EXHIBIT A

MITCHELL SILBERBERG & KNUPP LLP

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

TRIDENT CENTER
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064-1683
(310) 235-2442

December 3, 2004

MARIE C. LINDOR 1027 Willmohr Street Brooklyn, NY 11212

Re: Priority Records LLC et al. v. DOES 1-116

United States District Court for the District of Columbia

Case No. 1:04-CV-1674 (JR)

Dear Ms. Lindor:

This letter serves to inform you that you have been sued by a number of record companies for copyright infringement. You are being sued because we have obtained evidence that you have made copyrighted sound recordings owned by the record company plaintiffs available for mass distribution over a peer-to-peer network. This law firm is counsel to the record company plaintiffs.

Although you have already been sued, you have not yet been named as a defendant. At the time of filing the lawsuit, we knew only the Internet Protocol ("IP") address associated with your Internet usage. Therefore, you were sued anonymously as a "Doe Defendant" in the above-referenced lawsuit. Pursuant to a Court Order issued by the judge in that case, your Internet Service Provider ("ISP") provided us with your identifying information, including your name and address. By law, we may use that information to identify you by name in a lawsuit and serve you with a copy of the new complaint. We are writing in advance of serving a new complaint, in the event that you have an interest in resolving these claims.

In deciding whether you wish to discuss this matter, here are some things we believe you should consider:

- Making copyrighted recordings available for others to download by putting those recordings into your so-called "shared" folder is copyright infringement under the Copyright Act, as is the unauthorized downloading of copyrighted recordings. Ignorance of the law is not a defense. What that means is that it does not matter whether you knew it was illegal. Whether or not you intended to infringe does not matter. If you violate the record companies' copyrights you will be held liable for damages as a result.
- The Copyright Act imposes a range of statutory damages for copyright infringement. The minimum damages under the law is \$750 for *each* copyrighted recording that has

MITCHELL SILBERBERG & KNUPP LLP Page 2

been infringed ("shared"). If a court determines you acted "willfully," the maximum damage award can be even more. In addition to damages, you may also be responsible for paying the legal fees we incur in order to pursue these claims, and are subject to having an injunction entered against you prohibiting you from further infringing activity.

- If you choose not to settle the case, then we will name you as a defendant and serve you with a copy of the complaint. You must file a response to the complaint within 20 days of being served. Failure to respond to the complaint can result in a default judgment being entered against you. That default will include the entry of a monetary judgment and an injunction.
- Now that you are aware that a lawsuit has been filed against you, there is an obligation for you to preserve evidence that relates to the claims against you. In this case, that means, at a minimum, the entire library of recordings that you have made available for distribution as well as any recordings you have downloaded, need to be maintained as evidence. The evidence necessary for the record companies to prevail in this action has already been secured. Nevertheless, any destruction of evidence would be a serious matter.

WE ARE NOT YOUR LAWYERS, NOR ARE WE GIVING YOU LEGAL ADVICE. WE URGE YOU TO CONSULT WITH AN ATTORNEY IMMEDIATELY TO ADVISE YOU ON YOUR RIGHTS AND RESPONSIBILITIES.

The record companies take copyright infringement very seriously, and for good reason. Copyright theft is not a victimless crime. People spend countless hours working hard to create music – not just recording artists and songwriters, but also session players, backup singers, sound engineers and other technicians. In addition, the music industry employs thousands of other people, such as CD-plant workers, warehouse personnel, record store clerks, and developers of legitimate online music services. They all depend on the sale of recordings to earn a living. So do record companies, which routinely invest millions of dollars to discover and sign promising artists, and then to produce and market their recordings. In addition, piracy eats away at the investment dollars available to fund new music and, in effect, erodes the future of music. That means that a creatively gifted, but commercially risky, artist may not get signed. A talented songwriter may be forced to make songwriting a hobby instead of a career. In the end, the music suffers, along with everyone who cares about it – from the people who make it to the consumers who enjoy it.

If you have an interest in discussing this matter, including settlement, the record companies request, with our consent, that you contact their representatives on or before ten (10) calendar days from the date of this letter. If you do not contact them within that time, the litigation will continue.

MITCHELL SILBERBERG & KNUPP LLP Page 3

You or your attorney may contact the record companies' representatives by phone at (206) 973-4145, by facsimile at (206) 242-0905, or by e-mail at info@settlementsupportcenter.com. If you are under 18, your attorney (or your parent or other guardian) must be present during any discussions.

We encourage you to consult with an attorney immediately to advise you on your rights and responsibilities, since we are obviously not your lawyers.

Sincerely,

vette Molinaro of

MITCHELL SILBERBERG & KNUPP LLP

EXHIBIT B

From:

Miller, Matthew (SHB)

Sent:

Wednesday, December 14, 2005 4:11 PM

To:

'Ray Beckerman'; Losasso, Ian C. (SHB)

Cc:

M. Ty Rogers; CowanLiebowitzPenneyMaryann (E-mail)

Subject:

RE: Lindor

Ray,

Thanks for your e-mail. I got your message yesterday but didn't have time to call you back about it.

Our clients do not want to pursue the wrong person for the copyright infringement that incurred in this case, and we recognize and appreciate your desire to avoid expense in this case. We, too, would like to work this out informally. According to our normal practice, we are willing to discuss either a global settlement of this matter or attempt to negotiate a settlement directly with the actual infringer in the case; but here, your client and her family roundly disavow any involvement in the infringement. Their denials aside, we think it is pretty clear that, at the end of the day, the individual who used the "jrlindor@kazaa" username is someone named Lindor. Given the specificity of the username, all signs point to Junior Lindor as the likely infringer.

We would be happy to negotiate directly with Junior about settling this lawsuit. Perhaps you could put us directly in touch with him to discuss these issues?

Otherwise, I think we need to see some proper discovery responses in this case setting forth what Ms. Lindor knows, when computers were in her house and when the internet account was active, and what kind of investigation she has done into these issues. Even if your statements about her involvement are true, she may still be secondarily liable in this case, and we need to explore that avenue before we agree to dismiss her. We would like to depose Mr. Raymond and Junior Lindor on these issues as well.

Depending on what we find out during that discovery, we will decide whether to dismiss Ms. Lindor without prejudice. But at the moment, without this information, we are not in a position to dismiss our case against Ms. Lindor.

If we cannot do this informally, we would like to hear from you when we can expect proper discovery responses on Ms. Lindor's behalf. We would also like to work with you to schedule the depositions of these three individuals. Would you please let us know?

Matthew C. Miller Shook, Hardy & Bacon L.L.P. 2555 Grand Blvd. Kansas City, Missouri 64108-2613 Telephone (816) 474-6550 Direct (816) 559-2075 Facsimile (816) 421-5547

EXHIBIT C

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

----X Docket#

UMG RECORDINGS, INC., et al, : 05-cv-1095(DGT)(RML)

Plaintiff,

- versus -

: U.S. Courthouse : Brooklyn, New York

MARIE LINDOR,

Defendant

: July 26, 2005

TRANSCRIPT OF CIVIL CAUSE FOR INITIAL CONFERENCE BEFORE THE HONORABLE ROBERT M. LEVY. UNITED STATES MAGISTRATE JUDGE

N CE S: A R A

For the Plaintiff:

Maryann Penney, Esq.

For the Defendant:

Marie Lindor, pro se

Official Transcriber:

Rosalie Lombardi

L.F.

Transcription Service:

Transcription Plus II

821 Whittier Avenue

New Hyde Park, N.Y. (516) 358-7352 11040

Proceedings recorded by electronic sound-recording, transcript produced by transcription service

U.S. DISTRICT COURS FEB 0 6 2007

BROOKLYN OFFICE

Proceedings

and to copy songs. Your internet account and your computer have been used to illegally download music on the internet using a peer to peer file sharing network named Kazaa. And that is a violation. It's plaintiff's position that is a violation of their exclusive right to distribute and to copy their songs.

MS. LINDOR: Yes.

