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RE: Reply from Attorney Thomas M. Mullaney on behalf of SafeNet/ MediaSentry
File No. 308976

Thank you again for your quick response to the F.O.I.A. request I sent to your office last week.

I wish I had sent for the information much quicker, as I was stunned when I read the reply sent to you by Attorney Thomas Mullaney. In Mr. Mullaney's letter sent to your office on March 17, 2008, he characterized SafeNet/MediaSentry's activities as not being "involved in the private investigation activities associated with companies like Pinkerton's, who might surreptitiously follow and photograph individuals for whatever reason."

This is an absurd analogy, Pinkerton's is a respected corporation that is licensed when need be, and respects the laws and privacy issues at hand.

The "Linares Declaration" that was sent to your office has been relied upon in thousands of Federal Court actions, and offers a very different picture of the surreptitious activities of SafeNet/MediaSentry. "IP" addresses and screen shots of private computers were taken long before any legal action or notice of any invasion had taken place. Unannounced to the owner of the computer.

Information gathered by this company had been pilfered and given to the RIAA, where it was further reviewed. The secret unregulated investigations and subsequent litigation is massively documented. This company scans countless computers secretly on a regular basis. Of the thousands of computers scanned on the campus of Northern Michigan University, over 20 "IP" addresses were selected and files copied and indexed as a function of this corporation on behalf of the RIAA.

Letters sent to NMU officials were eventually sent to students caught in this drift net. These letters included list of the songs that were somehow associated with the “IP” address SafeNet reported to the RIAA. The letters claimed to have enough evidence on the activities of the owner a particular “IP” address to file suit in Federal Court.

The “Litigation Support” that Mr. Mullaney claims to have played a “Limited Roll” is the very crux of the sham litigation process used by the RIAA. It has been the crux in nearly every legal action filed by the recording industry in the past 4 years. Mr. Mullaney loosely refers to the collection of this data as a “street address that allows the receipt of regular mail.” A more accurate analogy of this behavior would be a “fishing expedition to gather information” or, “the electronic equivalent of a window peeper who is paid by a neighborhood bully to stalk the streets of the neighborhood with a digital camera, taking digital photos through the open windows of houses in the neighborhood, and running back to the bully with his prize.” (Laface v Does 1-5 Western District of Michigan Civil Action 2-07cv0187.)

SafeNet/MediaSentry not only gathers “IP” addresses from Internet users, it also gathers files from the computers hard drives as described in Federal Court documents entered by one of its employees, Tom Mizzone. (I have attached Mr. Mizzone’s declaration to the courts.) He explains that MediaSentry has been “*engaged* by the Recording Industry Association of America (“RIAA”).” The “RIAA” is a trade group, not an attorney, as Mr. Mullaney states in his reply.

Mr. Mullaney’s characterization of SafeNets’ activities falling “squarely” within Attorney General Kelly’s opinion is contrary to a letter he sent to Federal Magistrate Honorable Robert M. Levy on (February 27, 2008.) In Mr. Mullaney’s letter to the judge, he emphatically insisted that SafeNet/MediaSentry activities...“has no role other than to find that computer by connecting to KaZaA users as any other user would, and then providing to Plaintiffs the internet protocol (“IP”) address of the infringer, inter alia, from which defendant accessed KaZaA”. Less than a month later (March 17th 2008) he wrote his reply to your office calming that MediaSentry should be exempt from licensing because they meet the requirements of an expert witness established by Attorney General Kelly’s opinion.

It must be noted that Attorney General Kelly’s Opinion No. 6605 was given specifically to address “Persons hired because of their technical knowledge and expertise to provide testimony as expert witnesses in civil or criminal lawsuits.

Mr. Mullaney must have been confused when he claimed that SafeNet/MediaSentry did not function as an expert witness to the federal court, and then claims that their expertise falls “squarely” within the 1989 Opinion of Attorney General Kelly.

