

# EXHIBIT R

**Other Answers**

1:05-cv-01095-DGT-RML UMG Recordings, Inc. et al v. Lindor

**U.S. District Court**

**Eastern District of New York**

**Notice of Electronic Filing**

The following transaction was received from Gabriel, Richard L. entered on 11/27/2006 at 6:36 PM EST and filed on 11/27/2006

**Case Name:** UMG Recordings, Inc. et al v. Lindor

**Case Number:** 1:05-cv-1095

**Filer:** Motown Record Company, L.P.  
Warner Bros. Records Inc.  
UMG Recordings, Inc.  
Interscope Records  
Sony BMG Music Entertainment  
Arista Records LLC

**Document Number:** 96

**Docket Text:**

MEMORANDUM in Support *and Motion for Order Allowing Alternative Means of Service of Nonparty Subpoena on Gustave Lindor, Jr.* by all plaintiffs. (Attachments: # (1) Exhibit A# (2) Exhibit B# (3) Exhibit C# (4) Exhibit D)(Gabriel, Richard)

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP NYEDStamp\_ID=875559751 [Date=11/27/2006] [FileNumber=2625976-0]  
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**Document description:**Exhibit A

**Original filename:**n/a

**Electronic document Stamp:**

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**Document description:**Exhibit B

**Original filename:**n/a

**Electronic document Stamp:**

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**Document description:**Exhibit C

**Original filename:**n/a

**Electronic document Stamp:**

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**Document description:**Exhibit D

**Original filename:**n/a

**Electronic document Stamp:**

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59dd280394c063af51f25e01e8e1751329d5ab4ea9bd890f2a5d269f88f6]]

**1:05-cv-1095 Notice will be electronically mailed to:**

Richard A. Altman altmanlaw@earthlink.net, iplawyer@earthlink.net

Ray Beckerman rbeckerman@vanfeliu.com

Richard L. Gabriel richard.gabriel@hro.com, anne.allen@hro.com

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Morlan Ty Rogers mtrogers@vanfeliu.com, rbeckerman@vanfeliu.com

**1:05-cv-1095 Notice will not be delivered by other means to:**

Marie C. Lindor  
c/o Woody A. Raymond  
817 East 21th Street  
Brooklyn, NY 11210

Brian Eugene Moran  
Robinson & Cole  
695 E. Main Street, P.O. Box 10305  
Stanford, CT 06904-2305



**Holme Roberts & Owen LLP**  
*Attorneys at Law*

DENVER

November 27, 2006

BOULDER

**BY ECF AND TELECOPY**

Hon. Robert M. Levy  
U.S. District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

COLORADO SPRINGS

Re: UMG Recordings, Inc. v. Lindor, No. 05 Civ.1095 (DGT)(RML)

Dear Magistrate Judge Levy:

LONDON

Plaintiffs respectfully move this Court for an Order allowing an alternative means of service of a nonparty subpoena on Gustave Lindor, Jr. As more fully set forth below, Mr. Lindor has critical evidence, but he has been actively evading service of process for over one month. Plaintiffs see no option but to request the Court's assistance.

LOS ANGELES

This case involves claims for copyright infringement against defendant, whose Internet Service Provider identified her as the holder of an Internet account through which substantial infringement occurred, under the screen name "jrlindor@kazaa" (plaintiffs learned of Gustave "Junior" Lindor in depositions in this case, and this screen name may well have some connection to Mr. Lindor). Defendant has denied that she is responsible. Although she first suggested that some unknown third person gained access to her account through a wireless router, plaintiffs' evidence shows that cannot be the case as a technical matter. Nonetheless, defendant continues to assert that someone else is responsible for the infringement. Thus, plaintiffs sought a computer inspection.

MUNICH

SALT LAKE CITY

SAN FRANCISCO

After this Court resolved a dispute regarding plaintiffs' requested inspection, the inspection was completed in October, and plaintiffs made a mirror image of the hard drive that defendant provided. Plaintiffs now believe that the hard drive that was provided was not the same as the hard drive that was attached to defendant's Internet account at the time that plaintiffs detected the infringement at issue. Accordingly, plaintiffs have subpoenaed, among other things, computers from Woody Raymond (to which Mr. Raymond has objected) and from Mr. Lindor, because plaintiffs believe that such computers may well have been the ones that were attached to defendant's Internet account at the time the infringement was detected (the proposed subpoena to Mr. Lindor is attached as Exhibit A).

Hon. Robert M. Levy  
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Although both defendant and Mr. Raymond were vague in their depositions about Mr. Lindor's current whereabouts, at times suggesting that he was in Haiti, see W. Raymond Dep. at 20:15-22:5 (attached as Exhibit B); Lindor Dep. at 10:5-13:18 (attached as Exhibit C), Mr. Lindor's resume, which plaintiffs found on the hard drive that was provided to them, shows that Mr. Lindor lived in Brooklyn, New York at the relevant time. Moreover, plaintiffs' further independent investigation showed that Mr. Lindor still lives in Brooklyn.

As more fully set forth in the attached declaration of Azam N. Abbderrahman (attached as Exhibit D), plaintiffs have been attempting to serve the above-referenced subpoena on Mr. Lindor for over one month. Specifically, since October 12, 2006, plaintiffs' process server has made seven attempts to serve Mr. Lindor. Mr. Lindor lives in an apartment complex. During one of these attempts, a male identified himself over the intercom telephone as Gustave Lindor. As soon as the process server said that he had legal documents for Mr. Lindor, however, Mr. Lindor changed his story and stated, "I am not Gustave Lindor" and hung up the phone. On subsequent visits, the occupants stated that the process server had the wrong apartment number and/or refused the process server access into the building. See Abbderrahman Decl. (Exh. D).

Fed. R. Civ. P. 45(b)(1) provides that service of a subpoena upon a person shall be made by delivering a copy thereof to such person. Fed. R. Civ. P. 45(b)(3), in turn, provides that proof of service is made by filing with the clerk a statement of, among other things, the date and "manner of service."

Although some courts have held that Rule 45 requires that a non-party subpoena be hand delivered, based on the language of Rule 45(b)(1), this Court has held that the language of Rule 45 neither requires in-hand service nor prohibits alternative means of service. See King v. Crown Plastering Corp., 170 F.R.D. 355, 356 (E.D.N.Y. 1997); In re Shur, 184 B.R. 640, 642 (Bankr. E.D.N.Y. 1995). This Court has further found that the language of Rule 45(b)(3) requiring proof of the "manner of service" would be superfluous if the Rule allowed only in-hand service. See King, 170 F.R.D. at 356; accord Cordius Trust v. Kummerfeld, No. 99-Civ.-3200 (DLC), 2000 WL 10268, at \*2 (S.D.N.Y. Jan. 3, 2000).

"The Federal Rules of Civil Procedure should not be construed as a shield for a witness who is purposefully attempting to evade service." Thus, this Court has held that "the only limitation upon service under Rule 45 is that the procedure employed be reasonably calculated to give the non-party actual notice of the proceedings and an

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opportunity to be heard.” Shur, 184 B.R. at 644 (citations omitted). Accordingly, courts are authorized to permit alternative service of a Rule 45 subpoena, as long as the non-party receives actual notice. See Cordius Trust, 2000 WL 10268, at \*2; King, 170 F.R.D. at 356; Shur, 184 B.R. at 643-44.

In light of these principles, plaintiffs respectfully ask that this Court allow them to serve Mr. Lindor by regular mail (given that Mr. Lindor would not likely sign for a certified letter) and/or by other alternative means that the Court deems just and proper.

Respectfully submitted,

s/Richard L. Gabriel  
Counsel for Plaintiffs

RLG:ah

cc: Ray Beckerman, Esq. (by ECF and e-mail)  
Richard Guida, Esq. (by ECF and e-mail)  
Timothy R. Reynolds, Esq. (by e-mail)  
Kathrin Weston, Esq. (by e-mail)



Holme Roberts & Owen LLP  
*Attorneys at Law*

DENVER

November 27, 2006

BOULDER

**BY ECF AND TELECOPY**

Hon. Robert M. Levy  
U.S. District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

COLORADO SPRINGS

Re: UMG Recordings, Inc. v. Lindor, No. 05 Civ.1095 (DGT)(RML)

Dear Magistrate Judge Levy:

LONDON

We write on behalf of plaintiffs in response to Mr. Altman's November 21, 2006 letter to you. Although it is somewhat unclear, we read Mr. Altman's letter as a request for a conference with the Court. For the reasons set forth below, plaintiffs join in that request so that the Court can set a briefing schedule for a motion to compel. Although plaintiffs do not read it as such, to the extent that Mr. Altman's letter seeks to have the Court quash the subpoena at issue without giving plaintiffs an opportunity to move to compel – or, at a minimum, file an opposition to a fully-briefed motion – plaintiffs object. The evidence sought by the subpoena at issue is critical to this matter, and plaintiffs will be filing a motion to compel. In that respect, plaintiffs ask the Court to set a briefing schedule for that motion so that it may proceed in an orderly fashion. In the interim, plaintiffs respectfully request that the Court order Mr. Raymond to preserve the evidence sought in the subpoena, including the computers at issue and the data contained thereon.

LOS ANGELES

MUNICH

SALT LAKE CITY

Despite the lack of specificity contained in Mr. Altman's November 21, 2006 letter and the fact that the letter was sent to the Court, plaintiffs interpret the letter as an objection under Fed. R. Civ. P. 45(c)(2)(B), and, pursuant to that Rule, plaintiffs will file a motion to compel. Mr. Raymond is a critical witness in this case, and the information sought is directly relevant to plaintiffs' claims against defendant. First, beyond being defendant's son, Mr. Raymond has been intimately involved in this case from the beginning. Mr. Raymond testified that he worked on the computer that was connected to defendant's Internet account at the relevant time, including reinstalling the operating system at or about the time at issue. He further testified that the computer was at his home during the relevant time frame, and it was Mr. Raymond who delivered the hard drive that plaintiffs ultimately inspected, which hard drive, plaintiffs now believe, was not the hard drive that was attached to defendant's Internet account at the time of the infringements that occurred on or about August 7, 2004. Because Mr. Raymond worked on the computer at issue, had it in his home (along with other computers), and produced a computer other than the computer that was attached

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to defendant's Internet account at the time at issue, the subpoena is reasonably calculated to lead to the discovery of admissible evidence, most notably the hard drive that was attached to defendant's Internet account, which plaintiffs believe is likely still in Mr. Raymond's possession.

In addition, Mr. Raymond, who is a professional paralegal and IT Director for a local law firm, drafted defendant's initial pro se answer in this case, as well as her pro se discovery responses. He also has assisted Mr. Beckerman in communicating with defendant, and he attended every deposition except one in this case, even objecting (improperly) when questions were asked of his sister as to whether there were any file-sharing programs on the computers at his home. Mr. Raymond is, thus, no stranger to this case.

As for Mr. Altman's remaining comments, we note that Mr. Altman's recollection of undersigned counsel's conversation with him is not entirely accurate. The principal purpose for undersigned counsel's call was to confirm that Mr. Raymond properly received the subpoena at issue. Mr. Altman refused to confirm receipt of that subpoena, and even asked why he should cooperate, given his view that the subpoena was overbroad. Undersigned counsel responded that he believed that Mr. Altman had a professional duty to do so, but Mr. Altman disagreed. Mr. Altman said that he would speak with his client and indicated that, although he did not intend to be rude, he might or might not return undersigned counsel's phone call. He never did. Undersigned counsel and Mr. Altman did not discuss privilege issues, although undersigned counsel did speak with Mr. Raymond's employer, Michael Lissner, Esq., about such issues prior to speaking to Mr. Altman. Undersigned counsel assured Mr. Lissner that plaintiffs would be amenable to an appropriate protective order to protect his firm's privileged documents.<sup>1</sup>

With respect to Mr. Altman's assertions that Mr. Raymond has somehow been harassed either by the discovery demand or the process servers, this is false. The fact

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<sup>1</sup> Undersigned counsel called Mr. Lissner first, to confirm that Mr. Raymond received the subpoena, which was left with Mr. Lissner's paralegal, at Mr. Lissner's request and with his commitment to deliver the subpoena to Mr. Raymond, which clearly occurred. In the course of that conversation, Mr. Lissner raised the issue of privileged materials on the computers, and undersigned counsel advised Mr. Lissner that he would work with him and Mr. Raymond to fashion an appropriate protective order. Mr. Lissner indicated that he wanted to speak with Mr. Beckerman and would call undersigned counsel back. He never did.



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Page 3

is that Mr. Raymond has been actively evading service of process for well over one month.<sup>2</sup> Any inconvenience caused by repeated visits from plaintiffs' process servers rests with Mr. Raymond.

Finally, although Mr. Altman states that Rule 45(c)(3)(a)(iii) requires that the Court quash any subpoena seeking disclosure of privileged or other protected matter, Mr. Altman omits the portion of the rule that subjects this requirement to any exceptions or waivers. Here, plaintiffs have no interest in privileged client information of Mr. Raymond's law firm, and they will enter into an appropriate protective order as to such materials. Such an issue, however, cannot wholly bar plaintiffs from the necessary and appropriate discovery that they seek, as defendant and Mr. Raymond appear to suggest.

For all of the foregoing reasons, plaintiffs ask that this Court set a briefing schedule for formal briefing on the motion to compel that plaintiffs now must file, as a result of Mr. Raymond's objections to the subpoena that was served on him.

Respectfully submitted,

s/Richard L. Gabriel  
Counsel for Plaintiffs

RLG:ah

cc: Ray Beckerman, Esq. (by ECF and e-mail)  
Richard Altman, Esq. (by ECF and e-mail)  
Richard Guida, Esq. (by ECF and e-mail)  
Timothy R. Reynolds, Esq. (by e-mail)  
Kathrin Weston, Esq. (by e-mail)

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<sup>2</sup> Since October 12, 2006, plaintiffs have made seven attempts to serve Mr. Raymond at the address that he gave in his deposition as his home address, including appearing at a date and time when Mr. Raymond stated he would be there (he was not). During these visits, people representing themselves to be Mr. Raymond's brother Carl (whom Mr. Raymond has not seen in over a year) and Mr. Raymond's father (who passed away in 2001) alternatively have claimed that Mr. Raymond no longer lives there and that he is rarely at home. Having failed to achieve service at home, plaintiffs attempted service on three different occasions at Mr. Raymond's place of business, and Mr. Raymond was validly served on November 7, 2006.



Holme Roberts & Owen LLP  
*Attorneys at Law*

DENVER

April 16, 2007

BY FIRST-CLASS MAIL AND E-MAIL

BOULDER

Ray Beckerman, Esq.  
Morlan Ty Rogers, Esq.  
Vandenberg & Feliu, LLP  
110 East 42nd Street, Suite 1502  
New York, NY 10017

COLORADO SPRINGS

Re: *UMG Recordings, Inc., et al. v. Lindor, No. 05-CV-1095 (DGT) (RML)*

LONDON

Dear Ray and Ty:

LOS ANGELES

I am writing in response to your letter of April 5, 2007. I do not believe that there is any basis in law or fact for a Rule 11 motion against Plaintiffs in this case and encourage you to reconsider your position.