THE COURT: Do you understand what that means?

MS. LINDOR: I -- no, that's something I don't understand. The first thing, I don't have internet.

11 Second of all, I don't know how to use computer. 12 have a need to or learn how to use computer. I don't

13 know how to use computer.

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MS. PENNEY: Okay.

MR. RAYMOND: Yes, I spoke to your lead counsel and advised him of that. He was supposed to speak to Verizon and verify. And I spoke to Verizon and they also verified the same thing. We don't have an internet service, so we are puzzled why we -- why she is mentioned in the --

MS. PENNEY: Right. I saw the correspondence between yourself and between Ian Mussasso (phonetic), I believe it was.

MR. RAYMOND: Which, the lead --

MS. PENNEY: Ian Mussasso?

Transcription Plus II Rosalie Lombardi

6 Proceedings 1 MR. RAYMOND: I spoke to him over the phone. never wrote to him. 3 MS. PENNEY: Your correspondence. Oh, okay. 4 Well, I saw correspondence regarding --5 MR. RAYMOND: You're talking about Christopher? 6 MS. PENNEY: -- your discussions with 7 Mr. Mussasso. And I do understand that is your claim 8 that your household did not have internet service on the 9 date that our investigator went into the computer and 10 capture the downloading. 11 MR. RAYMOND: I'm saying we don't have internet 12 service. And I also told him back in May of 2004, she 13 contacted Verizon Wireless to disconnect the service. 14 THE COURT: Okay. 15 MR. RAYMOND: That's in May 2004. And your 16 claim is in July 2000 --17 MS. PENNEY: It's actually August. 18 MR. RAYMOND: And in August --19 MS. PENNEY: August 7. 20 MR. RAYMOND: Yes, August 7. 21 MS. PENNEY: Right. 22 MR. RAYMOND: And at that time, there was 23 nobody home, the house was vacant and at 6 o'clock in the 24 morning, there won't be anybody using the computer. and 25

Transcription Plus II Rosalie Lombardi

Proceedings

MS. LINDOR: That's why I am surprised that they send me a letter about this -- about that.

MR. RAYMOND: In the answer, also I --

MS. LINDOR: Verizon is in my name because I the telephone company know me. I put my name on Verizon bill, like I put my name on the gas company bill, the Verizon bill. But my husband bought the computer. My husband died. If they want to sue, they ought to sue the dead person, not me. Yeah, that's all I can say.

MR. RAYMOND: Also, in the answer, we also stated that the Verizon -- the computer we had was connected to a -- you're probably not aware of it, of a wireless access point.

MS. PENNEY: Right.

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MR. RAYMOND: We -- I also spoke that to the lead counselor and I told that to Christopher from your office. I also told that to the higher attorney where I probably heard -- I also need to know why she was hired to let her know that it was coming into a wireless. And I also -- and I am a network administrator and I know the technology, I work. So, there is no way your investigator could capture somebody connected to a wireless access. The only they would be able to see is just the internet -- the IP address. So, I asked for your lead counsel to give me the MAC (phonetic) address.

Proceedings

He told me he wasn't able to capture the MAC address. So, without the MAC address, there's nothing -- I can't even investigate it myself to verify your claim. 3

MS. PENNEY: Well, with --

MR. RAYMOND: Because the MAC address identified the whole thing, not an IP address.

MS. PENNEY: Right.

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MR. RAYMOND: So, I am not blaming the counsel, they're probably not aware to their knowledge or the private investigator but there is --

MS. PENNEY: Well, what generally happens is this is just the very beginning of the lawsuit.

MR. RAYMOND: Uh-huh.

MS. PENNEY: And what generally happens is we exchange information. You ask us for information. We can ask you for information. And you give us what you can that we ask for, we give you what we can that you ask for. And through that, it's called discovery. Through that discovery, we can answer some of these questions that we're talking about right now.

MR. RAYMOND: Okay.

THE COURT: What was the IP address?

MS. PENNEY: I don't have the IP address.

THE COURT: Okay. Was that in the complaint?

MS. PENNEY: No.

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Proceedings
    because she doesn't speak English, how is it possible she
  2
    could listen to --
  3
               MS. LINDOR: And I don't know how to use a
    computer. I don't know how to use it. But almost every
  4
 5
    day I am in my work, I just come home and work.
 6
               THE COURT: Does anyone else live in the
 7
    household?
 8
              MS. LINDOR: My husband died in 2001.
 9
              THE COURT: So, it's just you living there
10
    alone?
11
              MS. LINDOR: August 2001?
12
              THE COURT: Do you live there alone?
13
              MR. RAYMOND: Yes, and my sister. That's it.
14
    But my sister is Raymond. There is no Lindor. And at
15
    that time, she was on vacation. She went away.
16
              MS. LINDOR: She went in Virginia. And most of
17
    the time she live with my son. She just some times come
    to see me but she don't live here.
18
19
              MR. RAYMOND: And plus I do recall at that
20
   time, I did --
21
              MS. LINDOR: And plus (inaudible) because I
22
   have the phone bill there, too.
23
              MR. RAYMOND: -- take the computer down for
24
   service. So, it's impossible. Because I do have the
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records of the computer. So, it is not being there. I