As Attorney General Kelly pointed out, “the Private Detective License Act of 1965 evidences an intent by the Legislature to *regulate, by licensing, those who are in the business of carrying on the activities of a private investigator or detective.* The Act was not intended to apply to persons who, by virtue of their technical knowledge and

experience, have been employed to provide expert testimony in a lawsuit even though, in doing so, they may *incidentally* perform one or more of the activities described in the Act.” (emphasis added). I have also attached additional court documents that paint a different picture of the activities of this company, claiming that they are not expert witnesses, and that they indeed investigate for the RIAA.

The information gathered by SafeNet/MediaSentry’s investigations include log-in data, copies of personal files kept on protected computers, e-mail addresses, and who knows what else. MediaSentry provides *electronic voyeurism for hire, as they advertise*.

SafeNet/MediaSentry is aware of the licensing requirements in Michigan, so they have looked for a loophole to avoid having to meet the requirements of the law. They claim that their investigations conducted at the specific direction of an attorney, yet they fail to name the attorney. As a matter of record, MediaSentry had never claimed that it worked for an attorney until a motion was made to the courts about its activities. MediaSentry is contracted by the RIAA.

Mr. Mullaney has chosen to misrepresent the actions of his client by insisting that SafeNet/MediaSentry “does not furnish or supply information as to the personal character of any person or firm, or kind of business or occupation of any person or firm, that it does not fall within the requirements of Section 3(1) & (2) of 1965 PA 285, MCL 338.823 (1) & (2)”. This statement is simply a lie.

Mr. Mullaney’s correspondence has been typical of the approach this corporation has taken when confronted by similar notices sent to it concerning its investigations. For instance, when SafeNet/MediaSentry was issued a “cease and desist” order by the Massachusetts State Police on January 2, 2008, its response was to simply deny any wrongdoing, and continued its investigations in Massachusetts. The North Carolina

The letter that was sent to SafeNet/MediaSentry by your office dated February 22, 2008, was referred in court papers by recording industry counsel as a “**form letter**” that “does not provide any opinion whatsoever” ... claiming that MediaSentry does not engage in any “regulated activities”. Recording industry counsel declares that “MediaSentry’s activities are indeed proscribed by the PDLA”. I have attached a portion of the transcript from the pending litigation for your perusal. re: (Laface v Does 1-5 Western District of Michigan Civil Action 2-07cv0187.)

Finally, and illogically, Mr. Mullaney claims that: "SafeNet respectfully asserts that it never comes within the State of Michigan in the course of its business."

One would assume that if a complete stranger’s computer would project its “IP” address “inter alia, out of Michigan, that the same would be true about SafeNet/MediaSentry computers “IP” addresses being projected within our state boundaries, “inter alia”.

When a Peer-to-Peer program is in use, only the offer to exchange data is established.

When MediaSentry's computers connect to a computer using a P2P network that is located in the state of Michigan, to take a "screen shot" of the hard drive and to "conduct investigations of the Internet" for the RIAA, they had to be operating within the boundaries of Michigan. They may not have any offices in Michigan, but they have established a presence in the state. Considering that SafeNet/MediaSentry has gathered information from students at Ann Arbor, Lansing, Mt. Pleasant and Marquette, how could they not conduct business in Michigan?

Perhaps SafeNet/MediaSentry should be required to produce to DLEG (or the Attorney General) any Licenses or Permission to conduct Private Investigations or Computer Forensic Investigations it may have. I think you will discover that they have never been licensed to conduct any type of investigations.

SafeNet/MediaSentry is not even licensed to conduct Private Investigations in its home state of Maryland.

SafeNet/ MediaSentry was and has and will continue to be engaged by the RIAA to perform extensive private investigations of persons, and as a result of its relationship with the RIAA, it has received a compensation for doing so. SafeNet/MediaSentry is indeed a private investigator.

I believe that it would be an injustice to the people of the State of Michigan to withhold additional information concerning the ongoing activities of this company. In light of the fact that there may be other complaints filed against this company. I wish to provide proof of the misrepresentations made to your office by Mr. Mullaney. I have attached and highlighted some of the claims made in various court actions on behalf of the Recording Industry and MediaSentry. I wish to have these documents added to the record, and I also wish to notify DLEG of how it is being represented in Federal Court by the RIAA, Recording Industry Layers, and MediaSentry.

Thank You

Randy L. Kruger.