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By JOSHUA FREED, AP Business Writer

49 minutes ago

DULUTH, Minn. - An amateur musician and 11 other jurors were seated Tuesday in the trial of Jammie Thomas, accused by the recording industry of sharing music online in violation of copyrights.

Thomas, a 30-year-old mother of two, is the first of 26,000 people sued by the industry whose case has gone to trial. An industry group and three recording companies claim she illegally offered 1,702 songs for free on a file-sharing network.

Her trial offers the first chance for both sides in the debate over online music sharing to show a jury its version of the facts. Opening statements were expected Tuesday morning.

Her lawyer says the record companies haven't even proven that Thomas, who lives near Brainerd, Minn., and works for the Department of Natural Resources of the Mille Lacs Band of Ojibwe, shared the songs.

Most of the 26,000 people the record industry group has sued have settled by paying a few thousand dollars.

"We think that speaks to the clarity of the law here," said Jonathan Lamy, a spokesman for the Recording Industry Association of America.

But lawyers for the defendants say they've settled because trials cost tens of thousands of dollars. Thomas's lawyer, Brian Toder, said she was determined to fight. He declined to make her available for an interview.

"She came into my office and was willing to pay a retainer of pretty much what they wanted to settle for," he said. "And if someone's willing to pay a lawyer rather than pay to make it go away, that says a lot."

There have been no claims that either of Thomas' children — ages 11 and 13 — were involved in music sharing.

Thomas is at risk for a judgment of more than \$1.2 million. The recording association is seeking damages set under federal law, of \$750 to \$30,000 for each alleged copyright violation.

"We repeatedly offer out-of-court settlements far less than what the law allows," Lamy said. The lawsuits aim to "communicate that there are consequences for breaking the law and encourage fans to turn to legal online services."

Jury selection starts Tuesday in Duluth, Minn., and opening statements are expected the same day.

The record companies claim that on Feb. 21, 2005, online investigators at SafeNet Inc., found 1,702 files shared under what they said was a Kazaa account being used by Thomas. The songs included Swedish death metal band Opeth, German industrial group VNV Nation and American rock band Chevelle.

"This individual was distributing these audio files for free over the Internet under the username 'tereastarr@KaZaA' to potentially millions of other KaZaA users," according to court papers.

Capitol Records Inc., Warner Bros. Records Inc. and Sony BMG are among the companies suing Thomas.

In addition to filing the lawsuits, the industry group has sent 4,000 pre-lawsuit letters, Lamy said.

The recording industry persuaded a federal judge in 2001 to shut down Napster, which made copyrighted music available on its own computers. Since Napster re-opened, it

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has charged users for music.

The file-sharing programs that emerged to take Napster's place point users to files available on a variety of computers and servers. But their impact has been the same: Millions of songs are being downloaded for free instead of purchased legally.

So the recording industry began naming individual file-sharers users in lawsuits in September 2003. The industry association says the lawsuits have helped. But the number of households that have downloaded music with file-sharing programs has risen from 6.9 million in April 2003 to 7.8 million in March 2007, according to industry tracking.

"I think by most any metric you choose it's been a failure," said Fred von Lohmann, the senior intellectual property attorney at the Electronic Frontier Foundation, a civil liberties group.

He questioned whether the lawsuits are much of a deterrent because the 26,000 cases have targeted only a small percentage of music downloaders.

"The vast majority of people will never know anyone who's gotten sued for this," he said.

Toder, Thomas's attorney, plans to start with the basics — making them prove they own the songs at all. On Monday, U.S. District Judge Michael J. Davis threw out 784 pages of documents produced by the record companies to show they owned a sample of the songs. Toder had argued that the documents were produced seven months late.

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