

NOT FOR PUBLICATION

CLOSED

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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 DESMOND WITHERSPOON,

Plaintiff,

v.

BEHRINGER USA, INC. MUSIC,

Defendant.

Civil Action No. 15-0136 (SRC)

**OPINION**


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**CHESLER**, District Judge

This matter comes before the Court on the application filed by Plaintiff Desmond Witherspoon to proceed in forma pauperis without fees under 28 U.S.C. § 1915. The Court finds that Plaintiff qualifies for in forma pauperis status, yet his Complaint will be dismissed. The Court must examine Plaintiff's claim and dismiss it if frivolous or legally insufficient. 28 U.S.C. § 1915(e)(2). Here, Plaintiff demands A "120 channel mixer" from Behringer in Bothell, WA, for a cause of action "Tolling Limitation of Action; 19.86-120." No further information is provided. As such, Plaintiff has failed to state a basis for federal subject matter jurisdiction and has failed to state a facially plausible claim for relief. For the reasons provided in the Opinion for Civil Action No. 14-6296, Plaintiff is on notice that he may be sanctioned if he continues to file unsubstantiated and repetitive lawsuits. An appropriate Order will be filed.

s/Stanley R. Chesler  
 STANLEY R. CHESLER  
 United States District Judge

Dated: January 21, 2015