

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UMG RECORDINGS, INC., ET. AL.

Plaintiffs,

-against-

Civil Action No. 05CV1095 (DGT)
(RML)

MARIE LINDOR

Defendant.

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**PLAINTIFF'S RESPONSE TO DEFENDANT'S
FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

Pursuant to Federal Rules of Civil Procedure 33 and 34, Plaintiffs respond as follows to the Defendant Marie Lindor's First Set of Interrogatories and Request for Production of Documents:

GENERAL OBJECTIONS

Plaintiff makes the following General Objections to Defendant's discovery requests:

1. Plaintiffs object to the discovery requests as a whole to the extent that they request information that is protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine. Plaintiffs specifically reserve the right to demand the return of any documents that may be produced inadvertently during discovery if it is determined that such documents may contain privileged material.

2. Insofar as the production of any documents by Plaintiffs in response to Defendant's discovery requests may be deemed to be a waiver of any privilege or rights, such waiver will be deemed a limited waiver with respect to that particular document only. Any inadvertent production of any document shall not be deemed or construed to constitute a waiver of any privilege or right of Plaintiffs, which reserves the right to demand that Defendant return any such document and all copies thereof.

3. Plaintiffs object to the discovery requests as a whole on the grounds that they are overly broad with regard to subject matter and time period for which information is requested. The discovery requests are also vague, ambiguous, and unduly burdensome. They seek the production of information and documents that are neither relevant nor reasonably calculated to lead to discovery of admissible evidence.

4. Plaintiffs object to the discovery requests as a whole on the grounds that they are premature in that discovery in this action is ongoing and additional information may be discovered in the future that conceivably could be responsive to one or more of the Interrogatories propounded by Defendant. Plaintiffs reserve all rights to rely at trial for any purpose in connection with this action on all information, whether or not provided in response to any particular discovery request.

5. Plaintiffs reserve the right to modify, amend, or supplement these answers and objections and specifically reserves its right to move for appropriate protective orders.

SPECIFIC OBJECTIONS AND ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 1: Set forth the names, addresses, job titles, and the names and addresses of their employers, of all natural persons who negotiated or entered into the agreements referred to in defendant's Document Request No. 1, and all oral communications in which they engaged, relating to said documents, as to each setting forth the date, time, place, medium, persons present, persons participating, and words used.

ANSWER: Plaintiffs object to this Request on the grounds that it seeks information and documents that are not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs further object to this Interrogatory on the grounds that it calls for information protected by the attorney-client privilege and/or the work product doctrine.

INTERROGATORY NO. 2: Set forth the names, addresses, job titles, and the names and addresses of their employers, of all natural persons who negotiated or entered into the agreements referred to in defendant's Document Request No. 2, and all oral communications in which they engaged, relating to said documents, as to each setting forth the date, time, place, medium, persons present, persons participating, and words used.

ANSWER: Plaintiffs object to this Request on the grounds that it seeks information and documents that are not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs further object to this Interrogatory on the grounds that it calls for information protected by the attorney-client privilege and/or the work product doctrine.

INTERROGATORY NO. 3: Set forth the evidentiary basis for plaintiffs' information and belief alleged in paragraphs 14 and 15 of the complaint.

ANSWER: Plaintiffs object to this Interrogatory on the grounds that it calls for information protected by the attorney-client privilege and/or the work product doctrine. Plaintiffs also object to this Interrogatory as premature because discovery is ongoing. Furthermore, Plaintiffs object because the information sought by Defendant is well within her own control. Subject to and without waiving any objections made herein, Plaintiffs respond to the non-objectionable portions of the Interrogatory as follows:

Every day, and during the relevant time period herein, millions of individuals utilize online media distribution systems over peer-to-peer networks such as KaZaa to engage in the largely anonymous, illegal file-swapping of billions of perfect copies of digital music files, including Plaintiffs' copyrighted sound recordings as alleged in the Complaint.