Proceedings

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    had to take it out for service because it wasn't working.
    It's an old piece of machine, so it had to be replaced
    from time to time and I did take care of it. And I
 3
    didn't find any of the file which is listed there which
 5
    they were unable to verify or download, not even the nine
 6
    songs they said (inaudible). I can't find anything.
 7
              THE COURT: So you took the computer down for
 8
    service at some point?
 9
              MR. RAYMOND: Back in the summer of 2004.
              THE COURT: Okay. Do you have a record?
10
              MS. LINDOR: You remember, this was in for one
11
12
    minute --
13
              MR. RAYMOND: The computer has the record.
14
              THE COURT: The computer has the record?
15
              MR. RAYMOND: The computer has the record. Any
    changes to a computer, it keeps a record of it.
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17
              THE COURT: Okay. So, is that something that
18
    you could give to Ms. Penney and that would show --
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              MR. RAYMOND: I don't -- I have to check with -
20
    - I think my brother-in-law uses. He's in the military.
21
    So, if he accesses his account, the military account,
22
    they have to verify if there is any conflict because I
   don't leave any information in there that might
23
24
   jeopardize his position because he's in the military.
25
   Because he's accesses his file in the military computers
```

EXHIBIT D

Patrick,

Could you solve a problem we've been having in a case for me? The son of the defendant in one of our cases involving Verizon as the ISP is claiming misidentification. He claims that they discontinued their internet service before the date of capture.

The subscriber you identified is:

MARIE C. LINDOR 1027 Willmohr Street Brooklyn, NY 11212

in association with IP address:

141.155.57.198 2004-08-07 06:15:34 - Priority Records et al. v. Does 1-116 (1:04-CV-1674 (JR))

Can you confirm whether Ms. Lindor was a Verizon subscriber on 8-7-2004? A copy of your subpoena response showing the same is attached. Please feel free to contact me with any questions.

Regards,
Therese
Thérèse P. Miller, Esq.
SHOOK, HARDY & BACON L.L.P. | www.shb.com
2555 Grand Boulevard, Kansas City, MO 64108
816.559.2418 tpmiller@shb.com
http://www.shb.com/shb.asp?pgID=929&attorney_id=514&st=f

SHOOK, HARDY & BACON LLP CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION CONTAINING OPINION WORK PRODUCT OF RETAINED OUTSIDE COUNSEL

EXHIBIT E

----Original Message-----

From: patrick.m.flaherty@verizon.com
[mailto:patrick.m.flaherty@verizon.com]
Sent: Wednesday, July 27, 2005 11:01 AM
To: Miller, Therese P. (SHB)
Cc: McCracken, Tracy D. (SHB); thomas.m.dailey@verizon.com
Subject: RIAA: Claims of misidentification - Lindor

Therese:

No misidentification; our security department has confirmed that the information is correct for the time stamp provided.

Regards,

Patrick

Patrick M. Flaherty Staff Counsel - Trademarks & Copyrights Verizon Corporate Services Corp. 1515 North Court House Road, Suite 500 Arlington, Virginia 22201

tel: 703 351 3020 fax: 703 351 3669

email: patrick.m.flaherty@verizon.com

"Miller, Therese

P. (SHB)"

<TPMILLER@shb.com

То

Patrick M.

Flaherty/EMPL/NY/Verizon@VZNotes

07/25/2005 03:59

CC

PM

"McCracken, Tracy D. (SHB)" <TMCCRACKEN@shb.com>

Subject

RIAA: Claims of misidentification -

Lindor

Patrick,

Could you solve a problem we've been having in a case for me? The son of the defendant in one of our cases involving Verizon as the ISP is claiming misidentification. He claims that they discontinued their internet service before the date of capture.

The subscriber you identified is: MARIE C. LINDOR 1027 Willmohr Street Brooklyn, NY 11212

in association with IP address: 141.155.57.198 2004-08-07 06:15:34 - Priority Records et al. v. Does 1-116 (1:04-CV-1674 (JR))

Can you confirm whether Ms. Lindor was a Verizon subscriber on 8-7-2004?

A copy of your subpoena response showing the same is attached. Please feel free to contact me with any questions.

Regards, Therese Thérèse P. Miller, Esq.
SHOOK, HARDY & BACON L.L.P. | www.shb.com
2555 Grand Boulevard, Kansas City, MO 64108
816.559.2418 tpmiller@shb.com
http://www.shb.com/shb.asp?pgID=929&attorney_id=514&st=f

SHOOK, HARDY & BACON LLP CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION CONTAINING OPINION WORK PRODUCT OF RETAINED OUTSIDE COUNSEL

"MMS <shb.com>" made the following annotations on 07/25/05 14:59:48

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(See attached file: Pages from 0737685.pdf)

EXHIBIT F



September 2, 2005

lan C. Losasso

2555 Grand Blvd.
Kansas City
Missouri 64108-2613
816.474.6550
816.559.2463 DD
816.421.5547 Fax
ilosasso@shb.com

VIA U.S. MAIL

Marie C. Lindor 1027 Willmohr Street Brooklyn, NY 11212

Re: UMG Recordings, Inc. v Lindor 05CV1095 (RML)

Dear Ms. Lindor:

I attempted to send you this same letter dated August 3, 2005 via Certified Mail, but it was never claimed by you. Scanned copies of the original letter and envelop are enclosed.

On July 7, 2005, your son, Woody Raymond, and I discussed whether there was an internet account active in your name on the date of capture, August 7, 2004. My office has verified with your internet service provider, Verizon, that there was in fact an active internet account registered in your name on the date of capture.

At no time did Mr. Raymond and I discuss any issue regarding MAC addresses, nor did I indicate that I would obtain and/or provide him with such information. In addition, I also explained to Mr. Raymond that the evidence does not suggest that there was a wireless internet connection, and upon further inspection we still have no reason to believe otherwise.

The possible explanations Mr. Raymond gave at the conference do not seem to contradict the evidence we have gathered. We would like to amicably resolve this matter. I look forward to hearing from you or Mr. Raymond soon.

If you have any questions, please call me.

Sincerely

Ian C. Losasso

Enclosures

Geneva
Houston
Kansas City
London
Miami
Orange County
Overland Park
San Francisco
Tampa
Washington, D.C.



Marie C. Lindor September 2, 2005 Page 2

Hon. Robert M. Levy Woddy Raymond Maryann Penney, Esq.

Geneva
Houston
Kansas City
London
Miami
Orange County
Overland Park
San Francisco
Tampa
Washington, D.C.



August 3, 2005

lan C. Losasso

2555 Grand Blvd.
Kansas City
Missouri 64108-2613
816.474.6550
816.559.2463 DD
816.421.5547 Fax
ilosasso@shb.com

VIA CERTIFIED MAIL

Marie C. Lindor 1027 Willmohr Street Brooklyn, NY 11212

Re: UMG Recordings, Inc. v Lindor 05CV1095 (RML)

Dear Ms. Lindor:

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If you have any questions, please call me.

Sincerely,

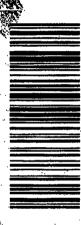
Ian C. Losasso

cc: Hon. Robert M. Levy Woody Raymond Maryann Penney, Esq. Geneva
Houston
Kansas City
London
Miami
Orange County
Overland Park
San Francisco
Tampa
Washington, D.C.

CERTIFIED MAIL

Hardy&Z

2555 Grand Blvd., Kansas City • Missour



T920 229E 9496, 106E 0976

RETURN RECEIPT B



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RETURN RECEIPT REQUESTED USPS MAIL CARRIER DETACH ALONG PERFORATION

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Download Suit Defense: 'No PC'

by staff on 03 February 2006, 00:00

Categories: Media - Internet

Topics: music, p2p, riaa, downloading, Marie Lindor, Judge David G. Trager

A home health aide in Brooklyn, New York, has been sued by the Recording Industry Association of America for illegally downloading music files, even though the woman claims she has never used a computer, or even turned one on.

Attorneys for Marie Lindor with the New York City-based firm Beldock Levine & Hoffman sent a letter Thursday to Judge David G. Trager of the U.S. District Court for the Eastern District of New York asking for a summary judgment dismissing the RIAA's complaint, along with attorney fees.

"Ms. Lindor is a home health aide who not only never 'downloaded, distributed, or made available for distribution' any files, but has never purchased, used, or even turned on a computer in her life," wrote Morlan Ty Rogers, an attorney with the firm.

The RIAA has been stepping up its efforts to crack down on illegal downloading of copyrighted music files, although it has attracted considerable controversy from people who have criticized the industry's heavy-handed tactics against music fans (see RIAA Files More Lawsuits).

RIAA Files More Lawsuits

Despite claims that the RIAA often goes after innocent computer users, the criticism has not deterred the music industry. On Tuesday, the RIAA filed copyright infringement lawsuits against another 750 individuals.

Ms. Lindor's attorneys and relatives insist she is innocent.

Ray Beckerman, an attorney with Beldock Levine & Hoffman, said his firm has requested a pre-motion conference with the judge so he can make a summary judgment to dismiss the case.