MUNICH

As you know, Plaintiffs' Complaint is well-grounded in fact and law. Indeed, every court to consider the issue has held that Plaintiffs' Complaint states a valid claim for relief under the Copyright Act. This includes the rulings denying your own motions to dismiss in *Elektra Entertainment Group, et al. v. Santangelo*, 05 Civ 2414 (CM)(MDF) and *Maverick Recording Company, et al. v. Goldshteyn*, 05CV4523 (DGT) (RML).

SALT LAKE CITY

Furthermore, your contentions regarding the sufficiency of Plaintiffs' evidence against your client are without merit. The evidence collected to date has been presented in numerous pleadings and discovery responses to date, and we have no intention of trying this case in letters like this. Suffice it to say that the evidence that Plaintiffs have already presented supports their claims, and Plaintiffs believe that the remaining discovery will reveal additional facts to support those claims.

SAN FRANCISCO

As you know, on August 7, 2004, Plaintiffs' investigators detected an individual who was engaged in the distribution of Plaintiffs' copyrighted sound recordings using the screen name "jrlindor@kazaa" at Internet Protocol ("IP") address 141.155.57.198. In response to a federal court subpoena, your client's

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*Attorneys at Law*

Ray Beckerman, Esq.  
Morlan Ty Rogers, Esq.  
April 16, 2007  
Page 2

Internet Service Provider ("ISP") identified your client, Marie Lindor, as the person to whom this IP address was assigned at the time of infringement. As a result of Ms. Lindor's and Mr. Raymond's assertions that your client no longer had an account with Verizon at the time in question, Plaintiffs asked Verizon to confirm that your client was, indeed, a Verizon subscriber on August 7, 2004, and that Verizon's identification of your client was correct. In response, Verizon confirmed that its initial identification of your client was correct. The portions of Dr. Jacobson's testimony cited in your letter in no way call into question any of this evidence, all of which points directly to your client, and none of which has ever been rebutted by your client.

Your client's purported defense that someone else may have committed the copyright infringement at issue through her Internet account, by hacking into her wireless account or otherwise, is likewise baseless. Indeed, our evidence has proven conclusively that there was no wireless router, and your client has provided nothing to the contrary and nothing to support her bald allegations that someone else used her computer or Verizon account to engage in copyright infringement. In any event, this issue is one for discovery and not for yet another sanctions motion by your client (every one of which has failed to date).

As to your statements that the computer hard-drive inspection revealed no evidence of infringement, as you well know, Plaintiffs introduced evidence and expert opinion to show that the computer delivered to our expert by Mr. Raymond was not, in fact, the computer that was attached to Defendant's Internet account on the date and time in question. Your attempted reliance on your client's ongoing lack of cooperation and "hide-the-ball" tactics in this case to support a sanctions motion are disingenuous in the extreme.

Finally, and contrary to the statements in your letter, Plaintiffs have a good faith basis for holding your client liable for any distribution of Plaintiffs' copyrighted sound recordings that occurred from her computer and through her Internet account. *See Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 125 S. Ct. 2764 (2005). Your letter nowhere addresses or challenges the imposition of liability on your client for the unlawful distribution of Plaintiffs'

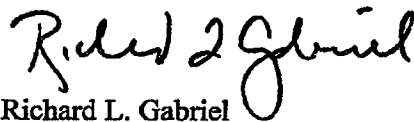
**Holme Roberts & Owen LLP**  
*Attorneys at Law*

Ray Beckerman, Esq.  
Morlan Ty Rogers, Esq.  
April 16, 2007  
Page 3

copyrighted sound recordings that undisputedly occurred on August 7, 2004  
from her computer.

For all of these reasons, I again encourage you to end your focus on meritless  
motions for and/or threats of sanctions and turn instead to working toward a  
resolution of this matter, either through settlement discussions or a decision on  
the merits.

Very truly yours,



Richard L. Gabriel

RLG:ah

cc: Richard J. Guida, Esq. (by e-mail)  
Timothy E. Congrove, Esq. (by e-mail)  
J. Christopher Jensen, Esq. (by e-mail)  
Timothy M. Reynolds, Esq. (by e-mail)  
Kathrin H. Weston, Esq. (by e-mail)

## **Anne Allen**

---

**From:** Richard Gabriel  
**Sent:** Monday, April 16, 2007 5:01 PM  
**To:** 'Ray Beckerman'; Morlan Ty Rogers  
**Cc:** Timothy M Reynolds; Kathrin Weston; 'Jensen, Christopher'; Guida, Richard J.; Timothy Congrove (tcongrove@shb.com)  
**Subject:** FW: UMG v. Lindor

Please see attached

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Holme Roberts & Owen LLP  
*Attorneys at Law*

DENVER

December 19, 2007

BOULDER

**BY ECF AND U.S. MAIL**

COLORADO SPRINGS

Hon. Robert M. Levy  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

LONDON

Re: UMG Recordings, Inc., et al. v. Marie Lindor,  
No. 05CV1095-DGT-RML  
Request for Telephonic Status Conference

Dear Magistrate Judge Levy:

LOS ANGELES

As you know, this firm represents plaintiffs in the above-referenced matter. We are writing to request a telephonic status conference to raise a discovery issue of serious concern.

MUNICH

SALT LAKE CITY

SAN FRANCISCO

As this Court is aware, some time ago, plaintiffs requested that defendant and her son, Woody Raymond, produce any computers in their possession, custody, or control for inspection and copying. Plaintiffs have recently become aware, by way of a supplemental report prepared by their expert after Judge Trager determined the various discovery issues presented to him, that defendant and Mr. Raymond did not comply with their discovery obligations. Specifically, as set forth in the attached supplemental report, plaintiffs' expert, Dr. Doug Jacobson, determined, among other things, that a Western Digital 100 GB USB external hard drive was connected to the hard drive that the defendant previously provided, and that this external drive was first connected on or before July 8, 2004. In addition, Dr. Jacobson determined that the user, "Woody," accessed songs and other files from a directory located on the external hard drive.

Not only was the above-described hard drive apparently removed prior to the computer's being provided for inspection and copying, but also it was not even identified as ever having existed. To the contrary, Mr. Raymond

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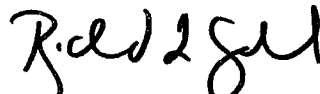
Holme Roberts & Owen LLP  
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Hon. Robert M. Levy  
December 19, 2007  
Page 2

suggested to this Court that there were no such drives, over plaintiffs' argument that other hard drives could well have been used. Specifically, Mr. Raymond claimed that he "did not switch the hard drive" on his mother's computer. Raymond Decl. (Doc. No. 146), at ¶ 13. This statement now appears to be incomplete at best.

In light of the foregoing, plaintiffs have reason to believe that defendant's and Mr. Raymond's prior statements to this Court were not correct and that their conduct was potentially contemptuous. Rather than jump to further motions practice, however, plaintiffs respectfully seek a telephonic status conference to address the foregoing issues and to determine how best to proceed.

Respectfully submitted,

  
s/Richard L. Gabriel  
Attorney for Plaintiffs

RLG:ah  
Attachment

cc: Ray Beckerman, Esq. (by ECF and e-mail; w/attach.)  
Richard Altman, Esq. (by ECF and e-mail; w/attach.)  
Richard Guida, Esq. (by ECF and e-mail; w/attach.)  
Victor B. Kao, Esq. (by ECF and e-mail; w/attach.)  
Timothy J. Reynolds, Esq. (by e-mail; w/attach.)  
Patrick Train-Gutierrez, Esq. (by e-mail; w/attach.)

**UMG RECORDING INC., et al v. Lindor**  
**ED - NY Case Number: 05-cv-1095**

**Supplemental Declaration and Expert Report**

**Dr. Doug Jacobson, Ph.D., CFCE**

Ph.D. Computer Engineering  
Certified Forensic Computer Examiner  
International Association of Computer Investigative Specialists

---

**Qualifications & Prior Testimony**

- 1) I am employed as an associate Professor of Electrical and Computer Engineering at Iowa State University and as the Director of the Iowa State University Information Assurance Center. I also have an appointment with the Iowa State University police department where I aid in computer forensics.
- 2) In addition, I am the Chief Technical Officer and founder of Palisade Systems, a high-tech computer security company that specializes in network monitoring and filtering technologies.
- 3) My employment with Iowa State University began in 1982 as a computer programmer. I completed my Ph.D. in Computer Engineering with a focus in computer networking in December 1985. In January 1986, I was hired by the Department of Electrical and Computer Engineering as an Assistant Professor to teach and research in the area of computer networks. Since that time, I have taught over 25 classes in computer networks at both the undergraduate and graduate level. I have received over 5 million dollars in funding for my research and have written several articles and made numerous presentations on the topic.
- 4) In 1995, I created and taught one of the first computer security classes at Iowa State University and in the country. Under my guidance, in 1999, Iowa State University was recognized by the National Security Agency as a center of excellence. And in 2000, the Iowa State University Information Assurance Center was created. I am its first and only director. I am a Certified Forensics Computer Examiner. My Curriculum Vitae is attached as Exhibit (A)
- 5) On September 9<sup>th</sup> 2003, I testified in front of the U.S. Senate Judiciary Committee on the uses of peer-to-peer protocols.

**Prior Experience**

- 6) I have been teaching computer networking since 1986 and written papers and performed research on computer networks.
- 7) I have given over 50 presentations on computer security and networks at conferences, workshops, and various meetings.

Dr. Doug Jacobson  
2500 Woodview Dr, Ames, Iowa 50014  
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Page 1



- 8) I hold two patents in the area of computer network security and have won two R&D 100 awards for technologies I developed at Palisade Systems. One of these technologies is designed to detect and block peer-to-peer network protocols in addition to over 100 other network protocols.
- 9) I have assisted the Iowa State University Police department on several computer cases including cases using peer-to-peer networks to distribute pirated software and child pornography.
- 10) One of my graduate students, under my supervision and guidance, developed a system that monitors peer-to-peer networks and other forms of file-sharing for child pornography.
- 11) My rate for analysis and testimony is \$200.00 per hour. Additional expenses relating to analysis, testimony, and travel are reimbursed at the incurred costs.

### **Hard Drive Forensics**

- 12) This case involved the examination of a hard drive. Several terms need to be defined relative to a hard drive examination.

**Current Internet History** – Internet history on the computer that has not been altered. This history can be tied to a specific user account on the computer, if the operating system permits it.

**Forensically Sound** – The preservation of evidence surrounding a case such that the evidence is kept exactly the way it was received. In computer terms, “forensically sound” relates to the preservation of the state of the data – no information has been added, edited or removed from the forensic media during the examination.

**Initiating Party** – The party that brings the forensic media in for analysis, and provides the scope of the investigation to the investigators.

**Internet Cache** – A location on a piece of media that contains downloaded images, movies, sounds and web pages of locations users have visited on the Internet. The Internet Cache is often cleared to make more space available on the media, and can be configured to be emptied when the user closes the Internet browser.

**Investigators** – Those performing the forensic analysis of the media for the specified parameters.

**Media** – The items that contain digital evidence, which are brought to the investigators for analysis. Media includes, but is not limited to, hard drives, USB devices, CD-ROM's, floppy discs, ZIP™ discs and DVD's.

**Past/Removed Internet History** – Internet history on the computer that had to be recovered from unallocated (deleted) file space.

**Unallocated Space** – When files are deleted from media, references to them are removed, but the actual data may still exist on the media. Unallocated space is the term used to describe any part on the media where a file may have existed. Since unallocated space is eventually overwritten, the usage of the computer dictates how long a deleted file will exist here.

- 13) The hard drive examination followed several steps as outlined below, which are consistent with the process outlined by the International Association of Computer Investigative Specialists.

### ***Evidence Acquisition Phase***

During the acquisition phase, the initiating party provides the investigators with relevant media associated with the case. The initiating party also provides investigators with information surrounding the investigation that will be applied in the analysis stage. Once the media is delivered to the investigators, proper documentation is signed indicating the media transfer.

### ***Evidence Preservation Phase***

During the preservation phase, an exact, forensically sound copy is made of each medium obtained in the acquisition phase. This ensures the original media is not tainted in any way. Further, hash values are created of the original media, and compared against the copies, to ensure that the copied data accurately represents the original media. This keeps the forensic process sound.

### ***Analysis Stage***

During the analysis stage, information that relates to the case is searched for over all the media obtained. This information is retrieved during the acquisition phase. This ensures that the investigators are only looking for information pertaining to this case. Investigations outside these parameters will not take place, unless otherwise explicitly stated by the initiating party.

### ***Conclusion Stage***

The conclusion stage will draw together everything analyzed in the analysis stage. Here, the investigator will review the recovered data, and provide explanations of why the data exists where it does, and how the data relates to the case.

## **Materials Considered**

- 14) I have reviewed the underlining investigative data for the Lindor case. This includes all of the data supplied by MediaSentry. I also have reviewed information supplied by Defendant's Internet Service Provider (ISP) Verizon Internet Services. Below is a list of the materials I considered in developing my conclusions.
- a) MediaSentry Screenshots
  - b) MediaSentry Systemlog
  - c) MediaSentry UserLog (compressed)
  - d) MediaSentry UserLog
  - e) MediaSentry Download Logs
  - f) Certificate of Registration
  - g) MediaSentry Trace
  - h) Verizon Internet Services subpoena response
  - i) Disk drive image from defendant's computer

## **Conclusions**

In addition to the conclusions contained in my report dated April 7<sup>th</sup> 2006 I have the following additional conclusions based on the additional information from the hard drive image.

- 15) I will testify to the procedures used and results obtained by MediaSentry coupled with the information supplied by Defendant's ISP, to demonstrate the Defendant's Internet account and computer were used to download and upload copyrighted music from the Internet using the KaZaA peer-to-peer network.
- 16) I will testify that based on the MediaSentry data mentioned above and registry entries recovered from the computer that the computer had a public IP address and was not connected to the Internet via a wireless router.
- 17) I will testify based on the forensics examination that the computer had three usernames of interest that were named Kathleen, Woody, and Yanick.
- 18) I will testify that I found very few user created files and saved emails on the hard I was provided to by the defendant.
- 19) I will testify that based on the data recovered from the hard drive provided by the defendant that the users Woody, Kathleen, and Yanick accessed the Internet using the computer.
- 20) I will testify that based on the data recovered from the hard drive that this hard drive does not appear to be the same hard drive that was used to share copyrighted songs as shown by the MediaSentry materials. I will testify based on the forensics examination of the hard drive that was copied from the computer owned by the defendant that the computer had no evidence of the KaZaA program nor was there any evidence of the KaZaA program ever being installed on the computer, although the MediaSentry data showed the computer connected to the defendant's Internet account was running the KaZaA program.