Peer-to-peer services, like the KaZaa network used by Defendant, are designed so that users can easily and anonymously connect with like-minded infringers. A new user first downloads the necessary software from one of the peer-to-peer providers. Once the software is installed and launched, the user is connected both to the provider's central computers and to other users of the service – typically millions of people at a time – to search for, copy, and distribute copyrighted works stored on other users' computers. The software creates a “share” folder on each user's computer in which to store the files the user downloads from the service, which are then available for copying by other users. So, when a user searches for a file on the network, the user is searching the shared folders of the millions of other individuals on the network.

“Prompts” appear on the users' computer screens to facilitate searches for desired songs, movies, or other content. For example, the software allows users to search for “audio files” by

artist, song title, album title, or music category (such as “Top 40”). A user who wants recordings by a particular artist simply types the artist’s name in the appropriate search prompt and clicks a search button. Within seconds, the service searches the indices and returns a list of copies of the desired work that are available to copy.

To obtain a copyrighted work, the user clicks on an entry from the list of search results. By doing so, the user then retrieves a perfect digital copy of the desired sound recording from the computers of one or more other users. In a short time, the copying user has a new, permanent audio copy that he or she can listen to or transfer to a digital device as often as desired. Each time a user makes an unauthorized copy, that copy immediately becomes available on the copying user’s computer (and remains available on the computers of the users from whom the copy was made) to be copied and distributed further by others – resulting in an exponentially multiplying (or “viral”) creation and redistribution of perfect digital copies.

Specifically, Defendant was found distributing the copyrighted sound recordings found on Exhibit B on August 7, 2004. On August 7, 2004 at 6:15 a.m., Plaintiff’s investigator, Media Sentry, detected an individual who was engaged in the distribution of Plaintiff’s copyrighted sound recordings using the screen name jrlindor@kazaa and Internet Protocol (“IP”) address 141.155.57.198, which Verizon Internet Service subsequently identified in response to a Federal Court subpoena as being registered to Defendant Marie Lindor. Defendant’s infringement of Plaintiff’s copyrighted sound recordings through downloading and uploading occurred on or before August 7, 2004. Please refer to the documents produced in response to Plaintiff’s disclosures.

In further response, Media Sentry, Inc., (the appropriate witness can be contacted through their counsel) Thomas M. Mullaney, Esq., 708 Third Avenue, Suite 2500, New York,

New York, 10017 and Verizon Internet Service, 1880 Campus Commons Drive, Reston, Virginia 20191, attention Lauren Crowder are the entities or individuals with information potentially responsive to this Interrogatory.

INTERROGATORY NO. 4: Set forth all damages and “irreparable injury” caused to plaintiffs by defendant as alleged in paragraph 17 of the complaint.

ANSWER: Plaintiffs object to this Interrogatory on the grounds that it seeks information that is not relevant to the claim or defense of any party and it is not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Plaintiffs further object to this Interrogatory on the grounds that it calls for information protected by the attorney-client privilege and/or the work product doctrine. Moreover, discovery is not yet complete, so Plaintiffs’ ability to determine a firm damage number is limited. Subject to and without waiving any objections made herein, Plaintiffs elect to seek recovery of statutory damages pursuant to 17 U.S.C. § 504(c) for Defendant’s infringement of Plaintiff’s copyrighted sound recordings. Moreover, irreparable injury is presumed under the copyright laws upon a finding of infringement.

INTERROGATORY NO. 5: State whether any employee of plaintiffs, in the course of plaintiffs’ business, during the period January 1, 1999, to date, ever used any ONLINE MEDIA DISTRIBUTION SYSTEM in connection with any of the Copyrighted Recordings, in communications with radio stations, or with any other person or entity, and if so identify each such employee and instance, setting forth the name, address, job title, and the names and addresses of their employees.

ANSWER: Plaintiffs object to this Request on the grounds that the Request is vague and ambiguous. Plaintiffs object to this Request on the grounds that it seeks information and documents that are not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery

of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome.