"She personally has never used a computer in her life," he said. "She paid for the Internet access in her apartment, which the last I heard, is not a copyright infringement."

He added that a computer had been in Ms. Lindor's apartment previously, but "not at the time they allege. There was Internet access at some time and a wireless router, but on the date they say there was a shared file folder, there was no computer there."

Wireless Mystery

Mr. Beckerman admitted that someone outside the apartment may have been using the open wireless Internet connection to download the music files.

"It's very possible," he said. "There was an insecure wireless router hooked up. It's all mysterious because the name that was allegedly used did have Lindor in it. It was 'JR Lindor.' I don't know what that name is. According to the family, nobody at that time period would have had access to a computer."

Ms. Lindor's son, Woody Raymond, is also puzzled because he had taken the tower-style computer away to his apartment to be repaired when the infringement is supposed to have occurred.

"At the time my mother didn't want people in the house," he said. "The computer wasn't working. I left the wireless router because everything was connected, but there was no computer attached and no laptop at the house."

Mr. Raymond said he has repeatedly explained the situation to the RIAA's attorneys, but they have continued to insist that his mother pay \$4,500 for the music files they claim she downloaded. He said he didn't download the files either, and he had even tried to cancel the DSL account.

"Nobody in my house ever used that account," he said. "I told them we don't have the same last name. Lindor is my mother's last name, and we took our father's last name, but the lawyer didn't care."

He was contacted by lawyers from Shook Hardy & Bacon in Kansas City, Missouri, a firm that has been representing the record industry in its lawsuits. However, the RIAA has reportedly changed its representation to another firm, Holme Roberts & Owen, based in Denver.

The RIAA, Shook Hardy & Bacon, and Holme Roberts & Owen did not immediately respond to requests for comment.

Mr. Raymond has been frustrated by the intransigence of the lawyers and the RIAA, which has not even offered to lower its \$4,500 demand.

"Everything we told them, they don't care," he said. "They are harassing me. I answered their questions, and they're asking me the same questions over and over and over. It doesn't seem like they're interested in getting this resolved, only in dragging their feet."

EXHIBIT H

			Page 2
	1		
		APPEARANCES:	
ĺ	3		
	4	HOLME ROBERTS & OWEN LLP	
	5	Attorneys for Plaintiffs	í
	6	1700 Lincoln Street	
	7	Denver Colorado 80203	
	8	BY: RICHARD L. GABRIEL, ESQ.	
	9		
	10	VANDENBERG & FELIU LLP	
	11	Attorneys for Defendant	
	12	110 East 42nd Street	
	13	New York, New York 10017	
	14	BY: RAY BECKERMAN, ESQ.	
	15		
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1 W	. R	aymond
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- 2 A. To the best of my knowledge, the
- 3 last time I see him he was in Connecticut.
- Q. Do you remember where you saw him?
- 5 A. He came down to New York to visit.
- 6 Q. Then you said there is another
- 7 cousin who goes by Junior but you don't know
- 8 where he is?
- 9 A. No.
- 10 Q. That's true, that you don't --
- 11 A. I don't know where he is because he
- 12 has been divorced, his mother divorced my
- 13 uncle.
- Q. Do you know that cousin's name any
- 15 more than Junior?
- 16 A. No.
- 17 Q. And what was -- what's his mother's
- 18 name?
- 19 A. I don't recall.
- 20 Q. Do you recall your uncle's name?
- 21 A. Justav.
- 22 Q. So there are the two cousins in
- 23 Haiti who are either the children of your
- 24 cousin Gene or the children of your uncle
- 25 Justav, and there is another cousin who is

1 W. Raymond 2 talked to him or communicated with him? 3 A. About a year and a half ago. 4 Q. Do you know where your brother 5 Yanick is? 6 A. That's a sister. 7 Q. Do you know where Yanick lives? 8 A. She is in Italy. 9 Q. And how about Kathy? 10 A. She is in New York. 11 Q. Does she still live with your 12 mother? 13 A. Yes. 14 Q. Do you know your mom's address? 15 A. 1027 Wilmore Street. 16 Q. That's in Brooklyn? 17 A. Yes, it is. 18 Q. Who lived in your mom's home with 19 your mom in August of 2004? 20 A. In August 2004, I would have to sa 21 August 2004, at the time of the allegation 22 probably just my mother alone. 23 Q. Where was Kathy at that time? 24 A. She was in Virginia.			Page 47
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Q. Where was Kathy at that time?	2	21	August 2004, at the time of the allegation
- -	2	2	probably just my mother alone.
A. She was in Virginia.	2	3	Q. Where was Kathy at that time?
	2	4	A. She was in Virginia.

Was she in school or living with

25

Q.

1 W. Raymond 2 another relative? 3 She was staying with my sister. If you can't remember, just tell 4 0. 5 **me**. In August 2004, where was your brother 6 Carl living? 7 I don't recall. 8 Do you know in August 2004 where your sister Yanick was? 10 In Virginia. Α. 11 Q. And Kathy was with her in Virginia 12 at that time? 13 Α. Yes. 14 (Off the record) 15 Q. Go ahead, Mr. Raymond. My sister, when she was in 16 Α. 17 Virginia, because of her school she would 18 stay at my house, but you're talking about 19 August and in August she was in Virginia. In 20 August my sister was in Virginia with my 21 other sister. 22 You're talking about your sister Q.

> **Esquire Deposition Services** 1-800-944-9454

And before that did she live with

23 Kathy?

Α.

Q.

Yes.

24

25

- W. Raymond
- 2 week and go to your mom's on the weekends?
- 3 A. When my mother was home.
- Q. Would it be accurate to say that
- 5 her legal address on her school papers was
- 6 still your mom's house?
- 7 A. I don't have that information.
- 8 Q. But just as a physical matter, she
- 9 would stay with you during the -- when she
- 10 was in school, when your mom was not home but
- 11 when your mom was home she would go back and
- 12 stay with your mom?
- 13 A. Yes.
- Q. Do you know if anyone else lived
- 15 with your mother in the last three years?
- 16 Your sister Kathy did and your mom did, did
- 17 anybody else live there?
- 18 A. To the best of my knowledge no one
- 19 else resided with my mother.
- Q. Did anyone else stay with your
- 21 mother for some extended period of time, a
- 22 family relative?
- 23 A. No.
- Q. I asked whether anyone lived with
- 25 your mom in the last three years, other than

- W. Raymond
- 2 couldn't turn it off.
- Q. Who told you that?
- 4 A. I believe my sister did.
- 5 Q. That's Kathy?
- 6 A. I don't know whether that was Kathy
- 7 or my older sister.
- Q. One of your sisters told you the
- 9 computer would not shut off?
- 10 A. Yes.
- 11 Q. So what did you do with the
- 12 computer when you took it -- did you take it
- 13 to your home?
- 14 A. Yes, I did.
- 15 Q. What did you do with it?
- 16 A. I let it sit there for a while
- 17 until I was able to fix it.
- 18 Q. What did you do to fix it?
- 19 A. I probably fix it around -- before
- 20 the 4th of July, so it would have to be in
- 21 July.
- 22 Q. Of which year?
- 23 A. 2004, June or July.
- Q. What did you do to fix it?
- A. I try to turn it on, it came on but

- W. Raymond
- 2 it was dragging, in other words, it took too
- 3 long to load, I upgraded the memory, and
- 4 after that, after trying to upgrade the
- 5 memory, that didn't work, I tried to clear
- 6 some space, that didn't work. Then I believe
- 7 I reinstalled the operating system, that was
- 8 the last measure to make it work.
- 9 Q. When you say you cleared --
- 10 reinstalled the operating system, that fixed
- 11 the problem?
- 12 A. Yes.
- Q. When you say you cleared space,
- 14 that didn't work, what do you mean?
- 15 A. I cleared space. Basically you go
- 16 in and do, you write on the C drive and do a
- 17 cleanup, it will clean up all the temporary
- 18 files.
- 19 Q. You were getting rid of temporary
- 20 files that were not being used?
- 21 A. That's a method you use to speed up
- 22 the process of the computer.
- Q. Do you remember any of the
- 24 temporary files you got rid of?
- 25 A. You do cleanup, it will clean up

- W. Raymond
- 2 all the temporary files, the temporary files,
- 3 if you were doing an upgrade or something.
- 4 Q. You personally were doing all this
- 5 work, correct?
- 6 A. Yes.
- 7 Q. In other words, you didn't take it
- 8 to a store, you were doing the work you just
- 9 described?
- 10 A. Yes.
- 11 Q. Tell me how you went about
- 12 reinstalling the operating system?
- 13 A. I believe around that time I spoke
- 14 to Dell, there was an alternative to doing
- 15 it, but they told me the best way is to put
- 16 one of the CDs in there and it will fix the
- 17 problem.
- 18 Q. So, in other words, you had the
- 19 operating system was on a CD and --
- 20 A. It was a Dell CD, and I just put it
- 21 in there.
- 22 Q. Did you have to delete the
- 23 operating system that was in there or this
- 24 new one overwrote the old one?
- 25 A. I believe I got instructions from

