

**EXHIBIT 4**

1 Matthew Franklin Jaksa (CA State Bar No. 248072)  
2 HOLME ROBERTS & OWEN LLP  
3 560 Mission Street, 25<sup>th</sup> Floor  
4 San Francisco, CA 94105-2994  
5 Telephone: (415) 268-2000  
6 Facsimile: (415) 268-1999  
7 E-mail: matt.jaksa@hro.com

8 Attorneys for Plaintiffs  
9 SONY BMG MUSIC ENTERTAINMENT;  
10 ARISTA RECORDS LLC; INTERSCOPE RECORDS;  
11 BMG MUSIC; UMG RECORDINGS, INC.;  
12 and WARNER BROS. RECORDS INC.

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 OAKLAND DIVISION

16 SONY BMG MUSIC ENTERTAINMENT, a  
17 Delaware general partnership; ARISTA  
18 RECORDS LLC, a Delaware limited liability  
19 company; INTERSCOPE RECORDS, a  
20 California general partnership; BMG MUSIC, a  
21 New York general partnership; UMG  
22 RECORDINGS, INC., a Delaware corporation;  
23 and WARNER BROS. RECORDS INC., a  
24 Delaware corporation,

25 Plaintiffs,

26 v.

27 BRITTANY GRAY,

28 Defendant.

CASE NO. 4:07-CV-04854-WDB

**FIRST AMENDED COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

**JURISDICTION AND VENUE**

1  
2 1. This is a civil action seeking damages and injunctive relief for copyright infringement  
3 under the copyright laws of the United States (17 U.S.C. §101 et seq.).

4 2. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. §1331 (federal  
5 question); and 28 U.S.C. §1338(a) (copyright).

6 3. This Court has personal jurisdiction over the Defendant, Brittany Gray, and venue in  
7 this District is proper under 28 U.S.C. § 1391(b) and (c) and 28 U.S.C. § 1400, because, on  
8 information and belief, the Defendant resides in this District and/or a substantial part of the acts of  
9 infringement complained of herein occurred in this District.

10 **PARTIES**

11 4. Plaintiff SONY BMG MUSIC ENTERTAINMENT is a Delaware general  
12 partnership, with its principal place of business in the State of New York.

13 5. Plaintiff Arista Records LLC is a limited liability company duly organized and  
14 existing under the laws of the State of Delaware, with its principal place of business in the State of  
15 New York.

16 6. Plaintiff Interscope Records is a California general partnership, with its principal  
17 place of business in the State of California.

18 7. Plaintiff BMG Music is a general partnership duly organized and existing under the  
19 laws of the State of New York, with its principal place of business in the State of New York.

20 8. Plaintiff UMG Recordings, Inc. is a corporation duly organized and existing under the  
21 laws of the State of Delaware, with its principal place of business in the State of California.

22 9. Plaintiff Warner Bros. Records Inc. is a corporation duly organized and existing  
23 under the laws of the State of Delaware, with its principal place of business in the State of  
24 California.

25 10. Plaintiffs are informed and believe that Defendant is an individual who resided in  
26 Daly City, California, within this District at the time of the infringement complained of herein.  
27 Upon information and belief, Defendant may still be found in this District.  
28

COUNT I

INFRINGEMENT OF COPYRIGHTS

11. Plaintiffs incorporate herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiffs are, and at all relevant times have been, the copyright owners or licensees of exclusive rights under United States copyright law with respect to certain copyrighted sound recordings, including but not limited to, all of the copyrighted sound recordings on Exhibit A to this Complaint (collectively, these copyrighted sound recordings shall be identified as the "Copyrighted Recordings"). Each of the Copyrighted Recordings is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights, for which the Plaintiffs are the owners as specified on Exhibit A.

13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Recordings and to distribute the Copyrighted Recordings to the public.

14. Much of the unlawful distribution of copyrighted sound recordings over the Internet occurs via "peer-to-peer" ("P2P") file copying networks or so-called online media distribution systems. P2P networks, at least in their most popular form, refer to computer systems or processes that enable Internet users to search for files (including audio recordings) stored on other users' computers and transfer exact copies of files from one computer to another via the Internet, which can include both downloading an exact copy of that file onto the user's own computer and distributing an exact copy of that file to other Internet users on the same P2P network. P2P networks enable users who otherwise would have no connection with, or knowledge of, each other to provide a sophisticated search mechanism by which users can locate these files for downloading and to reproduce and distribute files off of their personal computers.

