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[Global Presence](#)  
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[The Knowledge Center](#)  
[Press Releases](#)  
[Corporate News](#)  
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Corporate Ethics

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[Brand Protection](#)  
[Computer Forensics](#)  
[Special Investigations](#)  
[Risk Management](#)

**Honesty...**

To be trustworthy and candid, and to act so on behalf of all of our clients.

**Integrity...**

To be sincere, truthful, and resolute, and to honor our commitments.

**Responsibility...**

To act dependably, reliably, and decisively, and to be accurate and informed in our conclusions.

**Trust...**

To inspire confidence and trust, and to treat all information and resources responsibly.

Kessler International acquires the types of investments required to address both the audit and investigative challenges of today and those of tomorrow - investments in methodology, technology, knowledge, learning systems and people.

Kessler International approaches each assignment as if it were their only assignment. Our management team reviews each project and develops a custom tailored solution to meet the specific needs of our clients. Kessler International turns your questions into answers, giving you the protection and confidence you demand and where it counts the most...bottom line results! Many of the biggest names in the business world are in our sampling of clients.

At Kessler International, we have developed technologically advanced solutions expressly designed to support our approach to providing the total picture. From our proprietary programs in Internet (Web.Sweep®) and News Monitoring (News.Sweep®) to our global information database, (Ferret<sup>SM</sup>), Kessler International is setting the standards<sup>SM</sup>. In addition, Kessler International utilizes state-of-the-art proprietary business risk control and analysis software and advanced audit/investigative support tools.

A successful conclusion to any undertaking requires that the professionals charged with the task have an in-depth knowledge of industry-specific business processes and the most up-to-date information available. This is where Kessler International leads the way. We have the ability to collect and provide intelligence to our staff and the right infrastructure and tools to deliver our clients the results they expect and deserve. Knowledge is the key, and at Kessler International we know that by providing the most accurate information available to our staff, we can provide the greatest value to your business.

Professional staff members need an atmosphere where learning is encouraged so they can refine their skills, stay on top of industry trends and become adept at the latest technology available in the field. Kessler International encourages their staff members to maintain professional memberships and participate in professional associations and secure access to the best learning programs at the right time in their career.

Our people are our most important resource. Our professionals come from top positions in government and private corporations across major industry groups. When they join Kessler International, they gain access to revolutionary methodologies, cutting edge technologies, knowledge sharing, and learning so they can attain their individual best.

LAW OFFICES OF  
THOMAS M. MULLANEY  
708 THIRD AVENUE, SUITE 2500  
NEW YORK, NEW YORK 10017  
Tel.: (212) 223-0800  
Fax: (212) 661-9860

March 17, 2008

**BY REGULAR MAIL**

Ann Paruk  
Administrative Law Specialist  
Commercial Enforcement Division  
State of Michigan  
Department of Labor & Economic Growth  
P.O. Box 30018  
Lansing, MI 48909

Re: Complaint of Randy L. Kruger  
File No. 308967

Dear Ms. Paruk:

I write on behalf SafeNet, Inc, f/k/a MediaSentry, Inc. ("SafeNet") in response to your letter of February 22, 2008. SafeNet respectfully asserts that it 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).

Specifically, SafeNet provides a litigation-support service to the Recording Industry Association of America ("RIAA"), and would play a limited role in the eventual litigation that the RIAA members might bring against infringers of copyrights in certain music being illegally distributed over the internet. That role generally is to identify the computer that is being used to illegally distribute music files. SafeNet does so by using the internet as any other user would. SafeNet connects to the internet, often on a peer-to-peer network, as any other user would, and participates in the process of swapping music files with another party. It is a function of the peer-to-peer networks that certain information is exchanged by individuals who are trading, swapping, or distributing copyrighted music, because it is this information that allows the exchanged music file to arrive at the correct destination, just as a street address allows the receipt of regular mail.

SafeNet connects with a large number of these infringers throughout the United States, and gathers and stores that exchanged information, which will include the internet protocol ("ip") address of

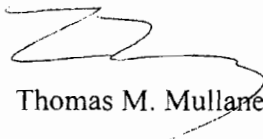
the infringer (essentially the internet analogue of a street address). SafeNet then gives that ip address to the RIAA, who then obtains the identity of the occupant or owner of that ip address from the internet service provider (usually the local telephone company). SafeNet is simply not involved in the private investigation activities associated with companies like Pinkerton's, who might surreptitiously follow and photograph individuals for whatever reason.