- W. Raymond
- 2 your clients have made in a second,
- which is why I'm asking the question.
- 4 Q. Mr. Raymond, I will represent it's
- 5 the plaintiff's position there was a file
- 6 sharing program on the computer in your
- 7 mother's home.
- 8 Do you have factual information to
- 9 deny that?
- 10 A. Yes.
- 11 Q. What factual information do you
- 12 have?
- 13 A. That at the time you allege there
- 14 was somebody downloading music, there was no
- 15 computer at the house.
- 16 Q. Have you looked at the information
- 17 that the internet service provider provided
- 18 to the plaintiffs and your mom?
- 19 A. Yes.
- 20 Q. You understand that -- are you
- 21 familiar with something called an internet
- 22 protocol address?
- 23 A. Yes, I am.
- Q. What do you understand that to be?
- A. Just to inform you, the internet,

	Page 174
]]	
2	CERTIFICATE
3	STATE OF NEW YORK)
4	: SS.
5	COUNTY OF NEW YORK)
6	
7	I, LESLÍE FAGIN, a Notary Public
8	within and for the State of New York, do
9	hereby certify:
10	That WOODY RAYMOND, the witness
11	whose deposition is hereinbefore set
12	forth, was duly sworn by me and that
13	such deposition is a true record of the
14	testimony given by the witness.
15	I further certify that I am not
16	related to any of the parties to this
17	action by blood or marriage, and that I
18	am in no way interested in the outcome
19	of this matter.
20	IN WITNESS WHEREOF, I have hereunto
21	set my hand this 25the day of July,
22	2006.
23	2006. Vialutos
24	<i></i>
25	LESLIE FAGIN

EXHIBIT I

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Recording Industry vs The People

By Ray Beckerman. About the RIAA's attempt to monopolize digital music by redefining copyright law, through the commencement of tens of thousands of extortionate lawsuits against ordinary working people. *Home Page *Index of Litigation Documents *How RIAA Litigation Works *Directory of Defense Lawyers *Recent Posts *Archives * Defense Funds * Quotes from Decisions *Links *Non-RIAA music





Friday, February 03, 2006

Marie Lindor to Move for Summary Judgment

Marie Lindor, a home health aide who has never bought, used, or even turned on a computer in her life, but was nevertheless sued by the RIAA in Brooklyn federal court for using an "online distribution system" to "download, distribute, and/or make available for distribution" plaintiff's music files, has requested a premotion conference in anticipation of making a summary judgment motion dismissing the complaint and awarding her attorneys fees under the Copyright Act. Request for pre-motion conference for summary judgment motion

Keywords: copyright download upload peer to peer p2p file sharing filesharing music movies indie label freeculture creative commons pop/rock artists riaa independent mp3 cd favorite songs

Permalink

posted by Ray Beckerman @ 2/03/2006 10:00:00 AM

Comments

A word from Recording Industry vs. The People, to newcomers about to submit a comment.

- 1. Thank you for visiting our site.
- 2. The RIAA has a habit of citing our blog to judges, so please keep comments dignified and worthy of the important issues we are discussing, in keeping with our comment policies.

Search

- 3. If you see a violation of our comment policies, please let me know by comment or by email.
- 4. You can post anonymously, but please sign off by giving us something to call you. Conversations among several people called "Anonymous" get too confusing. Thanks.

Best regards.

-Ray

It would be nice if she sued the snot out of the RIAA for something.

Link to this comment posted by Maclke: February 3, 2006 7:54:00 AM EST

Anyone noticed how much bigger Metallica got after they were involved in stomping on Napster? The next album they released went to Number 1 in 30 countried worldwide in it's first week of release... could this possibly be because of all the additional fans they acquired through their music being shared to a wider audience than it might have been without Napster giving them free distribution and publicity?

Screw the RIAA, they just want to force everyone into using their 'product' in a limited way. I'm a musician and from personal experience it's a real buzz when you find a review of a tune you wrote popping up on a review site in China with no idea of how they even got hold of it... without file sharing I'd never have had an audience anywhere near to this kind of diversity!:)

Link to this comment posted by M-RES: February 3, 2006 8:08:00 AM EST

I'll bet that those "attorney fees" are pretty steep for that 1 paragraph letter. It would serve the RIAA right, but give the money to the lady!

meep.

Link to this comment posted by Andy : February 3. 2006 8:43:00 AM EST

Andy-- Don't count on her actually being billed for attorney fees if she loses. Lawyers have a professional requirement to do a certain amount of pro-bono work, and work like this is very much for the benefit of the public. I can easily imagine her

Recent posts

being forgiven the fees if she loses. On the other hand, if she wins, there's no reason why the RIAA shouldn't get stuck with a bill.

Link to this comment posted by E Russell: February 3, 2006 9:17:00 AM EST

I think that the RIAA are really getting out of hand. They have even ogne after sites that hosted music tablature. Now fans cant play along to thier favorite tunes.

Link to this comment posted by **©** Nerrick: February 3, 2006 9:35:00 AM EST

Dear Andy and Russell,

Don't you think her lawyers (us) deserve to make a living, like everyone else?

Why are lawyers singled out for the view that they should work for free?

If I'm helping this wonderful lady to avoid a big judgment, and helping her to fight back against a bully, why shouldn't I be paid for that?

Thanks for your support and for your viewpoints.

Best regards,

Ray

Link to this comment posted by Ray Beckerman : February 3, 2006 10:34:00 AM EST

Ray,

She could settle to avoid the big settlement. I don't know to me it just seems like the person being wrongfully sued is screwed no matter what. She either pays the record companies or her defense

Link to this comment posted by Erik: February 3, 2006 10:59:00 AM EST

Ray, I think that it's because essentially her need was one created by forces that she could not control. She didn't wake up and say, I want to

Archives

defend myself in court - she was forced to. Should she pay for that? It doesn't seem very fair.

However, you do need to get paid, and I'm very glad that there are people out there standing up to bunk like this - but I can understand where the people who think it should be pro bono work are coming from. Oh well. Life goes on. Hope you're able to get both your client and yourself a nice wad of cash.

Link to this comment posted by slothrop: February 3, 2006 11:03:00 AM EST

Ray,

It isn't Lawyers "the guy working for a living" that everyone rants against, its Lawyers "the system" that receives ire.

The days are long gone when a person could resonably defend themselves in court against even the most minor of charges. The phrase "I'm defending myself" usually evokes a foolhardy image.

The justice system has become so incredibly complex that an unacompanied individual isn't even likely to be able to address the judge correctly, let alone mount a credible defense.

So now, the act of merely charging someone with an offense can be enough to financially ruin them as is the case with these sorts of lawsuits.

People rant against Lawyers "the system" because it is a system in which the individual looses from the beginning, regardless of what they've done or not done.

Link to this comment posted by Frederick: February 3, 2006 11:19:00 AM EST

Ray,

I think you are a stand up guy to take this case, and I support you getting paid to do it. The RIAA is a dirty organization desperately fighting to hold on to a business model that is no longer viable

"The concern of this Court is that in

through the use of litigation.

Thank you for fighting the good fight. Dan

Link to this comment posted by **(a)** <:> : February 3, 2006 11:33:00 AM EST

Here's the way I see it:

- 1. She shouldn't 'sue the snot out them' because lawsuits have become a modern form of vigilanteism. As much as I'd like to see the RIAA pummeled into a gooey paste, I like the tar and feathering idea better.
- 2. Even if a lawyer should take her case for free, she should still seek the amount that would normally be charged because everyone has to make a living.
- 3. She should not settle under **any circumstances**. All the out of court settlements against that big and scary RIAA is what keeps them filing more suits. The more skulls on their belt, the scarier they look to the next unsuspecting sap they choose to sue. Fight it in every way.

Link to this comment posted by FiZ: February 3, 2006 11:42:00 AM EST

Ray,

I've got nothing against lawyers. Actually, my brother will graduate from Yale Law in May. I just think that often lawyers come out way ahead of the game, as in class action lawsuits, etc.