- 21) I will testify based on the data recovered from the hard drive produced by the defendant that the computer had a Western Digital 100 GB USB external hard drive connected to it and that the external hard drive was first connected on or before 7/8/2004. The external drive was not provided by the defendant.
- 22) The user Woody used Windows MediaPlayer to access songs and other files from a directory:  
(F:\h\Documents and Settings\Yanick\My Documents\download\yayahq) located on the external hard drive.
- 23) I will testify that based on the data recovered from the hard drive that the user Woody was administer of the computer.
- 24) I will testify that based on the data recovered from the hard drive provided by the defendant that several email addresses were associated with users on the computer including: wraymond yanick\_wright, kathleen, yayagq, yanick\_ray.
- 25) I will testify that based on the data recovered from the hard drive provided by the defendant that the yahoo account jeanlindor was accessed using the computer.
- 26) I will testify that the computer contained the resume of Gustave Lindor, Jr and that the document indicates he was living and working in Brooklyn N.Y. and working at Long John Silver's during the dates that the copyrighted music was being shared.
- 27) I reserve the right to review additional discovery materials, as they are made available for my review, and use any of the material considered as exhibits in my testimony.

Attachments:

Doug Jacobson – Curriculum Vitae – Exhibit (A)

I declare under penalty of perjury and the laws of the United States that foregoing is true and correct. Executed this 15 day of December, 2007, at 9:00 am

A handwritten signature in black ink, appearing to read 'Doug', is written over a horizontal line.

Dr. Doug Jacobson



Holme Roberts & Owen LLP  
*Attorneys at Law*

DENVER

February 21, 2008

**BY E-MAIL**

BOULDER

Richard A. Altman, Esq.  
285 West Fourth Street  
New York, NY 10014

COLORADO SPRINGS

Re: UMG Recordings, et al. v. Lindor  
Case No. 05-cv-1095(DGT)(RML)

Dear Richard:

LONDON

We are writing to follow up with respect to the declaration that Woody Raymond filed in the above referenced matter yesterday. On the face of it, it does not appear as though the declaration responds in full to the Court's January 16, 2008 Order.

LOS ANGELES

MUNICH

As we described in our prior correspondence to the Court, we have concrete evidence that a 100 GB hard drive manufactured by Western Digital was attached to defendant's computer. Attached please find a screenshot of the log from the hard drive that Mr. Raymond previously produced to us. This shows a Western Digital drive, Model No. 1000BB, and the driver date indicates that the driver was attached as of July 8, 2004. The Court has ordered that Mr. Raymond immediately produce that hard drive. Instead of producing the hard drive, Mr. Raymond has provided a declaration indicating that he did not "purchase" or "install" such a hard drive and does not currently "own" the same. As a matter of law, Mr. Raymond's obligation to produce the hard drive arises if he is in "possession, custody or control" of such a hard drive. Mr. Raymond's declaration does not specify whether he is in possession, custody or control of such a hard drive. Accordingly, we do not believe that the declaration is fully responsive to the Court's Order.

SALT LAKE CITY

SAN FRANCISCO

Also, out of an abundance of caution, we want to make sure that Mr. Raymond is not attempting to interpret the Court's Order too narrowly. Western Digital manufactures hard drives that are branded by many of their business partners, such as Dell and CompUSA. Our request and the Court's

Holme Roberts & Owen LLP  
*Attorneys at Law*

Richard A. Altman, Esq.  
February 21, 2008  
Page 2

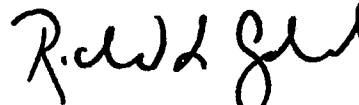
Order were not limited to hard drives that were branded "Western Digital," but rather extended to any 100 GB hard drive manufactured by Western Digital.

In addition, contrary to Mr. Raymond's assertions, this drive was on the market in 2001, and attached you will find a couple of trade journals showing this device on the market at that time. Indeed, although Mr. Raymond attached pages 5-10 from the Western Digital website that he was looking at, the drive at issue was on one of the pages that were not attached, and I attach that page here as well.

Finally, Mr. Raymond's reference to the fact that the computer was purchased "refurbished" is a red herring. The evidence demonstrates that the hard drive was attached at the time that defendant was in possession of the computer, and it is also well known that Dell completely cleans every computer before selling it as "refurbished."

We would appreciate your immediate response to this letter. Thank you.

Very truly yours,



Richard L. Gabriel

RLG:ah

Attachments

cc: Ray Beckerman, Esq. (by e-mail; w/ attach.)  
Victor Kao, Esq. (by e-mail; w/ attach.)  
Timothy Reynolds, Esq. (by e-mail; w/ attach.)  
Patrick Train-Gutierrez, Esq. (by e-mail; w/ attach.)

Registered Device Manager

RAYMOND1

Computer

Disk drives

(Disk drive) Sony PSP USB Device

(Disk drive) Sony DSC USB Device

(Disk drive) WDC WD100BB-00CA1 USB Device

(Disk drive) WDC WD200BB-75DEA0

Display adapters

DVD/CD-ROM drives

Floppy disk controllers

Floppy disk drives

Human Interface Devices

IDE ATA/ATAPI controllers

Keyboards

Mice and other pointing devices

Modems

Monitors

Network adapters

Non-Plug and Play Drivers

Point OS Handheld Devices

Ports (COM & LPT)

Printers

Processors

Epson Stylus COLOR 740 ESC/P 2

SCSI and RAID controllers

Sound, video and game controllers

Storage volumes

Physical Disk 0x01e98504

Physical Disk 0xc057be1

Removable Media

System devices

Universal Serial Bus controllers

Device

(Disk drive) WD ...

Item	Data
Class	DiskDrive (Standard disk drives)
Manufacturer	disk
Service	disk
Key Modified	06 Jan 2005, 10:39:14 (06 Jan 2005, 15:39:14 GMT)
Driver Date	08 Jul 2004, 07:57:18 (08 Jul 2004, 11:57:18 GMT)

Device Hardware:

(Disk drive) WDC WD100BB-00CA1 USB Device

Highlight an item with a Vendor/Product code to lookup descriptions

start

RAYMOND1

1




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[\\$239+ Venice vacations -- airfare incl.](#) [\\$121 & up Vegas wknd flights in March](#) [more](#)

Neoseeker: Companies: Hardware Manufacturers: U-Z: Western Digital

## Company Profile: Western Digital Corp.

High Performance Servers  
 1U, 2U, 3U, 4U Intel Servers FAST Up to 16 Cores and 192GB memory 1U  
[wdc.com](http://www.wdc.com)

### Hardware Manufactured By Western Digital

#### Product Name

#### Section

#### Release Date

#### Company Info:

**Corporate Address:**  
 8105 Irvine Center Dr.  
 Irvine, CA 92718  
 USA

Tel: (714) 932-5000  
 Fax: (714) 932-6498

**Homepage:**  
<http://www.wdc.com>

#### Tech Support

URL:  
<http://www.wdc.com/service>

#### » Submit Updated Company Info

#### News related to company:

- Western Digital To Ship 500GB Hard Drive Tomorrow
- Western Digital Serial ATA Raptor Drives Shipping
- Western Digital Announces a 120GB HDD

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July 01

[Caviar WD1000JB](#)

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September 99

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[Storage](#)

[Caviar WD450AA 45GB](#)

[Storage](#)

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[Other Components](#)

[WDXU1200BB Series II USB 2.0](#)

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comments or corrections: email the webmaster

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## Smart Storage

From high-speed hard drives to CD-RW to pocketable disks, today's storage options give you a place for everything.

Melissa J. Perenson

Tuesday, November 27, 2001 1:00 AM PST

Recommend this story?

Yes

No

### Hard Drives: Vast, Fast & Affordable

For desktop users, one of the most cost-effective ways to add storage is to simply buy another internal hard drive—provided your PC has an extra drive bay. Though the performance of a drive varies according to its rotational speed (usually 5400 or 7200 rotations per minute), interface (IDE, IEEE 1394, or USB), and use, in most cases hard drives will be the fastest storage option you can buy. Internal drives like Western Digital's \$270, 100GB Caviar WD1000BB are the fastest and largest option of all the storage types we review here. The quick transfer speeds make internal hard drives ideal for housing applications and data. But since internal hard drives are fixed devices that are always connected, they are more vulnerable to data loss or disk failure from viruses, power surges, and bumps.

SEE IMAGE  
ENLARGEMENT



With an external hard drive, however, you can sidestep many of these dangers. Maxtor, for example, offers two external Personal Storage hard drives: The 3000DV holds 60GB and has an IEEE 1394 (FireWire) interface, while the 3000LE holds 40GB and connects via USB 2.0. To conduct an informal speed test of both drives, we cracked open the tower of our evaluation PC and installed the \$129 DuoConnect USB 2.0/1394 combo card. (For about \$50, you can buy a single-interface USB 2.0 or IEEE 1394 card.) Once our Windows 98 SE system recognized the drives, we were ready to size up their performance capabilities.

In our hands-on tests, we found that there was no real performance variance between Maxtor's IEEE 1394 and USB 2.0 external drives. The difference between using the 3000LE's USB 2.0 interface and its USB 1.1 interface, however, was more pronounced: With USB 1.1, it took about 10 minutes longer to complete our test than it did with USB 2.0. Should either of Maxtor's portable drives meet your buying criteria, be prepared to pay a premium—about twice as much per gigabyte as the internal Western Digital drive.

### Choosing an Interface

Wondering which drive interface is better for you? If you use your system to store and edit digital video or if you have a digital video camera, choose the IEEE 1394 interface and the biggest-capacity hard drive you can afford. If you're just looking for faster performance, choose a USB 2.0 expansion card and a compatible hard drive, because this update of the common USB 1.1 standard can support USB 1.1 devices you already own.

Omega's \$400 Peerless 20GB FireWire Drive represents a unique but pricey alternative to other hard drives. It consists of a 20GB, pocket-size cartridge that snaps into an upright IEEE 1394 adapter and base (the 20GB USB 1.1 model costs

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### Related Content

\$400; U SB 2.0 versions are expected in early 2002). The IEEE 1394 model's two ports allow it to pass through data from your PC to another device (such as a camera or scanner) connected to the Peerless base.

One advantage of the Peerless system is that its cartridges are interchangeable among USB and IEEE 1394 bases. To protect our data from the bumps and jostles of travel, Iomega (like most external hard drive makers) integrates shock-protection hardware into the cartridges. The company offers two rather expensive cartridge capacities: a 10GB cartridge is \$160; the 20GB unit is \$200. If you can afford to buy extra cartridges (which only Iomega sells), your storage expandability is limitless. But remember that your portability will be limited to using the cartridges where you have a base unit.

Recommend this story?

Yes

No

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Model Number	Interface	RPM	Capacity	Avg. Seek	Buffer	Warranty	Software & Drivers
WD5000AAKB*	EIDE	7200	500 GB	8.9 ms	16 MB	More Info	Download
WD5000AAJB*	EIDE	7200	500 GB	8.9 ms	8 MB	More Info	Download
WD4000AAKB*	EIDE	7200	400 GB	8.9 ms	16 MB	More Info	Download
WD4000AAJB*	EIDE	7200	400 GB	8.9 ms	8 MB	More Info	Download
WD3200AAKB*	EIDE	7200	320 GB	8.9 ms	16 MB	More Info	Download
WD3200AAJB*	EIDE	7200	320 GB	8.9 ms	8 MB	More Info	Download
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WD3000JB*	EIDE	7200	300 GB	8.9 ms	8 MB	More Info	Download
WD2500JB*	EIDE	7200	250 GB	8.9 ms	8 MB	More Info	Download
WD2500PB*	EIDE	7200	250 GB	8.9 ms	8 MB	More Info	Download
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WD1600JB	EIDE	7200	160 GB	8.9 ms	8 MB	More Info	Download
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WD400JB	EIDE	7200	40 GB8.9	ms	8 MB	More Info	Download

\* Also available in a retail kit that includes installation software, hardware and drive documentation.

#### WD Caviar® | Frequently Asked Questions (FAQ)

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Model Number	Interface	RPM	Capacity	Avg. Seek	Buffer	Warranty†	Software & Drivers
WD3200AABB	EIDE	7200	320 GB	8.9 ms	2 MB	3-year	Download
WD3200BB	EIDE	7200	320 GB	8.9 ms	2 MB	3-year	Download
WD3000BB	EIDE	7200	300 GB	8.9 ms	2 MB	3-year	Download
WD2500AABB	EIDE	7200	250 GB	8.9 ms	2 MB	3-year	Download
WD2500BB	EIDE	7200	250 GB	8.9 ms	2 MB	3-year	Download
WD2500LB	EIDE	7200	250 GB	8.9 ms	2 MB	3-year	Download
WD2000BB	EIDE	7200	200 GB	8.9 ms	2 MB	3-year	Download
WD2000LB	EIDE	7200	200 GB	8.9 ms	2 MB	3-year	Download
WD1800BB	EIDE	7200	180 GB	8.9 ms	2 MB	3-year	Download
WD1600BB	EIDE	7200	160 GB	8.9 ms	2 MB	3-year	Download
WD1200BB	EIDE	7200	120 GB	8.9 ms	2 MB	3-year	Download
WD1200LB	EIDE	7200	120 GB	8.9 ms	2 MB	3-year	Download
WD1000BB	EIDE	7200	100 GB	8.9 ms	2 MB	3-year	Download
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WD300BB*	EIDE	7200	30 GB	8.9 ms	2 MB	3-year	Download
WD200BB	EIDE	7200	20 GB	8.9 ms	2 MB	3-year	Download
WD100BB*	EIDE	7200	10 GB	8.9 ms	2 MB	3-year	Download

\* Also available in a retail kit that includes installation software, hardware and drive documentation.

#### WD Protégé® | Frequently Asked Questions (FAQ)

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Model Number	Interface	RPM†	Capacity	Avg. Seek	Buffer	Warranty†	Software & Drivers
WD1600AB	EIDE	5400	160 GB	12.8 ms	2 MB	1-year	Download
WD1200AB	EIDE	5400	120 GB	12.8 ms	2 MB	1-year	Download
WD1000AB	EIDE	5400	100 GB	12.8 ms	2 MB	1-year	Download
WD800AB	EIDE	5400	80 GB	12.8 ms	2 MB	1-year	Download
WD600AB	EIDE	5400	60 GB	12.8 ms	2 MB	1-year	Download
WD400AB	EIDE	5400	40 GB	12.8 ms	2 MB	1-year	Download
WD300AB	EIDE	5400	30 GB	12.8 ms	2 MB	1-year	Download

From: Richard Gabriel  
Sent: Friday, March 07, 2008 4:49 PM  
To: altmanlaw@earthlink.net  
Cc: 'Ray Beckerman'; Timothy M Reynolds; Patrick Train-Gutierrez  
Subject: Lindor - Woody Raymond

Dear Richard:

I have not received a response from you to my February 21, 2008 letter, in which we provided documentation to demonstrate that a Western Digital hard drive was connected to the computer at issue in July 2004 and that, contrary to Mr. Raymond's contention, such a hard drive was on the market at that time. Does Mr. Raymond plan to respond to our letter and, if so, when?