Instead, SafeNet's activities fall squarely within the 1989 Opinion of the Michigan Attorney General, Frank J. Kelly, which excepts persons who are providing testimony in a lawsuit based on factual information gather by application of technical knowledge. See 1989-1990 Mich. Op. Atty. Gen. 263 1989 WL 445979 (Mich.A.G.)(the "Opinion"). The Opinion expressly cites the example of a chemical engineer who took photographs of, and samples from, the scene of a fire and from them prepared exhibits for use in Court. *See id.* The Opinion also included physicians, geologists and surveyors in the category of those who ought to enjoy the exception. SafeNet utilizes technical expertise in gathering factual evidence for use in just the same way as those other professionals, and thus enjoys the same exception. If the computer software engineering technology that SafeNet employs had existed when Attorney General Kelly rendered his opinion, there seems little doubt that SafeNet and its competitors would have been named specifically.

Moreover, SafeNet's operations are conducted at the specific direction of an attorney, which brings SafeNet within another exception to the private investigator's licensing requirement of Michigan. Notably, no defendant in any copyright infringement action is prejudiced by the extension of these exceptions to SafeNet, because that party will have ample opportunity to examine SafeNet witnesses on any appropriate topic.

Moreover, SafeNet has no personnel, offices, real estate or bank accounts in Michigan used for the purposes of data collection, or any other purpose. In fact, because the copyright infringer projects its ip address, *inter alia*, out of Michigan, and to the entire world, when distributing music files, SafeNet respectfully asserts that it never comes within the State of Michigan in the course of its business.

Respectfully,



Thomas M. Mullaney



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
LANSING

ROBERT W. SWANSON  
ACTING DIRECTOR

May 22, 2006

Michael G. Kessler  
Kessler International  
45 Rockefeller Plaza  
Ste. 2000  
New York, NY 10111-2000

Dear Mr. Kessler:

The issue of forensic accounting relative to the practice of private detective work is somewhat of a gray area. Because of the very broad definition (in Michigan statute) of work that constitutes that of a private detective, it could be construed that forensic accounting would require a private detective license. However, we feel that forensic accounting is within the statutory described job description of CPAs so we have not and would not take the position that a CPA practicing forensic accounting needs to have a private detective license. (we also license CPAs in this office). We have discussed the matter and have sought to have public accountants (CPAs) practicing forensic accounting be specifically exempted in statute from being required to obtain a private detective license.

Individuals (CPAs or otherwise) working for a licensed private detective do not hold a license. They work under the license of their employer.

Michigan does require that a "computer forensics technician" be licensed as a private detective.

In Michigan, a qualifying person holds the license and represents the business (his/her own business, or that of another). The business itself does not hold a license. Therefore, a business offering computer forensic services would need to be a licensed private detective agency, although as stated, would not itself be licensed.

I hope my responses to your questions have sufficiently addressed your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vito J. Danzo'.

Vito J. Danzo  
Security Regulation  
Board of Accountancy  
517-241-9252

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
UMG RECORDINGS, INC., et al.,

05 CV 1095 (DGT)(RML)

Plaintiffs,

- against

MARIE LINDOR,

Defendant  
-----x

**SUPPLEMENTAL DECLARATION OF RICHARD L. GABRIEL, ESQ. IN  
SUPPORT OF PLAINTIFFS' MOTION FOR PROTECTIVE ORDER**

I, RICHARD L. GABRIEL, ESQ., declare:

1. I am a partner in the law firm of Holme Roberts & Owen LLP. I serve as lead counsel for plaintiffs in the above-captioned case.

2. On or about March 9, 2006, defendant served her first set of interrogatories and first requests for production of documents to plaintiffs.

3. On April 18, 2006, plaintiffs responded to defendant's discovery requests and produced hundreds of pages of documents, including copies of all of the data that MediaSentry provided to plaintiffs, as well as a sampling of sound recordings that MediaSentry downloaded from the "share" folder of defendant's computer. A representative sampling of these documents is attached as Exhibit A (I am attaching only a representative sampling because of the volume of these documents; I would be happy to provide the complete set of such documents, should the Court wish to see them).