I hope the lawyers do get paid for their work. I just think that the lady who's the RIAA's target should get more. Not that she really deserves anything but to be exonerated, but the RIAA is slime if they're going after someone without doing their homework a little better...

-Andy

Link to this comment posted by Andy: February 3, 2006

these lawsuits, potentially meritorious

11:43:00 AM EST

I'm more interested in finding out exactly how the RIAA came across her name and what evidence they used to decide they should slap a lawsuit on her.

Did they just open a phonebook and throw a dart? Identity theft?

Novel excuse?

Link to this comment posted by Paul: February 3, 2006 12:24:00 PM EST

Two points:

- 1.) Pay for her defense, should she win and I would hope they get a slam-dunk, is almost always paid by the losing side. You have to file for it, but it is almost automatic.
- 2.) As frivoulous as the suit is, I would hope that her attorneys after they win this seek damages on behalf of their client. I would also hope the state bar, attorney general, and judicial board all took a gander at such a case.

Link to this comment posted by

NoTalentWank: February 3, 2006 12:43:00 PM EST

Ray,

The problem isn't getting the lawyers paid, the problem is that if a settlement comes in, say \$50,000, the actual person harmed will get, maybe, \$10,000 of the settlement and the lawyers will nickle and dime the other \$40,000 for their "fees".

Do I need to pay for an "hour of work" just because your law assistant dialed the phone and asked a 5 second question and got a 3 second answer. The lawyer didn't even do the work, the actual work was 10-20 seconds...I'll even say 5 minutes, but the billing is for an hour.

I am a network security consultant who works with lawyers all the time, so I have seen this happen...over and over and over and....you get the point.

legal and factual defenses are not

TCP

Link to this comment posted by TCPDump-SSL: February 3, 2006 1:44:00 PM EST

The problem isn't getting the lawyers paid, the problem is that if a settlement comes in, say \$50,000, the actual person harmed will get, maybe, \$10,000 of the settlement and the lawyers will nickle and dime the other \$40,000 for their "fees".

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I am a network security consultant who works with lawyers all the time, so I have seen this happen...over and over and over and....you get the point.

Wow. You need to get a new law firm.

None of the firms I've ever worked in were like that. Our contingent fee cases are taken for 1/3 of the settlement or judgment amount, but the client pays his or her own expenses (otherwise, we've engaged in champerty, which is illegal). What that means, though, is that if we have to pay expert witnesses \$30,000.00 to make a case, then the client will be out that amount at the end of the day. But if they were paying hourly, they'd be paying the same amount anyway, so there's no difference.

Also, as far as telephone conversations by assistants, every firm I've worked at bills in six minute increments. Further, paralegal time is billed out at a lower rate than attorney time. I'd suggest you find a reputable firm to do business with.

--G

Link to this comment posted by Goobermunch: February 3,

being litigated, and instead, the federal

2006 2:34:00 PM EST

This post has been removed by a blog administrator.

Link to this comment posted by **(a)** zi: February 3, 2006 3:59:00 PM EST

Here's what I think happened...the RIAA identified more than one "Marie Lindor". Or she was a victim of identity theft, but I think the first case is more likely. They filed suit against either just her, or all of them. And they will claim to their graves that their system of identifying users is flawless. "We can identify the user who is assigned to an IP address with 100% certainty!", they cry. Yeah, except when the person assigned to the IP address is the guy with the unsecured WiFi across the street from the person leeching off of it, who is doing the real downloading.

Link to this comment posted by **(E)** Wil: February 3, 2006 10:49:00 PM EST

It's almost like whoever developed the strategy of identifying the IP addresses of fileshare users intentionally gunked it up so that it wouldn't work. Anyone with an ounce of understanding about how household Internet is delivered in the United States would realize that there's no guarantee you have the right person. The odds are that yes, you will get the right person, because most users aren't savvy enough to cover their tracks. And, unfortunately, these are entirely the wrong people to go after for exactly that reason - if they're not savvy enough to cover their tracks, they're not likely to be savvy enough to be any kind of threat to anyone's property.

Link to this comment posted by Wil: February 4, 2006 2:26:00 AM EST

Ray,

While I believe pro bono has it's place, I also firmly believe in "fair play". You, as her lawyers are doing not only what is right for your client, but also what is Right For The People. Of course you deserve to get paid, and paid well. That being said,

judiciary is being used as a hammer by

the RIAA is doing something which is akin to extortion, and deserves LUDICROUS penalties for it.

The only way to teach an organization a lesson is to impede it's ability to function. Pound it with punitive damages to go into a legal defense fund for others it accuses. That way future defendants will not be denied a defense due to lack of funding, and attorneys will not hesitate to take these cases for fear of inadequate pay.

Give 'em Hell.

Link to this comment posted by Mike777: February 4, 2006 2:29:00 AM EST

This post has been removed by a blog administrator

Link to this comment posted by Ray Beckerman: February 4, 2006 12:31:00 PM EST

All they know, or have reason to believe, about Marie Lindor is that she was the person who signed the check paying for internet access through which the internet was accessed by an insecure wireless router in her house.

The router had been used by her adult children, but not at the time of the alleged screenshot, at which time there was no computer at all in the house.

Plaintiffs are completely aware that Marie Lindor herself did not infringe any copyrights. However, they refuse to drop the case against her, hoping to use the pressure on Ms. Lindor as a means of putting the squeeze on her family.

Link to this comment posted by **E** Ray Beckerman: February 4, 2006 12:33:00 PM EST

Running an unsecured wireless access point (WAP) is essentially the same as putting up a swimming pool without a fence around it. Whoever does such a thing could easily be liable for whatever bad things get done with it -- and there are lot worse things that could have happened. You could have ended up defending a

a small group of plaintiffs to pound

client who is being detained as a terrorist instead of just getting sued by the RIAA.

You probably do have a cause to turn around and sue the ventor of the WAP for not properly notifying your client about the potential for abuse. You also might be able to get the RIAA off your client's back by offering to help the RIAA sue the WAP vendor for negligence (shipping the WAP with encryption turned off by default). Presumably they have a much better chance of getting money that way.

Link to this comment posted by hrob : February 5, 2006 5:05:00 PM EST

Dear hrob,

I don't know where you're coming from, but suffice it to say your ideas have no basis in, and are directly contrary to all principles of, copyright law.

And your idea of helping the RIAA is unthinkable. They are badly behaved bullies who are abusing the judicial system. If you want to help them, go help them, but I would never advise a client to help the RIAA.

Best regards,

Ray

Link to this comment posted by Pay Beckerman: February 5, 2006 11:05:00 PM EST

hrob, your ideas assume a lot: that people are smart enough to figure out how to configure WAP/WEP. even many experienced computer users find it difficult to get working/annoying and prefer to leave it off for convenience. as we can clearly see, the users getting sued are novices.

i don't believe in suing router manufacturers for what you call "negligence" on the part of the user. Routers are by their nature very technical things. We don't sue gun manufacturers for murders and settlements out of unrepresented

crimes committed by guns, now do we? Guns are clearly more dangerous than wireless routers. Link to this comment posted by **3** zi: February 6, 2006 3:43:00 AM EST

zi...

no we *dont* sue gun manufacturers for crimes comitted with their products... but we should. if gun manufacturers found it economically damaging to continue to design guns that are easily used/or modified to be used in crimes, they might just change their designs and lives might be saved... but, as you said, wireless routers are not near as dangerous as guns...

a little off topic but....

Link to this comment posted by MM : February 6, 2006 5:57:00 PM EST

It's way off topic for a bunch of nonlawyers to give legal opinions on suits against gun manufacturers, swimming pools without fences, and WAP manufacturers.