Thanks.

Rich

Richard L. Gabriel  
Holme Roberts & Owen LLP  
1700 Lincoln, Suite 4100  
Denver, Colorado 80203--4541  
303.866.0331 (Direct); 303.866.0200 (Fax)  
richard.gabriel@hro.com

-----Original Message-----

From: Richard Gabriel

Sent: Monday, March 10, 2008 10:40 AM

To: 'Richard A. Altman'

Cc: Ray Beckerman; Timothy M Reynolds; Patrick Train-Gutierrez; Kao, Victor B.

Subject: RE: Raymond

Dear Richard:

Thank you for this. As I read Mr. Raymond's response, I am not sure that Mr. Raymond is asking the question that we asked. So, I will try again. Was there a 100 gb hard drive manufactured by Western Digital (regardless of any rebranding or whose name it was marketed under) connected to this computer on or before Feb. 15, 2008 and, specifically, on or before July 2004? This includes any internal hard drive of that description.

I again would appreciate your prompt response.

Thanks!

Rich

Richard L. Gabriel

Holme Roberts & Owen LLP

1700 Lincoln, Suite 4100

Denver, Colorado 80203-4541

303.866.0331 (Direct); 303.866.0200 (Fax)

richard.gabriel@hro.com

-----Original Message-----

From: Richard A. Altman [mailto:altmanlaw@earthlink.net]

Sent: Sunday, March 09, 2008 10:08 AM

To: Richard Gabriel

Cc: Ray Beckerman

Subject: Raymond

Mr. Gabriel,

Here is Mr. Raymond's response to your letter.

----- Forwarded message -----

From: "Woody A. Raymond" <WRaymond@lissnerlawfirm.com>

To: "Richard A. Altman" <altmanlaw@earthlink.net>

Cc:

Subject: RE: FW: Altman Ltr 022108

Date: Sat, 08 Mar 2008 13:53:12 -0500

The data from Western digital is for an INTERNAL hard drive. His expert witness' declaration, the screenshot and the court order refer to an EXTERNAL USB Harddrive. He has not shown any information from Western Digital that a 100GB USB External Hard drive was manufacture from them.



You could tell him I am not in custody, control or possession of a 100GB  
external USB Hard Drive.

Woody A. Raymond

--

Richard A. Altman

Attorney at Law

285 West Fourth Street

New York, New York 10014

Tel 212 633 0123

Fax 917 463 1006

From: Richard Gabriel  
Sent: Thursday, March 13, 2008 6:28 PM  
To: 'Richard A. Altman'  
Cc: 'Ray Beckerman'; Timothy M Reynolds; Patrick Train-Gutierrez; Kao, Victor B.  
Subject: Lindor

Dear Richard:

I have not heard back from you on my last email, although I know that you had some email correspondence with Patrick. Can we expect a further reply from Mr. Raymond, particularly as to the question of whether any 100 gb Western Digital hard drive (however rebranded) was attached to the computer (internally or externally) at any time before February 2008? If so, when can we expect a response?

On a related matter, given Mr. Raymond's responses, it appears that we are going to have to take his deposition as to these issues. Can you please give me some dates and times when you and he would be available over the next few weeks. This deposition should take no more than an hour or so, depending on his responses.

Thank you.

Rich

Richard L. Gabriel

Holme Roberts & Owen LLP

1700 Lincoln, Suite 4100

Denver, Colorado 80203--4541

303.866.0331 (Direct); 303.866.0200 (Fax)

richard.gabriel@hro.com

-----Original Message-----

From: Ray Beckerman [mailto:rbeckerman@vanfeliu.com]

Sent: Wednesday, April 30, 2008 9:12 AM

To: Richard Gabriel

Cc: Morlan Ty Rogers; Timothy M Reynolds; Patrick Train-Gutierrez; Kao, Victor B.

Subject: RE: UMG v. Lindor

Ms. Lindor is not aware of any Western Digital 100 GB hard drive, internal or external, that was attached to or in any way used in connection with the computer at her home.

Ray Beckerman

Vandenberg & Feliu LLP

110 East 42 St.

New York, NY 10017

(212) 763-6800 Fax: (212) 763-6810

Direct dial: (212)763-6809

Email: rbeckerman@vanfeliu.com

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# EXHIBIT S

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

-----X

3 UMG RECORDINGS, INC., a Delaware  
4 Corporation; WARNER BROS. RECORDS, INC., a  
5 Delaware Corporation; ARISTA RECORDS LLC,  
6 a Delaware Limited Liability Company;  
7 INTERSCOPE RECORDS, a California general  
8 partnership; MOTOWN RECORD COMPANY, L.P.,  
9 a California Limited Partnership; and SONY  
10 BMG MUSIC ENTERTAINMENT, a Delaware  
11 general partnership,  
12 Plaintiffs,  
13 -against-  
14 MARIE C. LINDOR,  
15 Defendant.

-----X

12  
13 225 Cadman Plaza East  
14 Brooklyn, New York

15  
16 May 21, 2008  
17 10:05 A.M.

18 EXAMINATION BEFORE TRIAL of YANICK  
19 RAYMOND-WRIGHT, the Non-Party Witness in  
20 the above-entitled action, held at the  
21 above time and place, taken before Denise  
22 Rizek a Notary Public of the State of New  
23 York, pursuant to the Federal Rules of  
24 Civil Procedure, Subpoena and stipulations  
25 between counsel.

\* \* \*

1  
2 APPEARANCES:

3  
4 HOLME ROBERTS & OWEN LLP  
5 Attorneys for Plaintiffs  
6 1700 Lincoln Street  
7 Suite 4100  
8 Denver, Colorado 80203-4541

9 BY: EVE GOLDSTEIN BURTON, ESQ.  
10 MATTHEW J. OPPENHEIM, ESQ. -  
11 CLIENT REPRESENTATIVE  
12

13  
14 VANDENBERG & FELIU LLP  
15 Attorneys for Defendant  
16 110 East 42nd Street  
17 New York, New York 10017  
18 BY: RAY BECKERMAN, ESQ.  
19  
20  
21  
22  
23  
24  
25

1  
2 STIPULATIONS

3  
4 IT IS HEREBY STIPULATED AND  
5 AGREED, by and among counsel for the  
6 respective parties hereto, that the  
7 filing, sealing and certification of  
8 the within deposition shall be and  
9 the same are hereby waived:

10 IT IS FURTHER STIPULATED AND  
11 AGREED, that all objections, except  
12 as to form of the question, shall be  
13 reserved to the time of trial:

14 IT IS FURTHER STIPULATED AD  
15 AGREED, that the within deposition  
16 may be signed before any Notary  
17 Public with the same force and  
18 effect as if signed and sworn to  
19 before the Court.

20 \* \* \*  
21  
22  
23  
24  
25

1 Y. RAYMOND-WRIGHT  
2 YANICK RAYMOND - WRI  
3 GHT, having first been duly sworn  
4 by a Notary Public of the State of  
5 New York, was examined and testified  
6 as follows:

7 EXAMINATION BY  
8 MS. BURTON:

9 Q. Ms. Raymond-Wright, we met  
10 a few minutes ago, but can you  
11 please state and spell your name for  
12 the record?

13 A. Yanick Raymond-Wright.  
14 First name is spelled Y-A-N-I-C-K  
15 and the last name is spelled  
16 R-A-Y-M-O-N-D, hyphen, W-R-I-G-H-T.

17 Q. I know you just told us  
18 this, but could you, please, state  
19 your address again?

20 A. No problem. My current  
21 address is 4205 Coralberry Path,  
22 Gurnee, Illinois 60031.

23 Q. How long have you lived  
24 there?

25 A. Four months.

1 Y. RAYMOND-WRIGHT

2 Q. And where did you live  
3 before that?

4 A. Um, Brooklyn, New York.

5 Q. And where in Brooklyn did  
6 you live?

7 A. 1047 Willmohr Street.

8 Q. That's your mother's  
9 address?

10 A. Yes.

11 Q. You lived there until four  
12 months ago?

13 A. Yes.

14 Q. And then you moved to  
15 Chicago?

16 A. I'm on and off. I'm a  
17 military wife so I'm never actually,  
18 you know, in the same location.

19 Q. And how long did you live  
20 at the Willmohr address?

21 A. Well, it really depends  
22 'cause I'm really on and off. I  
23 don't really have a set location. I  
24 live there from January 2005 till  
25 just recently of January 2008.



1 Y. RAYMOND-WRIGHT  
 2 Q. And where did you live  
 3 prior to January 2005?  
 4 A. In Virginia.  
 5 Q. Where in Virginia?  
 6 A. In Norfolk, Virginia.  
 7 Q. And when did you live in  
 8 Norfolk, Virginia?  
 9 A. From 2001 to 2005, but on  
 10 and off.  
 11 Q. When you say "on and off,"  
 12 was it a period of months in  
 13 Norfolk?  
 14 A. In Norfolk and I also lived  
 15 overseas.  
 16 Q. Okay.  
 17 To the best of your ability  
 18 can you tell me when you were in  
 19 Norfolk and when you were in other  
 20 places starting as far back as you  
 21 can, 2001 is fine?  
 22 A. Um, January 2003 till  
 23 probably May of 2003.  
 24 Q. You were where?  
 25 A. In New York.

1 Y. RAYMOND-WRIGHT  
 2 Q. In New York and then did  
 3 you say May or January of 2003?  
 4 A. '03, May.  
 5 Q. May of 2003?  
 6 A. Uh-huh.  
 7 Q. And then where did you go  
 8 in May of 2003?  
 9 A. Back to Norfolk.  
 10 Q. And how long were you back  
 11 in Norfolk?  
 12 A. Till -- I'm sorry, I think  
 13 I got that time line mistaken  
 14 because I really can't remember that  
 15 far back. It's just based on the  
 16 birth of my son and that's when I'm  
 17 in New York. Both boys -- I have  
 18 two boys. So the first time was  
 19 in -- I went back to New York was  
 20 January of 2003. Did I say that  
 21 right?  
 22 I don't know if I said that  
 23 the first time and then that's the  
 24 second time. The first one I gave  
 25 you was the second time.

1 Y. RAYMOND-WRIGHT  
 2 Q. January 2003 to May 2003  
 3 was for the birth of your second  
 4 child?  
 5 A. Yes.  
 6 Q. Okay.  
 7 When was your first child  
 8 born?  
 9 A. Um, the other time that I  
 10 was in New York was again January of  
 11 2005 till probably like March of  
 12 2005.  
 13 Q. And that was for the birth  
 14 of your third child?  
 15 A. Second.  
 16 Q. Oh, I'm sorry.  
 17 So January 2003 till May  
 18 2003 was for your first child?  
 19 A. Yes.  
 20 Q. Okay.  
 21 And January of 2005 to  
 22 March of 2005 was for your second  
 23 child?  
 24 A. Yes.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 In between May of 2003 and  
 3 January of 2005 did you come back to  
 4 New York at anytime?  
 5 A. I'm sorry, could you repeat  
 6 that.  
 7 Q. In between the time you  
 8 left after the birth of your first  
 9 child, which was I believe May of  
 10 2003, and then you said you returned  
 11 for the birth of your second child  
 12 in --  
 13 A. Oh, yeah, I go to New York  
 14 back and forth 'cause it's a  
 15 six-hour drive, so, yes.  
 16 Q. So you returned to your  
 17 mother's house regularly?  
 18 A. Yes.  
 19 Q. Why don't we actually go  
 20 over some rules and then we can go  
 21 back to all of this. It is  
 22 important that you hear and  
 23 understand the questions that I ask.  
 24 If you don't hear it or you space  
 25 out for any reason, you don't

1 Y. RAYMOND-WRIGHT  
 2 understand what I'm asking; will you  
 3 let me know that?  
 4 A. Okay.  
 5 Q. If you do answer the  
 6 question I'm going to assume that  
 7 you heard and understand it; is that  
 8 acceptable?  
 9 A. Okay.  
 10 Q. And because the court  
 11 reporter is taking down everything  
 12 we all say, as you can see, it's  
 13 very important to answer verbally.  
 14 In casual conversation we often  
 15 shake our head or nod and I  
 16 certainly would understand what  
 17 you're saying, but it's important to  
 18 get a clear record so I'll ask that  
 19 you answer verbally. If you don't,  
 20 and it often happens, it's not an  
 21 issue. I will just ask you to  
 22 confirm your answer verbally.  
 23 For the same reason that  
 24 the court reporter just mentioned,  
 25 it's important that we don't speak

1 Y. RAYMOND-WRIGHT  
 2 at the same time. So again, in  
 3 casual conversation we often  
 4 anticipate the end of the question  
 5 and we'll try to be helpful and  
 6 answer before the end of the  
 7 question. Because it's important to  
 8 get a clean record I ask that you  
 9 let me finish my question and I will  
 10 do my best to make sure I let you  
 11 complete your answer before I ask my  
 12 next question.  
 13 A. Okay.  
 14 Q. Do you understand that your  
 15 testifying under oath today?  
 16 A. Yes.  
 17 Q. And with that comes the  
 18 same penalties of perjury as if you  
 19 were testifying in court. If you  
 20 need to take a break at anytime let  
 21 me know. The only thing I ask is  
 22 that if there is a question pending  
 23 that you answer the question before  
 24 we take a break. Are these rules  
 25 acceptable to you?

1 Y. RAYMOND-WRIGHT  
 2 A. Yes.  
 3 Q. Are you on any medication?  
 4 Is there anything affecting your  
 5 ability to give your best and most  
 6 truthful testimony today?  
 7 A. No.  
 8 Q. Okay.  
 9 So let's go back to where  
 10 you were living which you is you  
 11 return regularly to New York. How  
 12 many times in a year do you think  
 13 you return to New York?  
 14 A. I don't recall.  
 15 Q. Can you approximate? Is it  
 16 more than five?  
 17 A. Um, depends 'cause that was  
 18 a couple of years ago. I really  
 19 don't remember.  
 20 Q. Okay.  
 21 In 2004 do you remember how  
 22 many times you returned to New York,  
 23 approximately?  
 24 A. No.  
 25 Q. Can you say -- did you

1 Y. RAYMOND-WRIGHT  
 2 return at all during 2004?  
 3 A. Yes.  
 4 Q. Okay.  
 5 Do you know if you returned  
 6 more than once?  
 7 A. No, I don't remember.  
 8 Q. You know you went at least  
 9 once?  
 10 A. In 2004?  
 11 Q. In 2004.  
 12 A. Yes.  
 13 Q. And was it for a specific  
 14 occasion?  
 15 A. There's times, yes,  
 16 holidays.  
 17 Q. Could you tell me which  
 18 holidays you returned for in 2004?  
 19 A. I don't remember.  
 20 Q. Okay.  
 21 Do you know what time of  
 22 year it was that you returned to New  
 23 York, for example, heat of the  
 24 summer, freezing cold?  
 25 A. No.