15. Users of P2P networks who distribute files over a network can be identified by using Internet Protocol ("IP") addresses because the unique IP address of the computer offering the files for distribution can be captured by another user during a search or a file transfer. Users of P2P networks can be identified by their IP addresses because each computer or network device (such as a

1 router) that connects to a P2P network must have a unique IP address within the Internet to deliver  
2 files from one computer or network device to another. Two computers cannot effectively function if  
3 they are connected to the Internet with the same IP address at the same time.

4 16. Plaintiffs identified an individual using LimeWire on the P2P network Gnutella at IP  
5 address 130.212.161.156 on February 14, 2007 at 04:30:19 EST distributing 181 audio files over the  
6 Internet. The Defendant was identified as the individual responsible for that IP address at that date  
7 and time. Plaintiffs are informed and believe that as of February 14, 2007, Defendant, without the  
8 permission or consent of Plaintiffs, had continuously used, and continued to use, a P2P network to  
9 download and/or distribute to the public the Copyrighted Recordings. Exhibit A identifies the date  
10 and time of capture and a list of Copyrighted Recordings that Defendant has, without the permission  
11 or consent of Plaintiffs, downloaded and/or distributed to the public. Through Defendant's  
12 continuous and ongoing acts of downloading and/or distributing to the public the Copyrighted  
13 Recordings, which acts Plaintiffs believe to have been ongoing for some time, Defendant has  
14 violated Plaintiffs' exclusive rights of reproduction and distribution. Defendant's actions constitute  
15 infringement of Plaintiffs' copyrights and exclusive rights under copyright.

16 17. In addition to the sound recordings listed on Exhibit A, Plaintiffs are informed and  
17 believe that Defendant has, without the permission or consent of Plaintiffs, continuously downloaded  
18 and/or distributed to the public additional sound recordings owned by or exclusively licensed to  
19 Plaintiffs or Plaintiffs' affiliate record labels, and Plaintiffs believe that such acts of infringement are  
20 ongoing.

21 18. Plaintiffs have placed proper notices of copyright pursuant to 17 U.S.C. § 401 on  
22 each respective album cover of each of the sound recordings identified in Exhibit A. These notices  
23 of copyright appeared on published copies of each of the sound recordings identified in Exhibit A.  
24 These published copies were widely available, and each of the published copies of the sound  
25 recordings identified in Exhibit A was accessible by Defendant.

26 19. Plaintiffs are informed and believe that the foregoing acts of infringement have been  
27 willful and intentional, in disregard of and indifference to the rights of Plaintiffs.  
28

1           20.    As a result of Defendant's infringement of Plaintiffs' copyrights and exclusive rights  
2 under copyright, Plaintiffs are entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for  
3 Defendant's infringement of each of the Copyrighted Recordings. Plaintiffs further are entitled to  
4 their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

5           21.    The conduct of Defendant is causing and, unless enjoined and restrained by this  
6 Court, will continue to cause Plaintiffs great and irreparable injury that cannot fully be compensated  
7 or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. §§ 502  
8 and 503, Plaintiffs are entitled to injunctive relief prohibiting Defendant from further infringing  
9 Plaintiffs' copyrights, and ordering Defendant to destroy all copies of sound recordings made in  
10 violation of Plaintiffs' exclusive rights.

11                   WHEREFORE, Plaintiffs pray for judgment against Defendant as follows:

12           1.    For an injunction providing:

13                   "Defendant shall be and hereby is enjoined from directly or indirectly  
14 infringing Plaintiffs' rights under federal or state law in the  
15 Copyrighted Recordings and any sound recording, whether now in  
16 existence or later created, that is owned or controlled by Plaintiffs (or  
17 any parent, subsidiary, or affiliate record label of Plaintiffs)  
18 ("Plaintiffs' Recordings"), including without limitation by using the  
19 Internet or any online media distribution system to reproduce (i.e.,  
20 download) any of Plaintiffs' Recordings, to distribute (i.e., upload) any  
21 of Plaintiffs' Recordings, or to make any of Plaintiffs' Recordings  
22 available for distribution to the public, except pursuant to a lawful  
23 license or with the express authority of Plaintiffs. Defendant also shall  
24 destroy all copies of Plaintiffs' Recordings that Defendant has  
25 downloaded onto any computer hard drive or server without Plaintiffs'  
26 authorization and shall destroy all copies of those downloaded  
27 recordings transferred onto any physical medium or device in  
28 Defendant's possession, custody, or control."