4. On July 25, 2006, this Court held a telephonic hearing on the various discovery disputes that were then pending. Although I do not have a transcript of that conference, I recall and believe that, at and/or before that conference, defense counsel, Mr. Beckerman, discussed how, if the MediaSentry Agreement contained a contingency fee arrangement between the recording industry and MediaSentry, that fact could make the MediaSentry Agreement potentially relevant in this case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 9th day of November, 2006, at Denver, Colorado.

  
RICHARD L. GABRIEL, ESQ.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CAPITOL RECORDS, INC. et al.,  
Plaintiffs,

v.

NOOR ALAUJAN,  
Defendant.

Civ. Act. No. 03-cv-11661-NG  
(LEAD DOCKET NUMBER)

SONY BMG MUSIC ENTERTAINMENT  
et al., Plaintiffs,

v.

JOEL TENENBAUM,  
Defendants.

Civ. Act. No 07-cv-11446-NG  
(ORIGINAL DOCKET NUMBER)

**DECLARATION OF ELIZABETH HARDWICK**

I, Elizabeth Hardwick, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Product Manager, Data Services for the MediaSentry Business Unit of Safenet, Inc., formerly MediaSentry, Inc. ("MediaSentry"). I have personal knowledge of all of the matters discussed in this Declaration except as where stated on information and belief. As to such facts, I believe them to be true.

2. MediaSentry is one of the principal providers of online anti-piracy services worldwide. It specializes in providing services to detect and prevent unauthorized distribution of music, films, software, and other content on the Internet.

3. MediaSentry has been engaged by the Recording Industry Association of America ("RIAA") on behalf of the Plaintiffs to assist them in locating individuals infringing their copyrights over peer-to-peer networks and gathering evidence of their infringement. To perform this task, MediaSentry searches peer-to-peer networks for individuals distributing infringing files for download and gathers evidence concerning that infringement.

4. In gathering evidence of infringement, MediaSentry does not do anything that any user of a peer-to-peer network cannot do and does not obtain any information that is not available to anyone who logs onto a peer-to-peer network. Thus, when MediaSentry searches for sound recordings on the peer-to-peer network, views the files that each peer-to-peer user is disseminating to others, obtains the IP address and screen name of each user, and downloads copyrighted works distributed by each user, it is using functionalities that are built into the peer-to-peer protocols that each user has chosen to use to upload (or distribute) and download (or copy) music.

5. MediaSentry searches peer-to-peer networks, looking for users distributing ("uploading") files that appear to be digital copies of sound recordings whose copyrights are owned by the RIAA's member record companies. When MediaSentry finds such a file, it may download the file. As part of that downloading process, MediaSentry, like any other peer-to-peer user, receives basic information about the user from whom the work is being downloaded. That information includes, among other things, the Internet Protocol ("IP") address of the user.

6. Once connected to the user's computer MediaSentry also seeks to determine what other files the individual is distributing to others for download. KaZaA and other file-copying programs permit users to share all of the files in their shared folders, and they may contain a feature that permits users to browse the entire shared folder of another user. When available,



MediaSentry invokes this feature of a peer-to-peer program, just as any other user could do, and is able to determine whether the individual user is merely distributing one or two music files or whether the user is distributing hundreds or even thousands of music files.

7. Again using a feature of the peer-to-peer software available to any user, MediaSentry can then capture a list of all of the files that the user is distributing to others for download. MediaSentry collects this information in two forms. First, MediaSentry takes screen shots, which are actual pictures of the screens that MediaSentry or any other user of the peer-to-peer network can see when reviewing the files being distributed. Second, MediaSentry captures as a text file all of the contents of the user's shared directory, such as the names of each file and the size of each file, as well as additional information (called "metadata") about each file. Metadata may include a wide range of information about a file. Metadata, for example, can include information such as identification of the person or group that originally copied the file and began disseminating it unlawfully. MediaSentry does nothing to create this text file; it exists on the user's hard drive and is distributed by the user to anyone to whom the user distributes files.

