

UNITED STATES DISTRICT COURT
For the Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

No. C 12-04740 LB

BROADCAST MUSIC, INC.; MJ PUBLISHING TRUST d/b/a MIJAC MUSIC; FOURTEENTH HOUR MUSIC INC.; COTILLION MUSIC, INC. d/b/a PRONTO MUSIC; HOUSE OF CASH, INC.; RICK’S MUSIC, INC.; RED SEA SONGS; RONDOR MUSIC INTERNATIONAL, INC. d/b/a IRVING MUSIC; SONGS OF UNIVERSAL, INC.; KINGS ROAD MUSIC; PAUL SIMON MUSIC; EMI VIRGIN SONGS, INC. d/b/a EMI LONGITUDE MUSIC; SONY/ATV SONGS LLC; THE BERNARD EDWARDS COMPANY LLC; PAINTED DESERT MUSIC CORPORATION,,

**ORDER TO PROVIDE
SUPPLEMENTAL BRIEFING**

Plaintiffs,

v.

RHONDA ROSE ROASCIO, individually and d/b/a MOM & POP’S SALOON,

Defendants.

Plaintiff Broadcast Music Inc. (“BMI”), and the ten other Plaintiffs (the “Copyright Owners”), sued Rhonda Roascio individually and doing business as Mom & Pop’s Saloon (together, “Ms. Roascio”) for copyright infringement. Compl., ECF No. 1.¹ Plaintiffs allege that Ms. Roascio

¹ Citations are to the Electronic Case File (“ECF”) with pin cites to the electronically-generated page numbers at the top of the document.

1 infringed the Copyright Owners' rights in ten musical compositions by performing the songs in
2 Mom and Pop's Saloon. *Id.* ¶¶ 20, 23. Mr. Roascio has not answered or appeared and Plaintiffs
3 have moved for default judgment. *See* Motion for Default Judgment ("Motion"), ECF No. 15; *see*
4 *generally* Docket.

5 In order to evaluate Plaintiffs' motion for Default Judgment, the court must consider the merits
6 of Plaintiffs' substantive claims. *See Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986).
7 Plaintiffs claim that BMI is a nonexclusive licensee of the Copyright Owners. *See* Wolfe Decl.,
8 ECF No. 15-4 ¶ 2. The court appreciates that courts have granted default judgment when a non-
9 exclusive licensee such as BMI joins with a plaintiff who owns the copyright for the music
10 compilation at issue. *See, e.g., Broadcast Music, Inc. v. Kiflit*, No. 12-CV-00856-LHK, 2012 WL
11 471852 (N.D. Cal. Oct. 2, 2012). Probably there is some delineated exclusivity over the licensing of
12 the public performance rights, and maybe the allegation about that in the complaint is sufficient
13 when BMI includes the owners in the lawsuit. Still, to the extent that it raises an issue about
14 standing, the undersigned would appreciate it if BMI would file a short (one to two page) informal
15 letter brief on the issue no later than Wednesday, June 26, 2013, at noon. It does not have to be that
16 detailed.

17 **IT IS SO ORDERED.**

18 Dated: June 25, 2013

19 
LAUREL BEELER
United States Magistrate Judge