22           2.    For statutory damages for each infringement of each  
23 Copyrighted Recording pursuant to 17 U.S.C. § 504.

24           3.    For Plaintiffs' costs in this action.

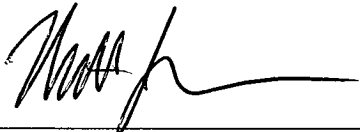
25           4.    For Plaintiffs' reasonable attorneys' fees incurred herein.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

5. For such other and further relief as the Court may deem just  
and proper.

Dated: February 1, 2008

HOLME ROBERTS & OWEN LLP

By:   
MATTHEW FRANKLIN JAKSA  
Attorneys for Plaintiffs

# **EXHIBIT A**



**EXHIBIT A****BRITTANY GRAY****IP Address:** 130.212.161.156 2007-02-14 04:30:19 EST**CASE ID#** 118287592**P2P Network:** Gnutella**Total Audio Files:** 181

<u>Copyright Owner</u>	<u>Artist</u>	<u>Recording Title</u>	<u>Album Title</u>	<u>SR#</u>
SONY BMG MUSIC ENTERTAINMENT	Journey	Open Arms	Escape	30-088
Arista Records LLC	Whitney Houston	I Will Always Love You	Bodyguard Soundtrack	152-583
Interscope Records	No Doubt	Underneath it All	Rock Steady	305-872
BMG Music	Alicia Keys	Caged Bird (Outro)	Songs in A Minor	299-410
SONY BMG MUSIC ENTERTAINMENT	Lauryn Hill	Ex-Factor	The Miseducation Of Lauryn Hill	254-183
UMG Recordings, Inc.	Boyz II Men	End Of The Road	Legacy	305-536
SONY BMG MUSIC ENTERTAINMENT	Aerosmith	Hole In My Soul	Nine Lives	246-031
Warner Bros. Records Inc.	Linkin Park	A Place For My Head	Hybrid Theory	288-402

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SONY BMG MUSIC ENTERTAINMENT, et  
al.,

No. CV-07-4854 MMC

Plaintiffs,

**JUDGMENT IN A CIVIL CASE**

v.

BRITTANY GRAY,

Defendant.

**( ) Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

**(X) Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

**IT IS SO ORDERED AND ADJUDGED** the Court hereby ADOPTS the recommendation in full, and for the reasons expressed in the Report and Recommendation, rules as follows:

1. Plaintiffs shall have judgment in the amount of \$6420 against defendant Brittany Raquel Gray, such amount consisting of \$6000 (statutory damages) and \$420 (costs).

2. Defendant shall be subject to the following permanent injunction:

a. Defendant shall be and hereby is ENJOINED from directly or indirectly infringing plaintiffs’ rights under federal or state law in the Copyrighted Recordings, identified in Exhibit A, and in any sound recording, whether now in existence or later created, that is owned or controlled by plaintiffs or any parent, subsidiary, or affiliate record label of plaintiffs) (“Plaintiffs’ Recordings”), including without limitation by using

1 the Internet or any online media distribution system to reproduce (i.e., download) any of  
2 Plaintiffs' Recordings available for distribution to the public, except pursuant to a lawful  
3 license or with the express authority of plaintiffs.

4 b. Defendant shall destroy all copies of Plaintiffs' Recordings that  
5 defendant has downloaded onto any computer hard drive or server without plaintiffs'  
6 authorization and shall destroy all copies of those downloaded recordings transferred onto  
7 any physical medium or device in defendant's possession, custody or control.

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: October 15, 2008

Richard W. Wieking, Clerk



By: Tracy Lucero  
Deputy Clerk