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 IRA G. MOHLER & SON, INC., )  
 Plaintiff, )  
 )  
 v. ) C.A. No. 12-943 S  
 )  
 ASTONISH RESULTS, LLC, )  
 Defendant. )  
 )

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dismiss are not disputed. In an abundance of caution, the Court gave Plaintiff until March 1, 2013, to advise whether it wished to contest dismissal of the case for the lack of diversity jurisdiction. March 1 came and went and Plaintiff did not file anything in opposition to dismissal for lack of diversity jurisdiction. Therefore, the matter is ripe for dismissal without prejudice based on the lack of diversity jurisdiction.

Diversity jurisdiction would exist if, at the time of the initiation of the action, there was complete diversity between Plaintiff and the members of Astonish, in that Astonish then had no member who is a citizen of Pennsylvania and no member who is “stateless.” D.B. Zwirn Special Opportunities Fund, L.P. v. Mehrotra, 661 F.3d 124, 125 (1st Cir. 2011) (per curiam); see Am. Fiber & Finishing, Inc. v. Tyco Healthcare Grp., LP, 362 F.3d 136, 140 (1st Cir. 2004). Citizenship of a limited liability company like Astonish is determined by the citizenship of its members. Pramco, LLC ex rel. CFSC Consortium, LLC v. San Juan Bay Marina, Inc., 435 F.3d 51, 54 (1st Cir. 2006). Plaintiff bears the burden of proving diversity jurisdiction once challenged. Padilla-Mangual v. Pavia Hosp., 516 F.3d 29, 31 (1st Cir. 2008); Lundquist v. Precision Valley Aviation, Inc., 946 F.2d 8, 10 (1st Cir. 1991) (quoting O’Toole v. Arlington Trust Co., 681 F.2d 94, 98 (1st Cir. 1982)).

Based on the foregoing, Defendant’s Motion (ECF No. 12) is GRANTED. The case is dismissed without prejudice based on lack of diversity jurisdiction.

IT IS SO ORDERED.

/s/ William E. Smith  
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William E. Smith  
United States District Judge  
Date: March 6, 2013