Let's get the conversation under control. We're talking about whether you can sue someone for copyright infringement on a computer who's never used a computer.

The answer is no.

Link to this comment posted by **E** Ray Beckerman: February 6, 2006 11:54:00 PM EST

this is very simple Quit trying to make somthing free "Mp3 encoded audio" into something for profit and greed. any one can for free make an Mp3 so there free. no one can make a cd for free can they? No they cant. Give Greed A Break USA you cannot Sue your country out of DEBT. to the movie biz, news biz, show biz, music biz and whatever biz Greed is DEATH.

we are watching very closely at what you are

defendants."

doing as your profits can attest to. Have Fun Sueing for your last bit of life MPAA,RIAA

Link to this comment posted by Masher 1: February 8, 2006 11:14:00 PM EST

The fact that you can make MP3s for free is irrelevant.

Distributing unauthorized copywritten works for free is bad. Why? Who will write a book, or compose music, for free?

This is how stupid the RIAA is. At the very root of their nonsense is a valid point: artists should get paid. But instead of addressing that in a sensible manner (like, how do we create a digital distribution at a price where artists still make money but mainstream people embrace), they bully anyone they can find, and it culminates in ridiculous suits like this one.

Best of luck, Ray. One hopes that if enough of these get shot down, the RIAA will start thinking about how to create new legitimate revenue streams in the digital era instead of suing everybody.

--chris

Link to this comment posted by Christopher D. Heer: February 15, 2006 3:03:00 PM EST

The internet in general had existed ten years ago. Yo have nice site, admin! calling-conference-

Link to this comment posted by Chxiao: February 24, 2006 8:46:00 AM EST

Ray,

I'm starting law school next Fall and one of my ambitions is to bring the RIAA to its knees. They can't keep abusing their legal right to sue. It's lawyers like you that make me proud to be prelaw.

Keep fighting the good fight.

-Hon. S. James Otero

-Tyler

Link to this comment posted by Tyler: February 24, 2006 4:45:00 PM EST

Good luck, Ray!

It's stuff like this that makes me HAPPY there are attorneys in the world. Most average Americans don't have a hope against bullies like the RIAA on their own.

Get 'em!

Susi

Link to this comment posted by Susi: March 7, 2006 11:06:00 PM EST

laptop Dell Laptop Part 1 Dell Laptop Part 2 Acer Laptop Part 1 Acer Laptop Part 2 Acer Laptop Part 3 Dell Inspiron 3000 Laptop Dell Inspiron 630m Laptop Dell Inspiron 9300 Laptop Dell Inspiron 300m Laptop Dell Inspiron 6400 Laptop Dell Inspiron 9400 Laptop Dell Inspiron 3200 Laptop Dell Inspiron 640m Laptop

Link to this comment posted by sgsurvey: July 27, 2006 8:17:00 AM EDT

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Fun Dating Online

By: Blanjo Company

Link to this comment posted by (a) blanjo-antivirus: November

District Judge

16, 2006 1:06:00 PM EST

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Central District of California March 2, 2007 Elektra v. O'Brien 2007 ILRWeb (P&F) 1555











"[N]either Florida's litigation privilege nor the Noerr-Pennington Doctrine serves as a shield for sham litigation."

-Hon. Richard A. Lazzara District Judge Middle District of Florida September 19, 2007 <u>UMG v. Del Cid</u> 2007 ILRWeb (P&F) 2721







""[W]ithout actual distribution of copies.... there is no violation [of] the distribution right." 4 William F. Patry, Patry on Copyright § 13:9 (2007); see also id. N. 10 (collecting cases); Perfect 10, Inc. v. Amazon.com, Inc., 508 F.3d 1146, 1162 (9th Cir. 2007)(affirming the district court's finding "that distribution requires an 'actual dissemination' of a copy")".

-Hon. Janet Bond Arterton District Judge District of Connecticut February 13, 2008 Atlantic v. Brennan 534 F. Supp.2d 278



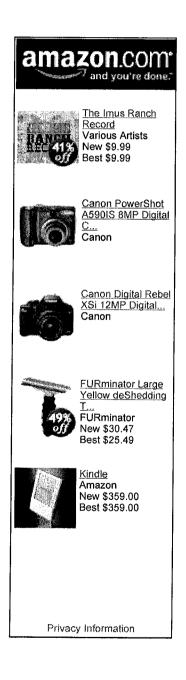




"Rule 11(b)(3) requires that a representation in a pleading have evidentiary support and one wonders

if the Plaintiffs are intentionally flouting that requirement in order to make their discovery efforts more convenient or to avoid paying the proper filing fees. In my view, the Court would be well within its power to direct the Plaintiffs to show cause why they have not violated Rule 11(b) with their allegations respecting joinder. [I]t is difficult to ignore the kind of gamesmanship that is going on here.....These plaintiffs have devised a clever scheme... to obtain court-authorized discovery prior to the service of complaints, but it troubles me that they do so with impunity and at the expense of the requirements of Rule 11(b)(3) because they have no good faith evidentiary basis to believe the cases should be joined."

-Hon. Margaret J. Kravchuk Magistrate Judge **District of Maine** January 25, 2008 Arista v. Does 1-27 2008 WL 222283



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Civil Litigation Attorney

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"Merely making a copy available does not constitute distribution....The statute provides copyright holders with the exclusive right to distribute "copies" of their works to the public "by sale or other transfer of ownership, or by rental, lease, or lending." 17 U.S.C. ...106(3). Unless a copy of the work changes hands in one of the designated ways, a "distribution" under ...106(3) has not taken place."

-Hon. Neil V. Wake District Judge District of Arizona April 29, 2008 <u>Atlantic v. Howell</u> 2008 ILRWeb (P&F) 1665

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"In National Car Rental System, Inc. v. Computer Associates Int'l, Inc., the Eighth Circuit stated that ""[i]nfringement of [the distribution right] requires an actual dissemination of either copies or phonorecords.' 2 Nimmer on Copyright § 8.11[A], at 8-124.1." 991 F.2d 426, 434 (8th Cir. 1993)..... Neither party presented this Eighth Circuit case to the Court." (Emphasis supplied) -Hon. Michael J. Davis **District Judge District of Minnesota** May 15, 2008 Capitol v. Thomas



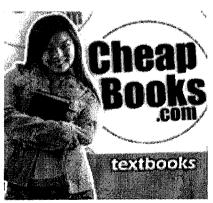
"An offer to distribute does not constitute distribution" -Hon. Neil V. Wake **District Judge District of Arizona** April 29, 2008 Atlantic v. Howell 2008 ILRWeb (P&F) 1665



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"[P]laintiffs unreasonably rejected or sought to suppress evidence to the extent it tended to exonerate defendant, such as the expert's report concerning the examination of defendant's computer hard drive or her own statements about who had access to her computer. [W]hen plaintiffs dismissed their claims in June 2007, they apparently had no more material evidence to support their claims than they did when they first contacted defendant in February 2005..... (Emphasis supplied)"

-Hon. Donald C. Ashmanskas Magistrate Judge District of Oregon September 21, 2007 <u>Atlantic v. Andersen</u> 2008 WL 185806

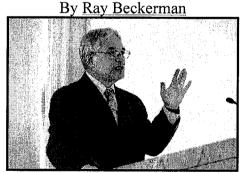
"[N]either the parties' submissions nor the Court's own research has revealed any case holding the mere owner of an internet account contributorily or vicariously liable for the infringing activities of third persons.....In addition to the weakness of the secondary copyright infringement claims against Ms. Foster, there is a question of the plaintiffs' motivations in pursuing them..... [T]here is an appearance that the plaintiffs initiated the secondary infringement claims to press Ms. Foster into settlement after they had ceased to believe she was a direct or "primary" infringer."

-Hon. Lee R. West District Judge Western District of Oklahoma February 6, 2007 <u>Capitol v. Foster</u> 2007 WL 1028532

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"Recording Industry vs. The People"



-I am a lawyer in New York City, practicing at <u>Ray Beckerman</u>, <u>P.C.</u>. I established this site to collect and share information about the wave of sham "copyright infringement" lawsuits brought by four large record companies to abuse the American judicial system, distort copyright law, and frighten ordinary working people and their children.

-Ray Beckerman beckermanlegal.com (Attorney Advertising)

"I see no reason for the court to take immediate action in this case as there is no evidence that records

are about to be destroyed."
-Hon. Margaret Kravchuk
Magistrate Judge
District of Maine
May 29, 2008
BMG v. Does 1-11

"If the owner of the shared folder simply provides a member of the public with access to the work and the means to make an unauthorized copy, the owner is not liable as a primary infringer of the distribution right, but rather is potentially liable as a secondary infringer of the reproduction right...."

-Hon. Neil V. Wake

-Hon. Nell V. Wake
District Judge
District of Arizona
April 29, 2008
Atlantic v. Howell
2008 ILRWeb (P&F) 1665

More Quotes

"[T]he inducement rule.... is a sensible one for copyright. We adopt it here, holding that one who distributes a device with the object of promoting its use to infringe copyright, as shown by *clear expression or other affirmative steps taken to foster infringement*, is liable for the resulting acts of infringement by third parties.....One infringes contributorily by *intentionally inducing or encouraging* direct infringement...." (italics supplied)