1 Y. RAYMOND-WRIGHT  
 2 Q. So you know you returned  
 3 from Norfolk, Virginia to your  
 4 mother's house in New York at least  
 5 one time in 2004, but beyond that  
 6 you can't tell me?  
 7 A. No.  
 8 Q. Okay.  
 9 Would you have any records  
 10 that would be able to provide any  
 11 information on when you returned to  
 12 New York? Do you keep credit card  
 13 receipts that would show tolls, gas,  
 14 things like that?  
 15 A. From 2004?  
 16 Q. Yes.  
 17 A. I'm not sure.  
 18 Q. Is it possible --  
 19 A. To get them? I would have  
 20 to call. I'm not sure.  
 21 Q. Is it possible that you  
 22 have those records at your home?  
 23 A. In Illinois?  
 24 Q. Yes.  
 25 A. No.

1 Y. RAYMOND-WRIGHT  
 2 Q. Okay.  
 3 And when you traveled in  
 4 2004 from Norfolk to New York did  
 5 you go by car?  
 6 A. Yes.  
 7 Q. Okay.  
 8 And would you have paid for  
 9 things on the trip by credit card?  
 10 A. Yes.  
 11 Q. Do you still have the same  
 12 credit card you were using in 2004?  
 13 A. Most likely.  
 14 Q. So it's most possible you  
 15 can get records that would indicate  
 16 when you did return to New York?  
 17 A. Maybe.  
 18 Q. Okay.  
 19 A. I'm not sure.  
 20 Q. Okay.  
 21 And in January to May 2003  
 22 when you were in New York for the  
 23 birth of your first child, who was  
 24 living at your mother's house at the  
 25 time?

1 Y. RAYMOND-WRIGHT  
 2 A. Just me, my sister, and my  
 3 mother.  
 4 Q. And is that your sister --  
 5 I think it's Katie?  
 6 A. Kathleen.  
 7 Q. Kathleen, okay. And how  
 8 about when you returned for the  
 9 birth of your second child in  
 10 January of 2005?  
 11 A. Same individuals, my mother  
 12 and Kathleen.  
 13 Q. Okay.  
 14 And when you returned home  
 15 in 2004 was it the same individuals?  
 16 A. Yes.  
 17 Q. Okay.  
 18 Have you ever had your  
 19 deposition taken before?  
 20 A. I'm sorry.  
 21 Q. Have you ever had your  
 22 deposition taken before?  
 23 A. For this case?  
 24 Q. For any case.  
 25 A. Yes.

1 Y. RAYMOND-WRIGHT  
 2 Q. You have.  
 3 When did you have your  
 4 deposition taken?  
 5 A. What does that have to do  
 6 with anything?  
 7 Q. Can you answer the question  
 8 please?  
 9 A. For a car accident.  
 10 Q. Okay.  
 11 When was that?  
 12 A. When did I get into the car  
 13 accident?  
 14 Q. When did your deposition  
 15 take place?  
 16 A. Where?  
 17 Q. When?  
 18 A. I'm not sure.  
 19 Q. Do you know, approximately?  
 20 A. I think '04, '05, 2004,  
 21 2005.  
 22 Q. And where was the  
 23 deposition taken?  
 24 A. In Manhattan.  
 25 Q. When was the car accident?

1 Y. RAYMOND-WRIGHT  
 2 A. January 2003.  
 3 Q. Right around the time you  
 4 had your first child?  
 5 A. Correct.  
 6 Q. And so you came back to New  
 7 York for the deposition?  
 8 A. Correct.  
 9 Q. Do you know what time of  
 10 year it was?  
 11 A. No.  
 12 Q. Do you remember if it was  
 13 hot or cold?  
 14 A. No.  
 15 Q. Have you ever testified at  
 16 a trial?  
 17 A. No.  
 18 Q. Other than the deposition  
 19 you had related to your car accident  
 20 in January 2003, have you ever had  
 21 any other depositions taken?  
 22 A. Yes.  
 23 Q. And when was that?  
 24 A. I don't remember.  
 25 Q. What was that for?

1 Y. RAYMOND-WRIGHT  
 2 A. A car accident also.  
 3 Q. And when was that car  
 4 accident?  
 5 A. I don't remember.  
 6 Q. Approximately, how many  
 7 years ago?  
 8 A. I want to say -- see, I  
 9 don't remember 'cause I don't know  
 10 when I did the deposition. I think  
 11 I did that one in 2002.  
 12 Q. Before the January 2003  
 13 accident?  
 14 A. Yes.  
 15 Q. Okay.  
 16 Did you do anything to  
 17 prepare for your deposition today?  
 18 A. No.  
 19 Q. Have you done anything to  
 20 prepare for your deposition anytime  
 21 in the last six months?  
 22 A. No.  
 23 Q. Okay.  
 24 I know this deposition was  
 25 scheduled to be in Chicago a while

1 Y. RAYMOND-WRIGHT  
 2 back. Did you do anything to  
 3 prepare for that deposition?  
 4 A. No.  
 5 Q. Did you speak with anyone  
 6 regarding the deposition?  
 7 A. Your partner.  
 8 Q. Richard Gabriel?  
 9 A. Yes.  
 10 Q. Okay.  
 11 Did you speak with anyone  
 12 else?  
 13 A. No.  
 14 Q. Did you review any  
 15 documents?  
 16 A. No.  
 17 Q. Did you speak with your  
 18 mother or your brother or your  
 19 sister?  
 20 A. No.  
 21 Q. Okay.  
 22 Are they aware that you're  
 23 here for this deposition?  
 24 A. Yes.  
 25 Q. And what was the occasion

1 Y. RAYMOND-WRIGHT  
 2 on which you told them you were  
 3 coming here for the deposition?  
 4 A. I don't understand.  
 5 Q. When did you tell them you  
 6 were coming here for the deposition?  
 7 A. Probably two weeks ago.  
 8 Q. And can you recount that  
 9 conversation for me to the best of  
 10 your ability -- I'm sorry -- strike  
 11 that.  
 12 Who did you tell in your  
 13 family that you were coming for this  
 14 deposition today?  
 15 A. My mother.  
 16 Q. Okay.  
 17 And you told your mother  
 18 approximately two weeks ago?  
 19 A. No.  
 20 Q. When did you tell your  
 21 mother?  
 22 A. I'm not sure 'cause there's  
 23 no set date or time for the  
 24 deposition.  
 25 Q. So you told your mother at

1 Y. RAYMOND-WRIGHT  
2 some point generally that you would  
3 be coming to the New York for the  
4 deposition?

5 A. Yes, in the month of May.

6 Q. In the month of May, okay.  
7 So it was before May that you told  
8 her?

9 A. No. It was -- because I  
10 set the time and I'm the one that  
11 set the date so probably two weeks  
12 ago I told her exactly the date.  
13 But the time I didn't know.

14 Q. Okay.  
15 So approximately two weeks  
16 ago you talked to your mother over  
17 the telephone; is that correct?

18 A. Correct.

19 Q. And you told her we would  
20 be doing this deposition today?

21 A. Yes.

22 Q. Okay.  
23 Was anything else regarding  
24 the deposition discussed during that  
25 conversation?

1 Y. RAYMOND-WRIGHT

2 A. No.

3 Q. Okay.

4 Did you speak to your  
5 brother Woody about this deposition?

6 A. No.

7 Q. Is he aware that you are  
8 here for this deposition?

9 A. Yes.

10 Q. And how did he become aware  
11 of that; if you know?

12 A. I'm guessing his attorney.  
13 I don't know.

14 Q. And how do you know that  
15 he's aware of the deposition?

16 A. Because they communicated  
17 between your partner and Ray  
18 Beckerman and Woody about the time  
19 and the place and -- yeah, the time  
20 and the place.

21 Q. So Mr. Beckerman  
22 communicated with Mr. Woody Raymond?

23 A. To give me a -- yeah, to  
24 find out the location 'cause I  
25 didn't know where it was going to be

1 Y. RAYMOND-WRIGHT

2 at.

3 Q. So you have never spoke to  
4 your brother about this deposition?

5 A. No.

6 Q. Okay.

7 Other than the logistics of  
8 the date, time, and location of the  
9 deposition, have you ever spoken to  
10 Mr. Beckerman regarding this case?

11 A. No.

12 Q. Have you ever spoke to his  
13 partner Ty Rogers?

14 A. Never heard of him.

15 Q. Okay.

16 Have you discussed this  
17 case with your mother?

18 A. No.

19 Q. Do you know what this case  
20 is about?

21 A. Yes.

22 MR. BECKERMAN: I just want  
23 to represent that we had spoken  
24 about the scheduling. That I  
25 had spoken to her to find out

1 Y. RAYMOND-WRIGHT

2 her scheduling back in April and

3 she was explaining that she

4 couldn't possibly make it then

5 'cause of her husband's

6 commanding officer and all that.

7 And she had to clear it with her

8 husband's commanding officer and

9 then she asked for May 21st.

10 And then I was able to get

11 Mr. Gabriel to agree to that and

12 then we asked the judge to

13 extend it. But I did, I

14 believe, have a phone

15 conversation with her about the  
16 scheduling.

17 MS. BURTON: Thank you.

18 MR. BECKERMAN: She may  
19 have forgotten it.

20 MS. BURTON: I did clarify  
21 my question and say anything  
22 other than scheduling, but I  
23 appreciate the clarification.

24 MR. BECKERMAN: I'm sorry  
25 if --

1 Y. RAYMOND-WRIGHT  
 2 MS. BURTON: No problem.  
 3 Q. How did you learn what this  
 4 case was about?  
 5 A. Google.  
 6 Q. And what prompted you to --  
 7 I'm sorry -- strike that.  
 8 What did you Google?  
 9 A. My mother's name.  
 10 Q. And what prompted you to do  
 11 that?  
 12 A. I don't understand -- oh,  
 13 because I know there was a case  
 14 pending on my mother, but nobody  
 15 would tell me about it so.  
 16 Q. Did you ask?  
 17 A. No, not really.  
 18 Q. Did you -- you didn't ask  
 19 your mother what this case was  
 20 about?  
 21 A. Not really.  
 22 Q. I'm sorry, when you say  
 23 "not really," can you explain that a  
 24 little more?  
 25 A. Because I don't think she

1 Y. RAYMOND-WRIGHT  
 2 understands what it's about.  
 3 Q. Okay.  
 4 A. That's it.  
 5 Q. Did you attempt to ask her  
 6 what it was about?  
 7 A. Yes.  
 8 Q. And what did she say?  
 9 A. Um, downloading music.  
 10 Q. Okay.  
 11 Did you ask any further  
 12 questions of her?  
 13 A. I asked her what did she  
 14 mean.  
 15 Q. And what did she tell you?  
 16 A. That, I guess, the  
 17 companies are suing her for  
 18 downloading music, that's it.  
 19 Q. And when did this  
 20 conversation occur?  
 21 A. I don't remember.  
 22 Q. Do you know approximately  
 23 when?  
 24 A. Probably in -- I really  
 25 don't remember.

1 Y. RAYMOND-WRIGHT  
 2 Q. In the last two weeks?  
 3 A. No.  
 4 Q. In the last two years?  
 5 A. Probably like in the last  
 6 six years. Whenever it started.  
 7 Something like that.  
 8 Q. How did you become aware of  
 9 this lawsuit initially?  
 10 A. I don't remember. It  
 11 probably was a time frame when I  
 12 came to visit or when I was living  
 13 there. I don't remember.  
 14 Q. So while you were living  
 15 there in 2005, January to March,  
 16 this lawsuit was already underway?  
 17 A. When I was living there in  
 18 2005?  
 19 Q. Yes.  
 20 A. I don't remember.  
 21 Q. Okay.  
 22 I'm just trying to get a  
 23 better understanding of when you  
 24 first learned about this lawsuit and  
 25 how you learned about it?

1 Y. RAYMOND-WRIGHT  
 2 A. I don't remember.  
 3 Q. Okay.  
 4 So you said you spoke to  
 5 your mother generally about the  
 6 nature of the lawsuit sometime after  
 7 it began. Have you ever spoken to  
 8 your brother Woody Raymond about  
 9 this lawsuit.  
 10 A. No.  
 11 Q. You never had any  
 12 conversation with him about the  
 13 lawsuit?  
 14 A. In a way, yes.  
 15 Q. In what way?  
 16 A. Um, basically how a lot of  
 17 facts have been fabricated. That's  
 18 about it.  
 19 Q. Your brother told you a lot  
 20 of facts are being fabricated?  
 21 A. Yes.  
 22 Q. Okay.  
 23 Did he tell you anything  
 24 else?  
 25 A. Just that -- um, that's

1 Y. RAYMOND-WRIGHT  
 2 about it. Just a lot of  
 3 fabrications. That's it.  
 4 Q. Okay.  
 5 Did he tell you anymore  
 6 detail about what the lawsuit  
 7 involved?  
 8 A. Just the recording  
 9 companies verses my mother. That's  
 10 it.  
 11 Q. Did he tell you what it was  
 12 about, other than it was a recording  
 13 companies?  
 14 A. No.  
 15 Q. Did you discuss the fact  
 16 that it was about downloading music?  
 17 A. No.  
 18 Q. When your brother, Woody  
 19 Raymond, told you that the record  
 20 companies were fabricating facts,  
 21 did he tell you what facts they were  
 22 fabricating?  
 23 A. About how -- yeah, yeah. I  
 24 think it was a subpoena that was  
 25 sent to his house and my father,

1 Y. RAYMOND-WRIGHT  
 2 so-called, answered the door. But  
 3 my father had passed away during  
 4 that time. I guess whoever sent the  
 5 subpoena, they claimed that my  
 6 father answered the door at his  
 7 home.  
 8 Q. Okay.  
 9 So other than the fact that  
 10 there was this issue regarding who  
 11 answered the door when a subpoena  
 12 was served, were there any other  
 13 facts that your brother claims were  
 14 fabricated?  
 15 A. Not that I recall.  
 16 Q. Okay.  
 17 So is that everything you  
 18 can recall about any conversation  
 19 you had with your brother regarding  
 20 this litigation?  
 21 A. Also that there was a  
 22 deposition for my mother, Kathleen,  
 23 my cousin in Connecticut, and  
 24 Junior. That's it.  
 25 Q. Junior, who is Junior?

1 Y. RAYMOND-WRIGHT  
 2 A. Junior Lindor is my cousin.  
 3 Q. Your cousin.  
 4 Does he have any other name  
 5 other than Junior Lindor?  
 6 A. Gustave Lindor, Jr., that's  
 7 his full name.  
 8 Q. And he goes by Junior  
 9 Lindor?  
 10 A. Junior, no. He actually  
 11 goes by Gustave Lindor, Jr. That's  
 12 his full name.  
 13 Q. And what do you call him?  
 14 A. I call him Junior.  
 15 Q. Do you know whether Gustave  
 16 Lindor, Jr. is called Junior by  
 17 anyone other than you?  
 18 A. No, not that I know of.  
 19 Q. Does your brother call him  
 20 Junior.  
 21 A. I don't know.  
 22 Q. And how often in the last  
 23 five years have you seen Gustave  
 24 Lindor, Jr.?  
 25 A. Not often.