8. MediaSentry's process for identifying potential infringers and gathering evidence of infringement has multiple fail-safes to ensure that the information gathered is accurate. MediaSentry takes numerous steps to check and double-check the IP address of the potential infringer.

9. MediaSentry followed the procedures outlined above with respect to the evidence that it gathered in this case. Specifically, on August 10, 2004, at approximately 12:49 A.M. EDT, MediaSentry detected the username "sublimeguy14@KaZaA" logged into the KaZaA file-sharing service at IP address 68.227.185.38. Attached as Exhibit B to Plaintiffs' Complaint is a

true and correct copy of a compilation of screen shots captured by MediaSentry on August 10, 2004 showing the list of files that the computer connected to KaZaA with the IP address of 68.227.185.38 was distributing 816 audio files under the username "sublimeguy14@KaZaA" to others for download.

10. Exhibit B indicates that the KaZaA user was "not sharing any files." This indicated that MediaSentry's investigator was not sharing any files.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 2nd day of January, 2008.

  
\_\_\_\_\_  
Elizabeth Hardwick



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
LANSING

ROBERT W. SWANSON  
ACTING DIRECTOR

May 22, 2006

Michael G. Kessler  
Kessler International  
45 Rockefeller Plaza  
Ste. 2000  
New York, NY 10111-2000

Dear Mr. Kessler:

The issue of forensic accounting relative to the practice of private detective work is somewhat of a gray area. Because of the very broad definition (in Michigan statute) of work that constitutes that of a private detective, it could be construed that forensic accounting would require a private detective license. However, we feel that forensic accounting is within the statutory described job description of CPAs so we have not and would not take the position that a CPA practicing forensic accounting needs to have a private detective license. (we also license CPAs in this office). We have discussed the matter and have sought to have public accountants (CPAs) practicing forensic accounting be specifically exempted in statute from being required to obtain a private detective license.

Individuals (CPAs or otherwise) working for a licensed private detective do not hold a license. They work under the license of their employer.

Michigan does require that a "computer forensics technician" be licensed as a private detective.

In Michigan, a qualifying person holds the license and represents the business (his/her own business, or that of another). The business itself does not hold a license. Therefore, a business offering computer forensic services would need to be a licensed private detective agency, although as stated, would not itself be licensed.

I hope my responses to your questions have sufficiently addressed your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Vito J. Danzo".

Vito J. Danzo  
Security Regulation  
Board of Accountancy  
517-241-9252

BUREAU OF COMMERCIAL SERVICES  
P.O. BOX 30018 • LANSING, MICHIGAN 48909  
[www.michigan.gov](http://www.michigan.gov)



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
LANSING

KEITH W. COOLEY  
DIRECTOR

February 22, 2008

Media Sentry  
4690 Mellenium Dr., Ste. 400  
Belcamp, MD 21017

RE: File No. 308967  
Complaint of Randy L. Kruger

Dear Respondent:

It has been noted during a review of the above matter by the Department of Labor & Economic Growth that you are not licensed at the address provided. You may be in violation of Section 3(1) & (2) of 1965 PA 285, MCL 338.823(1) & (2).

"338.823.amended License required; violation; penalty.

Sec. 3. (1) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of private detective or investigator for hire, fee or reward, and shall not advertise his or her business to be that of detective or of a detective agency without first obtaining a license from the department.

(2) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of furnishing or supplying, for hire and reward, information as to the personal character of any person or firm, or as to the character or kind of business and occupation of any person, firm, partnership, company, limited liability company, or corporation and shall not own, conduct, or maintain a bureau or agency for the purposes described in this subsection except as to the financial rating of persons, firms, partnerships, companies, limited liability companies, or corporations without having first obtained a license from the department."

Unlicensed violations are considered serious by the Department. Continuation of this practice could result in criminal prosecution. Referral of this matter may be made to the local prosecutor or police department. The prosecutor can prosecute these cases as felonies with a maximum penalty of \$5,000 and/or up to four years in prison.

If you intend to perform activities that require a private detective agency license, you must obtain a license immediately. Please call (517) 241-9288 to obtain information on how to become licensed.

If you are licensed and we do not have correct information, please notify me at the number below.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann Paruk".

Ann Paruk  
Administrative Law Specialist  
Commercial Enforcement Division  
(517) 241-9202

AP:ld