INTERROGATORY NO. 6: Set forth the names, addresses, job titles, and the names and addresses of their employers, of all natural persons who worked on the investigation and/or settlement of plaintiffs' claim against defendant, other than attorneys at law in the employ of Shook Hardy & Bacon LLP, Holme Roberts & Owen LLP and Cowan, Liebowitz & Latman, PC, while engaged in the practice of law, and as to each describe the work that was done by said person. If any of said natural persons were employed by any entity other than Media Sentry, Inc., Settlement Support Center, LLC, the RIAA, or the plaintiffs, please identify the name and address of their employer.

ANSWER: Plaintiffs object to this Request on the grounds that it seeks information and documents that are not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs further object to this Interrogatory on the grounds that it calls for information protected by the attorney-client privilege and/or the work product doctrine.

Plaintiffs respond to the non-objectionable portions of the Interrogatory by identifying the following individual:

Tom Mizzone, Media Sentry, Inc.

INTERROGATORY NO. 7: Identify and describe all methods, operations, processes, and programs utilized by any person to investigate and/or obtain (a) the "screen shot" and list attached to the complaint, (b) the IP address of said screen shot, and [c] any averments of the Complaint.

ANSWER: Plaintiffs object to this Request on the grounds that the Request is vague and ambiguous. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs object to this Interrogatory on the grounds that it calls for information protected by the attorney-client privilege and/or the work product doctrine.

Plaintiffs also object to this Interrogatory as premature because discovery is ongoing.

Furthermore, Plaintiffs object because the information sought by Defendant is well within her own control. Subject to and without waiving any objections made herein, please refer to Plaintiffs' response to Interrogatory No. 3.

**SPECIFIC OBJECTIONS AND RESPONSES TO REQUEST
FOR PRODUCTION OF DOCUMENTS**

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 1: All contracts, agreements, assignments of contracts, copyright registrations, and assignments of copyright registrations, as to all "Copyrighted Recordings" referred to in paragraph 12 of the complaint, both those specified in exhibit A and the others in exhibit B, including but not limited to contracts with the respective recording artists, and related DOCUMENTS CONCERNING same.

RESPONSE:

Plaintiffs object to this Request to the extent that documents other than the appropriate certificates of copyright on the grounds that such a request would seek information that is not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request to the extent that documents other than the appropriate certificates of copyright on the grounds that it is overly broad and unduly burdensome. Subject to and without waving any objections made herein, responsive documents are being produced herewith.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 2: All agreements between and among plaintiffs, any other recording companies, the RIAA, Settlement Support Center, LLC, and/or Media Sentry, Inc., and any other persons or entities, which have been involved during the time frame July 1, 2002, to date, in the prosecution, litigation, investigation, and settlement of copyright infringement claims, which agreements are or may be applicable to the claim against defendant, together with any notes, transcripts, correspondences, emails, faxes, tapes, and/or any other written or recorded materials relating to the negotiation, enforcement, interpretation, or execution of said agreements, and any other DOCUMENTS CONCERNING same.

RESPONSE:

Plaintiffs object to this Request on the grounds that such a request would seek information that is not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery

of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs object to this Request on the grounds that it calls for documents protected by the attorney-client privilege and/or the work product doctrine.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 3: All DOCUMENTS CONCERNING any investigation of plaintiffs' claim against defendant.

RESPONSE:

Plaintiffs object to this Request on the grounds that such a request would seek information that is not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also objects to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs object to this Request on the grounds that it calls for documents protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waving any objections made herein, responsive documents including but not limited to the response from the ISP, screen shots, Exhibit A and B, copyrighted and infringing downloaded audio files are being produced herewith.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 4: All other DOCUMENTS CONCERNING any registration by any employee of plaintiffs as a user of any ONLINE MEDIA DISTRIBUTION SYSTEM.