1 Y. RAYMOND-WRIGHT  
 2 Q. Could you approximate how  
 3 many times?  
 4 A. In just the year 2005 or?  
 5 Q. In the last five years.  
 6 A. I'm not sure.  
 7 Q. More than five times?  
 8 A. Yeah, more than five times.  
 9 Q. More than ten times?  
 10 A. Yes, more than ten times.  
 11 Q. Do you see him every time  
 12 you come to New York?  
 13 A. No.  
 14 Q. And do you think you've  
 15 seen him more than twenty times --  
 16 A. Yes.  
 17 Q. -- in the last five years?  
 18 A. Yes.  
 19 Q. More than fifty times?  
 20 A. I don't know.  
 21 Q. When you -- okay.  
 22 When you see Gustave  
 23 Lindor, Jr. where do you generally  
 24 see him if there's a particular  
 25 location?

1 Y. RAYMOND-WRIGHT  
 2 A. Outside. Like he has  
 3 friends in our neighborhood,  
 4 something like that or I meet him  
 5 somewhere for dinner or for lunch.  
 6 Q. Does he come over to your  
 7 mother's house?  
 8 A. No.  
 9 Q. Do you go to his house?  
 10 A. No.  
 11 Q. Do you just run into him or  
 12 do you plan to meet?  
 13 A. Either or.  
 14 Q. Have you spoke to Junior,  
 15 Gustave Lindor, Jr., about this  
 16 case?  
 17 A. Yes.  
 18 Q. When did you speak with  
 19 Gustave Lindor, Jr. about this case?  
 20 A. When he received a  
 21 subpoena. I'm not sure what the  
 22 date was.  
 23 Q. Okay.  
 24 A. It was when he received the  
 25 subpoena.

1 Y. RAYMOND-WRIGHT  
 2 Q. Okay.  
 3 And how did you end up  
 4 speaking with him he?  
 5 A. He called me.  
 6 Q. And what did he say to you?  
 7 A. He asked what is this about  
 8 and -- he just basically asked what  
 9 is this about. And then I think he  
 10 was like why did they call him to  
 11 come to court.  
 12 Q. And what did you tell him?  
 13 A. I told him that he should  
 14 just Google it and look it up  
 15 himself. And then once he did it he  
 16 still didn't understand.  
 17 Q. Did he call you after he  
 18 Googled (sic) it?  
 19 A. Yes.  
 20 Q. And can you recount to me  
 21 to the best of your ability that  
 22 conversation?  
 23 A. No, I don't remember.  
 24 Q. He told you he had Googled  
 25 (sic)?

1 Y. RAYMOND-WRIGHT  
 2 A. Yeah, but it was -- just he  
 3 didn't understand regardless.  
 4 Q. And did you provide him any  
 5 information?  
 6 A. When I say he does not  
 7 understand, meaning he did not  
 8 understand why he was associated  
 9 with the case.  
 10 Q. Did he understand the  
 11 nature of the lawsuit at that point?  
 12 A. No.  
 13 Q. Did you explain to him what  
 14 the lawsuit was about?  
 15 A. No.  
 16 Q. You didn't?  
 17 A. No.  
 18 Q. Did he ask you?  
 19 A. Yes.  
 20 Q. And you didn't answer him?  
 21 A. I told him to Google it.  
 22 Q. But he had already Googled  
 23 (sic) it during the second  
 24 conversation?  
 25 A. Yeah. I told him to look

1 Y. RAYMOND-WRIGHT  
 2 it up more further 'cause it's more  
 3 than one article.  
 4 Q. Do you know why he called  
 5 you after receiving the subpoena?  
 6 A. Because we are close so he  
 7 calls me for everything.  
 8 Q. How often do you talk with  
 9 him?  
 10 A. I don't know, often.  
 11 Q. Once a week?  
 12 A. No. Like, I mean,  
 13 recently -- I mean, it depends.  
 14 Q. Okay.  
 15 In the last year how often  
 16 did you speak with him?  
 17 A. Probably once a month.  
 18 Q. Once a month approximately?  
 19 A. Yes.  
 20 Q. And has that been true over  
 21 the last five years that you spoke  
 22 to him, approximately, once a month?  
 23 A. I don't really remember.  
 24 I'm not sure.  
 25 Q. In 2004 do you recall how



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1 Y. RAYMOND-WRIGHT  
2 often you spoke with him?  
3 A. No.  
4 Q. Did you discuss with him  
5 the fact that the user name at issue  
6 in this case is Junior Lindor?  
7 A. No.  
8 Q. Which matches the name you  
9 refer to him as?  
10 A. No.  
11 Q. Are you aware of that?  
12 A. No.  
13 Q. You are not aware that the  
14 user name at issue in this case is  
15 JR Lindor?  
16 A. No.  
17 Q. Okay.  
18 This is the first time you  
19 heard that?  
20 A. Yes.  
21 Q. Okay.  
22 Do you know anyone else who  
23 goes by Junior Lindor in your  
24 family?  
25 A. No.

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1 Y. RAYMOND-WRIGHT  
2 Q. Do you know anyone outside  
3 your family that goes by Junior  
4 Lindor?  
5 A. Outside my family, no.  
6 Q. Okay.  
7 So other than Gustave  
8 Lindor, Jr., to your knowledge no  
9 one else goes by Junior Lindor?  
10 A. No.  
11 Q. Okay.  
12 To your knowledge, has  
13 Gustave Lindor, Jr. ever been in  
14 your mother's house?  
15 A. To my knowledge?  
16 Q. Yes.  
17 A. No. He doesn't go there.  
18 Q. He has never been there?  
19 A. During the time of this  
20 case, no.  
21 Q. When is the last time  
22 Gustave Lindor, Jr. went to your  
23 mother's home?  
24 A. I don't remember.  
25 Q. Was it more than five years

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1 Y. RAYMOND-WRIGHT  
2 ago?  
3 A. Yes.  
4 Q. Okay.  
5 Was it more than ten years  
6 ago?  
7 A. About.  
8 Q. About ten years ago?  
9 A. Yes.  
10 Q. Okay.  
11 Do you know if at the time  
12 Gustave Lindor, Jr. went to your  
13 mother's house whether there was a  
14 computer in the home?  
15 A. No, there wasn't.  
16 Q. Okay.  
17 So since your mother --  
18 since a computer -- since there's --  
19 strike that.  
20 Let's start over. Since  
21 there's been a computer in your  
22 mother's home, to your knowledge,  
23 Gustave Lindor, Jr. has never been  
24 in your mother's home?  
25 A. Since there's been a

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1 Y. RAYMOND-WRIGHT  
2 computer, no.  
3 Q. Okay.  
4 Have you ever talked to  
5 Kathleen Raymond about this case?  
6 A. Yes.  
7 Q. And when did you speak with  
8 Kathleen Raymond about this case?  
9 A. I don't remember.  
10 Q. Was it recently?  
11 A. No.  
12 Q. Was it more than a year  
13 ago?  
14 A. No. It's during -- it's  
15 during the time of her subpoena and  
16 her deposition.  
17 Q. And did she call you?  
18 A. I don't remember.  
19 Q. Was it over the telephone?  
20 A. No -- I'm not really sure  
21 to be honest with you.  
22 Q. You don't know if it was in  
23 person?  
24 A. I don't know if it was in  
25 person, over the phone, or any other

1 Y. RAYMOND-WRIGHT  
2 kind of contact or text. I don't  
3 remember.  
4 Q. Okay.  
5 But you do know that she  
6 discussed with you that she received  
7 a subpoena?  
8 A. I just know that she came  
9 here for a deposition.  
10 MR. BECKERMAN: She didn't  
11 receive a subpoena.  
12 MR. OPPENHEIM: Let her  
13 testify.  
14 MR. BECKERMAN: Well, I  
15 object to the question. It  
16 assumes facts not in evidence.  
17 MR. OPPENHEIM: Then state  
18 an objection.  
19 Q. I believe you testified  
20 that you spoke with her after she  
21 got a subpoena?  
22 A. Well, either or. Again, I  
23 really don't remember.  
24 Q. Okay.  
25 Did you speak with her

1 Y. RAYMOND-WRIGHT  
2 before or after her deposition?  
3 A. After.  
4 Q. And what did she tell you?  
5 A. I don't remember.  
6 Q. How long was the  
7 conversation?  
8 A. I don't remember.  
9 Q. And it could have been over  
10 texting?  
11 A. Either or, I don't  
12 remember.  
13 Q. Either texting or what?  
14 A. I'm not sure 'cause this  
15 was a long time ago.  
16 Q. You said you spoke with  
17 her?  
18 A. I did speak to her about  
19 the deposition she had, yes.  
20 Q. Do you know if you actually  
21 spoke or whether it was electronic?  
22 A. I don't remember.  
23 Q. Okay.  
24 Do you remember anything at  
25 all about the conversation?

1 Y. RAYMOND-WRIGHT  
2 A. Um, I guess she didn't  
3 understand what it was about or  
4 anything.  
5 Q. She had already been  
6 deposed?  
7 A. I don't understand.  
8 Q. She had already had her  
9 deposition taken when you spoke with  
10 her?  
11 A. Yes, it was after her  
12 deposition.  
13 Q. And she didn't understand  
14 what the case was about?  
15 A. Right. For me, I guess, I  
16 didn't understand until -- I don't  
17 know. I didn't really understand  
18 much.  
19 Q. So you spoke to her after  
20 her deposition and then to your  
21 recollection the only thing she told  
22 you was she didn't understand?  
23 A. That's the only thing I  
24 remember.  
25 Q. And what did you tell her?

1 Y. RAYMOND-WRIGHT  
2 A. I don't remember.  
3 Q. Have you spoken with her  
4 about this case on any other  
5 occasion?  
6 A. Yes.  
7 Q. And what occasion was that?  
8 A. What do you mean?  
9 Q. Let me backup.  
10 Was the very first time you  
11 spoke to her about this case after  
12 her deposition?  
13 A. Was it the very first time,  
14 is that what you are asking me?  
15 Q. Yes.  
16 A. I don't remember.  
17 Q. Do you know if you spoke  
18 with her about this case before her  
19 deposition?  
20 A. Before her deposition I  
21 don't remember.  
22 Q. Do you know if you spoke  
23 with her -- other than the  
24 conversation we just discussed, do  
25 you know if you've spoken to her

1 Y. RAYMOND-WRIGHT  
2 since then about this case?  
3 A. After her deposition did I  
4 speak to her about the case, is that  
5 what you are asking me?  
6 Q. You told me that you had a  
7 conversation with her after her  
8 deposition in which she said she  
9 didn't understand. The only thing  
10 you can recall is she didn't  
11 understand.  
12 A. Exactly.  
13 Q. Other than that  
14 conversation, did you have any other  
15 conversations with your sister,  
16 Kathleen, about this case?  
17 A. After her deposition, yes.  
18 Q. In addition to the  
19 conversation we just discussed?  
20 A. Yes.  
21 Q. Okay.  
22 Can you recall that  
23 conversation?  
24 A. No.  
25 Q. Do you know, approximately,

1 Y. RAYMOND-WRIGHT  
2 how long after the first  
3 conversation?  
4 A. No.  
5 Q. More than a year?  
6 A. I don't remember.  
7 Q. Do you remember anything  
8 about that conversation?  
9 A. She just thought it was  
10 silly. That's it.  
11 Q. She thought the lawsuit was  
12 silly?  
13 A. Yes.  
14 Q. Okay.  
15 Did you speak to her about  
16 the fact that it involved  
17 downloading music on the internet?  
18 A. Yes.  
19 Q. You did?  
20 A. Yes.  
21 Q. And did you speak about who  
22 may have been responsible for  
23 downloading music on the internet?  
24 A. No.  
25 Q. So your mother gets sued

1 Y. RAYMOND-WRIGHT  
2 for copyright litigation for  
3 downloading music on the internet  
4 and you talk to your sister about  
5 the fact that the lawsuit was about  
6 downloading music on the internet  
7 and the two of you never discussed  
8 who might have done this?  
9 A. No.  
10 Q. And at that point did you  
11 know that the user name -- I'm  
12 sorry, strike that.  
13 Have you spoken with anyone  
14 else about this case?  
15 A. An attorney.  
16 Q. Which attorney is that?  
17 A. Um, military legal office.  
18 Q. When did you speak with the  
19 military legal office?  
20 A. When I was given the  
21 subpoena.  
22 Q. Did you speak to --  
23 actually, strike that.  
24 Ms. Raymond-Wright, have  
25 you ever spoken with anyone

1 Y. RAYMOND-WRIGHT  
2 regarding who may have done the  
3 downloading at issue in this case  
4 with anyone?  
5 A. No.  
6 Q. And pardon me, it's just a  
7 little confusing to me that you know  
8 that your mother has been sued for  
9 infringing copyrights of music over  
10 the internet, correct?  
11 A. Yes.  
12 Q. And you've known that for  
13 sometime, for years?  
14 A. Yes.  
15 Q. And you know that your  
16 mother, your brother, your sister,  
17 your cousins, have all been deposed?  
18 A. Yes.  
19 Q. Correct?  
20 A. Yes.  
21 Q. And you know, in fact, that  
22 you had to fly in to take a  
23 deposition regarding this issue?  
24 A. Yes.  
25 Q. And yet you never asked

1 Y. RAYMOND-WRIGHT  
 2 anyone who may have been responsible  
 3 for this?  
 4 MR. BECKERMAN: Objection,  
 5 argumentative, asked and  
 6 answered.  
 7 Q. Can you answer the question  
 8 please.  
 9 A. No, I didn't speak to  
 10 anyone.  
 11 Q. It just seems very odd to  
 12 me that your family has had this  
 13 going on for years and you never had  
 14 a discussion with any of them?  
 15 MR. BECKERMAN: Objection,  
 16 that's a statement not a  
 17 question.  
 18 MS. BURTON: Well, if you  
 19 let me finish I'll end with a  
 20 question, I promise.  
 21 Q. This has been going on for  
 22 years. A lot of litigation has  
 23 occurred and you never had any  
 24 discussion with anybody in your  
 25 family regarding who may have been

1 Y. RAYMOND-WRIGHT  
 2 responsible. My question is, can  
 3 you explain why you never asked  
 4 anyone in your family who may have  
 5 done this?  
 6 MR. BECKERMAN: Objection.  
 7 MS. BURTON: Okay.  
 8 A. Am I supposed to answer?  
 9 Q. You are. And let me just  
 10 clarify, Mr. Beckerman represents  
 11 your mother and he has obligations  
 12 to make objections for the record.  
 13 But you may go ahead and answer all  
 14 of the questions after he's made his  
 15 objections.  
 16 A. I'm sorry, could you repeat  
 17 the question please.  
 18 Q. Yeah.  
 19 My question is, it just  
 20 seems very odd to me that after all  
 21 of this time and the fact that  
 22 everyone in your family has been  
 23 deposed and a lot of litigation has  
 24 happened that you never had any  
 25 conversations with any of your