-Hon. David H. Souter, for the Court Justice U.S. Supreme Court June 27, 2005 <u>MGM v. Grokster</u> 545 U.S. 913

More Ouotes

QUOTATIONS FROM DECISIONS

"Merely because the defendant has "completed all the steps necessary for distribution" does not necessarily mean that a distribution has actually occurred. It is a "distribution" that the statute plainly requires. See 17 U.S.C. § 106(3)."

-Hon. Nancy Gertner
District Judge
District of Massachusetts
March 31, 2008

<u>London-Sire v. Doe 1</u>
542 F.Supp.2d 153, 2008 WL 887491

"Plaintiff ... must present at least some facts to show the plausibility of their allegations of copyright infringement....However, Plaintiffs have presented no facts that would indicate that this allegation is anything more than speculation."

-Hon. Rudi M. Brewster Senior District Judge Southern District of California August 17, 2007 Interscope v. Rodriguez 2007 WL 2408484

"Plaintiffs are ordered to file any future cases of this nature against one defendant at a time, and may not join defendants for their convenience."

-Hon. Sam Sparks -Hon. Lee Yeakel **District Judges Western District of Texas November 17, 2004** Fonovisa v. Does 1-41 2004 ILRWeb (P&F) 3053

"[A]n overwhelming majority of cases brought by recording companies against individuals are resolved without so much as an appearance by the defendant, usually through default judgment or stipulated dismissal.....The Defendant Does cannot question the propriety of joinder if they do not set foot in the courthouse."

-Hon. S. James Otero Central District of California August 29, 2007 SONY BMG v. Does 1-5 2007 ILRWeb (P&F) 2535

"The Court is unaware of any other authority that authorizes the exparte subpoena requested by plaintiffs."

-Hon. Walter D. Kelley, Jr. **District Judge** Eastern District of Virginia July 12, 2007 Interscope v. Does 1-7 494 F. Supp. 2d 388 vacated on reconsideration 6/20/08

"Plaintiffs contend that unless the Court allows ex parte immediate discovery, they will be irreparably harmed. While the Court does not dispute that infringement of a copyright results in harm, it requires a Coleridgian "suspension of disbelief" to accept that the harm is irreparable, especially when monetary damages can cure any alleged violation. On the other hand, the harm related to disclosure of confidential information in a student or faculty member's Internet files can be equally harmful.....Moreover, ex parte proceedings should be the exception, not the rule."

-Hon. Lorenzo F. Garcia Magistrate Judge **District of New Mexico** May 24, 2007 Capitol v. Does 1-16

2007 WL 1893603

"[P]laintiffs can cite to no case foreclosing the applicability of the due process clause to the aggregation of minimum statutory damages proscribed under the Copyright Act. On the other hand, Lindor cites to case law and to law review articles suggesting that, in a proper case, a court may extend its current due process jurisprudence prohibiting grossly excessive punitive jury awards to prohibit the award of statutory damages mandated under the Copyright Act if they are grossly in excess of the actual damages suffered....."

-Hon. David G. Trager Senior District Judge Eastern District of New York November 9, 2006 <u>UMG v. Lindor</u> 2006 WL 3335048

"[D]istributing unlawful copies of a copyrighted work does violate the copyright owner's distribution right and, as a result, constitutes copyright infringement. In order to establish "distribution" of a copyrighted work, a party must show that an unlawful copy was disseminated "to the public." 17 U.S.C. § 106(3); see National Car Rental v. Computer Associates , 991 F.2d 426, 434 (8th Cir. 1993); 2 Nimmer, § 8.11[A] at 8-137."

-Hon. John D. Butzner, Jr. Fourth Circuit June 30, 1997 <u>Hotaling v. Church of Jesus Christ of Latter-Day Saints</u> 118 F.3d 199

"[T]his court finds that defendants' use of the same ISP and P2P networks to allegedly commit copyright infringement is, without more, insufficient for permissive joinder under Rule 20. This court will sever not only the moving defendants from this action, but all other Doe defendants except Doe 2."

-Hon. W. Earl Britt District Judge Eastern District of North Carolina February 27, 2008 *LaFace v. Does 1-38* 2008 WL 544992

*List of quotations

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Ars Technica

AzOz

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Boycott-RIAA.com

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Canadian Music Creators Coalition

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Center for Social Media (American University School of Communication)

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"Copyfight" on Corante

Copyright Act 17 USC

Copyright Act 17 USC 106

Copyright Act 17 USC 106 (Alternate link)

"copy this blog"

copywrite.org

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Digital Audio Insider

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DigitalMusicWeblog

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Disc & DAT

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Download Squad

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EFF File Sharing Information Page

EFF Page About RIAA Cases

EFF Cooperating Techs

EFF Cooperating Attorneys

EFF "Deep Links"

Elite Defense (Hungary)

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SuprNova

Tech Dirt

Technology Liberation Front

tinfoil.music

Trademark Blog

Turre Legal (Finland)

UMG v. Lindor Expert Witness Deposition

U.S. Internet Industry Association

Universal Music Australia Pty Ltd v Sharman License Holdings Ltd

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Wired Blogs

Yankovic, Weird Al ("Don't Download This Song")

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(Links to non-RIAA legal music download information)

AmieStreet.com

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Catapult Digital Distribution

CDBaby.com

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Fake Science

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GrooveShark

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imeem

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Isabella Stewart Gardner Musuem

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Janis Ian.com

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Legal Music Search

Liberated Music, A Site for Independent Music

Lime Light Radio

LimeWire Store

"Links to ... Legal Music Downloads"

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live365.com free downloads

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Matador Records

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musicthing

myspace.com

Nettwerk Download Store

November Star Entertainment

Original Hip-Hop Lyrics Archive

OurStage.com

Reverb Nation

R.evolution I.n P.rogress

RIAARadar.com

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Slankard, Megan

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uncoolcentral.com

Vision Metal Records

warprecords.com

Wave Music

WPRB.com

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archives

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Capitol v. Weed ### Jammie Thomas Legal Defense Fund FreeJammie.com

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Electronic Frontier Foundation

(Not a defense fund per se but a worthy organization which has helped RIAA defendants in many ways, including acting as amicus curiae in selected cases)

Headlines:

From Copyfight (Corante.com):

- » EliteTorrents admin jailed
- » Pirate sentanced to 3 years probation
- » Google Backs Up On Chrome EULA
- » Google, Chrome, and Copyright
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- » AFACT Downloading Movies is like taking heroin
- » In Which Our Hero TriesTo Comprehend EU Copyright Issues
- » DMCA Takedowns Must Consider Fair Use
- » RIAA finally pays fees
- » A CBLDF Benefit Mashup Thu Aug 21, 7:30P
- » Bono to blame for leaked tracks!

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From <u>p2pnet.net</u>:

Copyright? Copy what? Stephen Harper

'Create-your-own-ad flash thingy'

Sam I Was. But not any more.

'I've learned too much '

Big 4 record labels: 'total disconnect'

'Old-school revenue expectations

Sarah McLachlan marriage split 'pretty gross'

'No good time to say it'

Remember C-61: technology property rights defenders!

Take my PVR/Computer/MP3 player from my cold dead hands!

Hackers warn of 'weaknesses' in atom smasher

'Greek Security Team

New US corporate copyright cop

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Google Googles Korea's TNC

All good things come in threes"

Should file sharing be a crime in the UK?

Well, Mr Brown?

CERN Collidatron -- 'It's alive!'

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- » DOJ Needs Warrant To Track Your Cell's GPS History
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