RESPONSE:

Plaintiffs object to this Request on the grounds that such a request would seek information that is not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome since Plaintiffs have thousands of employees scattered all over the

world. Plaintiffs object to this Request on the grounds that it calls for documents protected by the attorney-client privilege and/or the work product doctrine.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 5: All sound recordings and other files stored on the hard drive of THE COMPUTER that are CONCERNING the investigation, prosecution, litigation, and/or settlement of your claim against defendant.

RESPONSE:

Plaintiffs object to this Request on the grounds that such a request would seek information that is not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs object to this Request on the grounds that it calls for documents protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waving any objections made herein, copies of the sound recording files downloaded from the Defendant are being produced herewith.

REQUEST FOR PRODUCTION OF DOCUMENTS NO. 6: All sound recordings and other files stored on the hard drive of YOUR COMPUTERS by the employees referred to in your response to Interrogatory No. 5.

RESPONSE:

Plaintiffs object to this Request on the grounds that such a request would seek information that is not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs object to this Request on the grounds that it calls for documents protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waving any objections made herein, responsive documents including but not

limited to screen shots, Exhibit A, copyright certificates and sound recording files downloaded from the Defendant are being produced herewith.

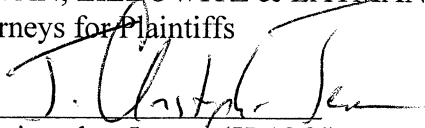
REQUEST FOR PRODUCTION OF DOCUMENTS NO. 7: Identify and set forth copies of all DOCUMENTS CONCERNING notes, logs, and reports of any investigators or technicians related to any mater in the Complaint.

RESPONSE:

Plaintiffs object to this Request on the grounds that such a request would seek information that is not relevant to the claim or defense of any party, are not relevant to the subject matter involved in this action, and are not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs also object to this Request on the grounds that it is overly broad and unduly burdensome. Plaintiffs object to this Request on the grounds that it calls for documents protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waving any objections made herein, responsive, non-privileged documents are being produced herewith and Plaintiffs will produce an expert report having responsive, non-privileged information at the time it is due.

Dated: New York, New York
April 18, 2006

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Plaintiffs

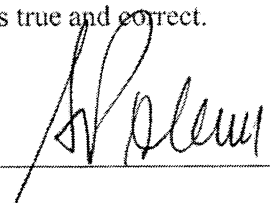
By: 
J. Christopher Jensen (JJ-1864)
Jason D. Sanders (JS-2219)
1133 Avenue of the Americas
New York, New York 10036-6799
(212) 790-9200

STATE OF NEW YORK

COUNTY OF NEW YORK

I, Silda Palerm, declare that, I have read the foregoing responses of WARNER BROS. RECORDS INC .to Marie Lindor's First Set of Interrogatories and Request for Production of Documents to Plaintiff and know its contents. I am an authorized agent of the Plaintiff WARNER BROS. RECORDS INC. in this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on this 18th day of April, 2006. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.




STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

I, JoAn Cho, declare that, I have read the foregoing responses of UMG RECORDINGS, INC., INTERSCOPE RECORDS and MOTOWN RECORD COMPANY, L.P. to Marie Lindor's First Set of Interrogatories and Request for Production of Documents to Plaintiff and know their contents. I am an authorized agent of the Plaintiffs UMG RECORDINGS, INC., INTERSCOPE RECORDS and MOTOWN RECORD COMPANY, L.P. in this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on this 18 day of April, 2006. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



JoAn Cho

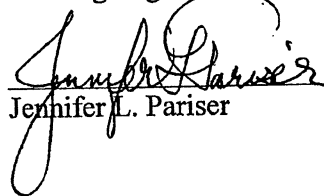
VERIFICATION

STATE OF New York

COUNTY OF New York

I, Jennifer L. Pariser, declare that, I have read the foregoing responses of SONY BMG MUSIC ENTERTAINMENT, to Marie Lindor's First Set of Interrogatories and First Set of Request for Production of Documents and know their contents. I am an authorized agent of the Plaintiff SONY BMG MUSIC ENTERTAINMENT, a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on this 18th day of April, 2006. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Jennifer L. Pariser