defendants. Mr. Busch has advised that

Exhibit C to the complaint delineated which alleged infringing items were attributed to which defendants, and that the interrogatories and requests for production of documents were intended to cover those items.

The Magistrate Judge is not sure that this would be self-evident to the defendants. The Magistrate Judge has some concern that the defendants should not be forced to examine a 900-plus page complaint to determine exactly what they are charged with if there is any ambiguity. It should be the responsibility of the plaintiffs to tailor their requests to the defendants. To the extent that either party must bear a burden, the plaintiffs, having elected to file a complaint of this size, will in general have to bear the burden of any required particularization.

Mr. Busch, on behalf of the plaintiffs, advised that if there were questions concerning the specificity or scope of the request, he would be glad to discuss the matter with the defendants upon being contacted by them.

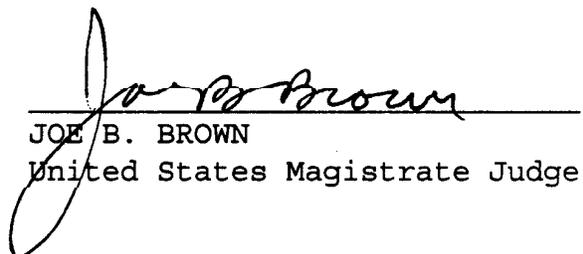
The Magistrate Judge reminds the parties that Local Rule 9(e) applies to any discovery motions. In particular, the parties are required to prepare a joint written statement of the matter at issue in the discovery dispute and attach it to any discovery motion. They must also comply with the requirements of Local Rule

9(e)(2) concerning the filing of objections, and most importantly, there must be a certification that counsel has conferred with the opposing party in a good faith effort to resolve by agreement the issue raised, and that counsel have not been able to do so. The Magistrate Judge specifically advises the parties that letters and faxes do not constitute a good faith effort to resolve such issues. There must be either a face-to-face meeting of counsel for the parties or a personal telephone call in which the issues have been discussed. Voice mail likewise does not constitute a good faith effort to resolve the matter. The Magistrate Judge will not consider any discovery dispute motions absent compliance with this Rule. If any party has difficulty obtaining the Local Rules, they are available on the Court's website at [www.tnmd.uscourts.gov](http://www.tnmd.uscourts.gov).

The Magistrate Judge had previously ordered the plaintiffs to notify the Court by June 15, 2001, of a date by which they could convene a Rule 26(f) conference, and a date by which the parties would be able to submit a case management scheduling order. The plaintiffs shall have until **June 29, 2001**, to file this notice. In this notice, the plaintiffs shall also advise the Magistrate Judge of the status of their efforts to obtain service of process to date.

The Clerk is **directed** to serve this Order on (1) the parties that are bringing or opposing the subject motion ruled upon; and (2) as provided in the Order (Docket Entry No. 2) entered May 8, 2001. This is so the Clerk personally serves the directly affected parties and that all other parties are served by the Clerk via the plaintiff in accordance with the procedure set out in the Order (Docket Entry No. 2).

It is so **ORDERED**.

  
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JOE B. BROWN  
United States Magistrate Judge