1 Y. RAYMOND-WRIGHT  
 2 family as to who may have been  
 3 responsible. My question is, do you  
 4 have any explanation for that?  
 5 A. For who's responsible?  
 6 MR. BECKERMAN: Objection.  
 7 Q. Yes.  
 8 A. As far as any conversation  
 9 of who is responsible, no.  
 10 Q. Is there any reason you  
 11 didn't ask -- you didn't have a  
 12 conversation with anyone as to who  
 13 was responsible?  
 14 A. Because the way the case is  
 15 built up. Based on what I'm seeing  
 16 and research, it doesn't -- it's  
 17 nobody who had depositions or  
 18 anybody.  
 19 Q. I'm sorry, could you  
 20 explain that again? I just didn't  
 21 understand.  
 22 A. Meaning, are you asking me  
 23 my personal opinion or?  
 24 Q. Sure.  
 25 Why don't you give me your

1 Y. RAYMOND-WRIGHT  
 2 personal opinion as to who is  
 3 responsible?  
 4 MR. BECKERMAN: Objection  
 5 to questions calling for  
 6 personal opinions.  
 7 A. Actually, no one is  
 8 responsible for whatever is going  
 9 on. That's it. I feel like nobody  
 10 is responsible for what's going on.  
 11 Q. You feel that no one is  
 12 responsible and what is that based  
 13 on?  
 14 A. Based on, I guess, my own  
 15 opinion of what's going on. That's  
 16 it.  
 17 Q. On what basis did you come  
 18 to that opinion?  
 19 A. Based on the people who's  
 20 there. People who live there. The  
 21 usage of the computer. Who touches  
 22 the computer. Downloading music,  
 23 who downloads music? Nobody that's  
 24 lived in 1027 Willmohr Street on  
 25 that second floor downloads music or

1 Y. RAYMOND-WRIGHT  
 2 used the computer for that usage.  
 3 Q. How do you know that?  
 4 A. Because I'm the one --  
 5 actually, the internet -- I was  
 6 there when the computer was  
 7 purchased and I've been there on and  
 8 off.  
 9 Q. How do you know that no one  
 10 downloaded music on the internet?  
 11 A. Because most of the  
 12 accounts have passwords.  
 13 Q. When you say "accounts,"  
 14 what do you mean, users --  
 15 A. Yes.  
 16 Q. -- have passwords?  
 17 A. Yes.  
 18 Q. And how do you know that no  
 19 one downloaded music?  
 20 A. 'Cause I'm primarily the  
 21 person that's home during the times  
 22 that I'm there.  
 23 Q. During the times that you  
 24 were not there, how do you know that  
 25 no one downloaded music?

1 Y. RAYMOND-WRIGHT  
 2 A. 'Cause it's passwords.  
 3 There's restrictions on the  
 4 computer, parental controls.  
 5 Q. What parental controls are  
 6 on the computer?  
 7 A. As far as pornographic  
 8 sites, anything that a parent would  
 9 put on a computer for a child not to  
 10 be using on a computer.  
 11 Q. So there's restrictions on  
 12 the ability to go to pornographic  
 13 sites?  
 14 A. That's an example.  
 15 Q. Can you give me any other  
 16 example?  
 17 A. No.  
 18 Q. Did you put the  
 19 restrictions on the computer?  
 20 A. No.  
 21 Q. Who did?  
 22 A. A technician.  
 23 Q. From where?  
 24 A. I don't remember. It was a  
 25 while back.

1 Y. RAYMOND-WRIGHT  
 2 Q. Did someone come to your  
 3 house and put the restrictions on  
 4 the computer?  
 5 A. Yes.  
 6 Q. And do you know,  
 7 approximately, when that was?  
 8 A. Over the summer.  
 9 Q. What summer?  
 10 A. I'm not sure. I don't  
 11 remember.  
 12 Q. Do you know if it was  
 13 before or after you had your first  
 14 child?  
 15 A. In between. It was after  
 16 my first child.  
 17 Q. So it was after May of  
 18 2003, but before January of 2005?  
 19 A. Yeah, actually -- probably  
 20 was the summer of either 2003 or  
 21 2004 after my first child.  
 22 Q. Were you there at the time?  
 23 A. Yes.  
 24 Q. Okay.  
 25 Now, you left in May of

1 Y. RAYMOND-WRIGHT  
 2 2003, did you have occasion to  
 3 return to New York that summer?  
 4 A. Yes.  
 5 Q. And you also had occasion  
 6 to return to New York the summer of  
 7 2004?  
 8 A. Yes.  
 9 Q. Do you know when in the  
 10 summer of 2003 that you returned to  
 11 New York?  
 12 A. July.  
 13 Q. In July of 2003 you  
 14 returned to New York?  
 15 A. Yes.  
 16 Q. How long did you stay?  
 17 A. A couple days.  
 18 Q. For a weekend?  
 19 A. I'm not sure.  
 20 Q. Okay.  
 21 But it was for a couple of  
 22 days in July of 2003?  
 23 A. Yes.  
 24 Q. Okay.  
 25 Do you remember anytime

1 Y. RAYMOND-WRIGHT  
 2 other than January through May of  
 3 2003 and then July of 2003 that you  
 4 were in New York?  
 5 A. Excuse me -- no, I don't  
 6 remember.  
 7 Q. And then you said you again  
 8 returned to New York in August --  
 9 sorry, in the summer of 2004?  
 10 A. Yes.  
 11 Q. Do you know when in the  
 12 summer of 2004 you returned to New  
 13 York?  
 14 A. It could have been any of  
 15 the three months in the summer.  
 16 Q. Anywhere from June, July,  
 17 August?  
 18 A. Yes.  
 19 Q. Okay.  
 20 And sometime in that period  
 21 either July of 2003 or June to  
 22 August of 2004 a technician came and  
 23 set parental controls on the  
 24 computer?  
 25 A. Yes.

1 Y. RAYMOND-WRIGHT  
 2 Q. Okay.  
 3 Was that related to setting  
 4 up of the internet account or any  
 5 other occasion or did you bring that  
 6 technician out solely to put these  
 7 controls on the computer?  
 8 A. No.  
 9 Q. I'm sorry, what do you mean  
 10 by "no?" Did they come out solely  
 11 to put the parental controls on the  
 12 computer?  
 13 A. No.  
 14 Q. They came out for another  
 15 reason?  
 16 A. Yes.  
 17 Q. And what was that reason?  
 18 A. The computer wasn't  
 19 working.  
 20 Q. So you had a technician  
 21 come out because the computer wasn't  
 22 working?  
 23 A. Right.  
 24 Q. In either the summer of  
 25 2003 or the summer of 2004?

1 Y. RAYMOND-WRIGHT  
 2 A. I think it was the summer  
 3 of 2004.  
 4 Q. Summer of 2004?  
 5 A. Yes.  
 6 Q. And when you say "it wasn't  
 7 working," what do you mean?  
 8 A. The monitor was just blue  
 9 and it just seemed like the computer  
 10 wasn't functioning properly.  
 11 Q. Could you get anything  
 12 other than the -- I call it the blue  
 13 screen of death -- anything other  
 14 than that blue screen?  
 15 A. That's all we was getting.  
 16 Q. Okay.  
 17 When you turn the computer  
 18 on all you would get was a blank  
 19 blue screen?  
 20 A. Correct.  
 21 Q. When you returned to New  
 22 York in the summer of 2004 was the  
 23 computer working?  
 24 A. I'm sorry.  
 25 Q. When you returned to New

1 Y. RAYMOND-WRIGHT  
 2 York in the summer of 2004 was the  
 3 computer working then?  
 4 A. In the summer of 2004, no.  
 5 Q. Okay.  
 6 So it was already not  
 7 working before June of 2004?  
 8 A. I really don't recall when  
 9 it stopped working. I just know  
 10 when I got there it wasn't working.  
 11 Q. Okay.  
 12 And how did you become  
 13 aware that the computer wasn't  
 14 working?  
 15 A. I turned the computer on.  
 16 Q. You turned it on?  
 17 A. Uh-huh.  
 18 Q. And you got the blue  
 19 screen?  
 20 A. Correct.  
 21 Q. And what did you do then?  
 22 A. Called the technician.  
 23 Q. Called the technician.  
 24 Do you have any idea who  
 25 you called?

1 Y. RAYMOND-WRIGHT  
 2 A. No.  
 3 Q. Are you aware that your  
 4 brother is an IT director for a law  
 5 firm?  
 6 A. Yes.  
 7 Q. Did you call your brother  
 8 who works with computers first?  
 9 A. No.  
 10 Q. Why not?  
 11 MR. BECKERMAN: Objection.  
 12 Q. Go ahead and answer.  
 13 A. Because I'm able to handle  
 14 that myself without having to call  
 15 him.  
 16 Q. So you called the  
 17 technician and spent money rather  
 18 than trying your brother?  
 19 A. I didn't pay for it. It  
 20 was like a promotion.  
 21 Q. It was a promotion. A  
 22 person came out for free and fixed  
 23 your computer?  
 24 A. They didn't fix it  
 25 entirely, they tried.

1 Y. RAYMOND-WRIGHT  
 2 Q. Was it under warranty?  
 3 A. I don't remember.  
 4 Q. Did you call Dell?  
 5 A. No.  
 6 Q. You called a private  
 7 technician?  
 8 A. Yes.  
 9 Q. How did you find this  
 10 technician?  
 11 A. From one of the fliers in  
 12 the street like in the supermarket.  
 13 Q. And the flier said we'll  
 14 come fix your computer for free?  
 15 A. I don't remember what it  
 16 said.  
 17 Q. But you know that you  
 18 didn't pay any money to have the  
 19 technician come and work on the  
 20 computer?  
 21 A. It was a promotion so he  
 22 just came by and actually tried to  
 23 fix the computer. The price that he  
 24 was asking for was too expensive so  
 25 I told him that I couldn't pay that

1 Y. RAYMOND-WRIGHT  
 2 and that was about it.  
 3 Q. So he came, he looked at  
 4 the computer, and then gave you an  
 5 estimate for the repair work?  
 6 A. Correct.  
 7 Q. And you told him you  
 8 couldn't pay that so you sent him  
 9 away?  
 10 A. Correct.  
 11 Q. And at that point the  
 12 computer was still not working?  
 13 A. Correct.  
 14 Q. Then what did you do?  
 15 A. Then I called my brother.  
 16 Q. Do you know when you called  
 17 your brother?  
 18 A. No.  
 19 Q. And what did your brother  
 20 do?  
 21 A. I think he just he took the  
 22 tower.  
 23 Q. He took the tower.  
 24 Do you know where he took  
 25 it?

1 Y. RAYMOND-WRIGHT  
 2 A. No.  
 3 Q. How long did he have it  
 4 for?  
 5 A. I don't remember.  
 6 Q. When you left New York did  
 7 he still have it?  
 8 A. I don't remember.  
 9 Q. Were you ever able -- in  
 10 the summer of '04 when you came to  
 11 New York were you ever able to use  
 12 the computer?  
 13 A. That particular computer?  
 14 Q. We'll start with that  
 15 particular computer.  
 16 A. No.  
 17 Q. Okay.  
 18 When you were New York in  
 19 the summer of 2004 were you able to  
 20 use any computer?  
 21 A. Yes.  
 22 Q. What computer did you use?  
 23 A. My laptop.  
 24 Q. Did you bring your laptop  
 25 with you?

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1 Y. RAYMOND-WRIGHT  
2 A. Yes.  
3 Q. Okay.  
4 You brought your laptop  
5 with you from Virginia?  
6 A. Yes.  
7 Q. Okay.  
8 And how did you hook up  
9 your laptop -- I'm sorry, strike  
10 that.  
11 Were you able to use your  
12 laptop on the internet?  
13 A. Yes.  
14 Q. And did you do that in your  
15 mother's home?  
16 A. Yes.  
17 Q. Okay.  
18 How did you hook up to the  
19 internet in your mother's home?  
20 A. Wi-Fi.  
21 MR. BECKERMAN: I just want  
22 to make a general objection,  
23 we've been here quite a while  
24 and none of these questions have  
25 to do with the defendant. So

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1 Y. RAYMOND-WRIGHT  
2 I'm objecting to questions that  
3 are some kind of free-wheeling  
4 investigation.  
5 MR. OPPENHEIM just make an  
6 objection. You don't have to  
7 speak, just make the objection  
8 then take it up with the judge.  
9 MR. BECKERMAN: I have a  
10 right to state the basis of my  
11 objection.  
12 MS. BURTON: You have the  
13 right to state the basis as to  
14 form or foundation, not a  
15 statement regarding --  
16 MR. BECKERMAN: I've been  
17 doing this for quite a while so  
18 I know what I have a right to  
19 say.  
20 MS. BURTON: Okay, that's  
21 fine. Let's go on.  
22 Q. So in the summer of 2004  
23 you brought your laptop to your  
24 mother's home, you hooked it up to  
25 the internet on Wi-Fi and what did

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1 Y. RAYMOND-WRIGHT  
2 you do with it? What did you use  
3 the computer for while you were in  
4 your mother's home in the summer of  
5 2004?  
6 A. For personal purposes.  
7 Q. What personal purposes?  
8 A. On-line banking, checking  
9 my e-mails, research.  
10 Q. What research were you  
11 doing?  
12 A. I don't remember.  
13 Q. Were you in school?  
14 A. Yes.  
15 Q. What were you in school  
16 for?  
17 A. What do you mean?  
18 Q. What were you studying?  
19 A. Sociology, criminal  
20 justice.  
21 Q. When you said you were  
22 doing research were you doing it for  
23 school?  
24 A. Maybe.  
25 Q. What other things would you

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1 Y. RAYMOND-WRIGHT  
2 have researched?  
3 A. Anything with childcare,  
4 stuff like that.  
5 Q. Other than banking,  
6 e-mails, and research, what else did  
7 you use the computer for?  
8 A. Typing up my papers.  
9 Q. Were you in school in the  
10 summer of 2004?  
11 A. I don't remember.  
12 Q. You don't know whether you  
13 were taking classes in the summer of  
14 2004?  
15 A. I don't remember that.  
16 Q. Okay.  
17 Where were you attending  
18 school?  
19 A. Norfolk State University.  
20 Q. Did you surf the web?  
21 A. Yes.  
22 Q. Did you get news over the  
23 internet?  
24 A. Not really, no.  
25 Q. Do you listen to music on



1 Y. RAYMOND-WRIGHT  
 2 your laptop?  
 3 A. No.  
 4 Q. Did you listen to music  
 5 while you were in your mother's  
 6 home?  
 7 A. No.  
 8 Q. There was no music in the  
 9 summer of 2004 while you were in  
 10 your mother's home?  
 11 A. Not that I remember, but  
 12 no.  
 13 Q. Okay.  
 14 How did you connect to the  
 15 internet using the laptop?  
 16 A. I answered that before,  
 17 Wi-Fi.  
 18 Q. Okay.  
 19 How did you hook up into  
 20 the Wi-Fi system?  
 21 A. A router.  
 22 Q. A router?  
 23 A. Right.  
 24 Q. Was it a wireless router?  
 25 A. I don't remember.

1 Y. RAYMOND-WRIGHT  
 2 Q. Do you know if you had to  
 3 be sitting in a particular spot in  
 4 the home in order to connect to the  
 5 internet?  
 6 A. No.  
 7 Q. You don't know or you did  
 8 not?  
 9 A. You do not.  
 10 Q. You do not.  
 11 You could be sitting  
 12 anywhere?  
 13 A. Correct.  
 14 Q. Do you know if there was a  
 15 cord that had to come out of the  
 16 computer to the router in order to  
 17 connect to the internet?  
 18 A. I don't remember that. I  
 19 don't remember.  
 20 Q. But you could do it from  
 21 any room?  
 22 A. Correct.  
 23 Q. Okay.  
 24 And to the best of your  
 25 recollection, there was not some

1 Y. RAYMOND-WRIGHT  
 2 long cord going across the computer  
 3 to --  
 4 A. To what exactly, the  
 5 router?  
 6 Q. To the laptop.  
 7 A. The laptop to the router.  
 8 Q. Did you have to connect the  
 9 laptop to something using a cord in  
 10 order to connect to the internet?  
 11 A. No, nothing was connected  
 12 to the laptop.  
 13 Q. Okay.  
 14 Did you have to put a  
 15 password in?  
 16 A. For which?  
 17 Q. To connect to the internet  
 18 using your laptop?  
 19 A. No.  
 20 Q. Okay.  
 21 Do you know how the router  
 22 was connected?  
 23 A. Yes.  
 24 Q. How was the router  
 25 connected?

1 Y. RAYMOND-WRIGHT  
 2 A. What do you mean, who  
 3 connected it or how was it  
 4 connected?  
 5 Q. How was it connected? How  
 6 was it physically connected?  
 7 A. Plugged in from the modem  
 8 to the -- that's all I really  
 9 remember, just the modem.  
 10 Q. Okay.  
 11 And how was the -- at the  
 12 time was it connected at all to the  
 13 computer itself?  
 14 A. The router?  
 15 Q. The router or the modem --  
 16 I'm sorry, when I say the computer I  
 17 mean the desktop that was in your  
 18 mother's home as opposed to the  
 19 laptop you brought.  
 20 A. I don't remember.  
 21 Q. You don't remember?  
 22 A. No. It just -- it happened  
 23 so long ago.  
 24 Q. Okay.  
 25 And could you explain to me

1 Y. RAYMOND-WRIGHT  
 2 the physical location --  
 3 MR. BECKERMAN: I'm a  
 4 little unclear where the  
 5 question has changed from the  
 6 laptop to the other computer.  
 7 MS. BURTON: Okay.  
 8 MR. BECKERMAN: I thought  
 9 we were just talking about the  
 10 laptop and then --  
 11 MS. BURTON: Okay, well,  
 12 you'll be able to read the  
 13 transcript.  
 14 Q. Can you explain to me where  
 15 in the home the desktop computer was  
 16 located?  
 17 A. Living room.  
 18 Q. In the living room.  
 19 And where was the router?  
 20 A. In the living room.  
 21 Q. As well as the modem?  
 22 A. Yes.  
 23 Q. Okay.  
 24 And they were all right  
 25 next to each other in the summer of

1 Y. RAYMOND-WRIGHT  
 2 2004?  
 3 A. Most likely.  
 4 Q. So what you had was the  
 5 monitor connected to the tower, the  
 6 CPU?  
 7 A. Yeah, I know what it is.  
 8 It depends on when you're --  
 9 Q. In the summer of 2004?  
 10 A. I really don't remember  
 11 because like I said my brother did  
 12 take the tower and I do have my own  
 13 computer so -- and I have a laptop.  
 14 So there was a time that it was  
 15 changed, I bought my tower 'cause  
 16 that one wasn't working. But I  
 17 don't really remember the date  
 18 'cause that's the thing.  
 19 Q. I'm sorry, I think you said  
 20 you brought your tower?  
 21 A. Yes.  
 22 Q. What do you mean you  
 23 brought your tower?  
 24 A. The CPU.  
 25 Q. You brought a new CPU?

1 Y. RAYMOND-WRIGHT  
 2 A. Yeah.  
 3 Q. And when was that?  
 4 A. I don't remember.  
 5 Q. In the summer of 2004?  
 6 A. No, I don't remember if it  
 7 was the summer, the fall, the  
 8 spring, or the next year. I don't  
 9 remember. Our computer was not  
 10 working.  
 11 Q. And when you say "our  
 12 computer," meaning your computer in  
 13 Norfolk, Virginia or your mother's  
 14 computer, the computer located in  
 15 your mother's home?  
 16 A. The computer located in my  
 17 mother's house.  
 18 Q. Okay.  
 19 So the computer located in  
 20 your mother's home was not working  
 21 when you arrived -- when you were  
 22 there the summer of 2004, correct?  
 23 A. Correct.  
 24 Q. And your brother came and  
 25 took it -- took the tower?

1 Y. RAYMOND-WRIGHT  
 2 A. Uh-huh, yes.  
 3 Q. And after that you bought a  
 4 new tower?  
 5 A. I didn't purchase a new  
 6 one.  
 7 Q. You obtained a new tower?  
 8 A. Yes.  
 9 Q. Where did you obtain it  
 10 from?  
 11 A. From my home.  
 12 Q. From your home in Virginia?  
 13 A. Yes.  
 14 Q. Okay.  
 15 And you brought it with you  
 16 to New York?  
 17 A. Yes.  
 18 Q. And you hooked it up in  
 19 your mother's home?  
 20 A. Yes.  
 21 Q. And you don't know whether  
 22 that was before or after the summer  
 23 of 2004?  
 24 A. It could have been during  
 25 or after.

1 Y. RAYMOND-WRIGHT  
 2 Q. During or after the summer  
 3 of 2004 you brought a tower from  
 4 your home in Norfolk, Virginia to  
 5 your mother's home in New York and  
 6 hooked it up?  
 7 A. Yes, to be used on a  
 8 temporary basis.  
 9 Q. Okay.  
 10 And who used that computer?  
 11 A. I'm going to assume my  
 12 sister.  
 13 Q. Your sister Kathleen?  
 14 A. Yes.  
 15 Q. Do you know if anyone else  
 16 used that computer?  
 17 A. Just me and my sister.  
 18 Q. And I'm just not completely  
 19 following you.  
 20 Why were you using your  
 21 tower when you had your laptop?  
 22 A. 'Cause since I don't always  
 23 want to be on my laptop.  
 24 Q. Okay.  
 25 So you brought both your

1 Y. RAYMOND-WRIGHT  
 2 laptop from Virginia --  
 3 A. Well, we are talking about  
 4 the summer which is a three-month  
 5 period over time that I come back  
 6 and forth for. It's the summer of  
 7 three months, not of a day or two  
 8 days so.  
 9 Q. Sure, I understand.  
 10 So you brought your laptop  
 11 with you. Every time you came  
 12 during the summer did you bring your  
 13 laptop?  
 14 A. No.  
 15 Q. Okay.  
 16 How many times did you  
 17 come --  
 18 A. I don't remember.  
 19 Q. And if you just let me  
 20 finish my question before answering  
 21 I'd appreciate it. It just makes it  
 22 easier for the court reporter who  
 23 will start throwing things, okay.  
 24 So during the summer of  
 25 2004 you went back and forth between

1 Y. RAYMOND-WRIGHT  
 2 Virginia and New York on multiple  
 3 occasions?  
 4 A. Correct.  
 5 Q. Multiple occasions?  
 6 A. Correct.  
 7 Q. Okay.  
 8 And at various times you  
 9 brought your laptop?  
 10 A. Yes.  
 11 Q. And at some point you  
 12 brought a desktop from your home in  
 13 Virginia to your mother's home in  
 14 New York?  
 15 A. Yes.  
 16 Q. And did you hook that  
 17 desktop up to the internet?  
 18 A. Yes.  
 19 Q. Okay.  
 20 So at the time you were  
 21 able to hook up both the laptop and  
 22 the desktop to your mother's  
 23 internet account?  
 24 A. Yes.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 What kind of desk top was  
 3 it; do you know?  
 4 A. A Dell.  
 5 Q. It was a Dell?  
 6 A. Yes.  
 7 Q. Okay.  
 8 And do you know, the  
 9 computer that wasn't working that  
 10 had the blue screen was that also a  
 11 Dell?  
 12 A. I don't remember. I don't  
 13 remember.  
 14 Q. It was a PC though as  
 15 opposed to a Mac?  
 16 A. But I think you actually  
 17 mentioned that it was a Dell  
 18 already. In the beginning of the  
 19 deposition you said that my mom's  
 20 computer was a Dell.  
 21 Q. Okay, that's fine.  
 22 To your knowledge, you  
 23 don't know what kind of computer it  
 24 was?  
 25 A. To my knowledge, no.

1 Y. RAYMOND-WRIGHT  
 2 Q. Do you know whether it was  
 3 a PC verses a Macintosh?  
 4 A. It wasn't a Mac.  
 5 Q. Okay.  
 6 Do you know what color it  
 7 was?  
 8 A. White.  
 9 Q. Okay.  
 10 And the computer that you  
 11 brought from your home you said that  
 12 is was a Dell. Do you know when you  
 13 purchased that Dell?  
 14 A. No.  
 15 Q. Did you buy it new?  
 16 A. Yes.  
 17 Q. And when did you take it --  
 18 is it still in New York? Is it  
 19 still in your mother's home?  
 20 A. No.  
 21 Q. Okay.  
 22 What happened to it?  
 23 A. I bought it back to  
 24 Virginia.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 Did you use it in Virginia?  
 3 A. Yes.  
 4 Q. Both before and after you  
 5 brought it to New York?  
 6 A. Correct.  
 7 Q. And where is it now?  
 8 A. I sold it.  
 9 Q. Do you know when you sold  
 10 it?  
 11 A. I don't recall.  
 12 Q. Did you sell it before or  
 13 after you moved from Virginia?  
 14 A. I don't remember.  
 15 Q. Do you know when you moved  
 16 from Virginia whether you took it  
 17 with you?  
 18 A. No.  
 19 Q. You did not?  
 20 A. No.  
 21 Q. Okay.  
 22 So sometime while you were  
 23 in Virginia after the summer of 2004  
 24 you sold it?  
 25 A. Correct, meaning -- could I

1 Y. RAYMOND-WRIGHT  
 2 make a statement.  
 3 Q. You may.  
 4 A. Meaning it could have been  
 5 sold from anytime from 2005 until  
 6 March of 2008.  
 7 Q. So you could have sold this  
 8 computer as recently as two months  
 9 ago?  
 10 A. 'Cause I have about two  
 11 different computers just during --  
 12 about the last couple of years.  
 13 That's why I'm not sure which is  
 14 which.  
 15 Q. Okay.  
 16 Where did you sell it?  
 17 A. At a garage sale.  
 18 Q. Did you have multiple  
 19 garage sales while you were living  
 20 in Norfolk, Virginia?  
 21 A. Yes.  
 22 Q. How often do you have a  
 23 garage sale?  
 24 A. I don't remember.  
 25 Q. Did you have more than two

1 Y. RAYMOND-WRIGHT  
 2 garage sales?  
 3 A. Yes.  
 4 Q. More than five?  
 5 A. I don't think so.  
 6 Q. But from two to five?  
 7 A. Yes.  
 8 Q. In March of 2008 did you  
 9 have a garage sale?  
 10 A. Yes.  
 11 Q. Did you sell any computer  
 12 in it?  
 13 A. At the time I think so.  
 14 I'm not sure. To be honest with you  
 15 I don't remember.  
 16 Q. So is the issue you had  
 17 multiple computers and you are not  
 18 sure which one you sold when --  
 19 A. The issue is basically I  
 20 have multiple computers. And also,  
 21 sometimes I'm not the one that  
 22 personally does the garage sale, but  
 23 the items are mine.  
 24 Q. Do you know when you sold  
 25 any computer?

1 Y. RAYMOND-WRIGHT  
 2 A. No.  
 3 Q. You have no memory in the  
 4 last three years of when you sold  
 5 any computer?  
 6 A. I don't keep receipts of  
 7 garage sales.  
 8 Q. But you know it was after  
 9 the summer of 2004?  
 10 A. Correct.  
 11 Q. So anytime between 2005 and  
 12 2008 you sold that computer?  
 13 A. That's correct.  
 14 Q. Okay.  
 15 So do you know how long the  
 16 computer remained in New York?  
 17 A. No, I don't remember.  
 18 Q. Was it still there when  
 19 your second child was born in  
 20 January 2005?  
 21 MR. BECKERMAN: We talked  
 22 about at least three different  
 23 computers. I object to the  
 24 question. It doesn't clarify  
 25 which computer you are referring

1 Y. RAYMOND-WRIGHT  
 2 to.  
 3 MS. BURTON: I appreciate  
 4 that.  
 5 Q. I'm speaking about the  
 6 computer that you brought -- the  
 7 desktop computer that you brought  
 8 from Norfolk, Virginia to your  
 9 mother's house in New York that you  
 10 then hooked up to the internet, that  
 11 computer.  
 12 Was that computer still in  
 13 your mother's house in New York when  
 14 you had your second child in January  
 15 of 2005?  
 16 A. I don't remember.  
 17 Q. Do you know if there was  
 18 any desktop computer at your  
 19 mother's home when you had your  
 20 second child in January of 2005?  
 21 A. In 2005 I think so.  
 22 Q. Okay.  
 23 And do you know whether  
 24 that was the computer that your  
 25 brother took in the summer of 2004?

1 Y. RAYMOND-WRIGHT  
 2 A. I'm not sure.  
 3 Q. Okay.  
 4 When your brother took the  
 5 computer, the desktop computer that  
 6 had the blue screen for which you  
 7 brought the technician out, when he  
 8 took that computer do you know where  
 9 he took it?  
 10 A. No.  
 11 Q. Do you know what he did?  
 12 A. No.  
 13 Q. Did he ever return it?  
 14 A. I'm not sure.  
 15 Q. When you left in August  
 16 of -- when you left New York in  
 17 August of 2004 was it back?  
 18 A. I don't remember.  
 19 Q. Okay.  
 20 At any point did you  
 21 disconnect to your knowledge --  
 22 strike that. In the summer of 2004  
 23 when you were at your mother's house  
 24 and you brought your desktop  
 25 computer from Virginia and hooked it

1 Y. RAYMOND-WRIGHT  
 2 up, did you ever disconnect it  
 3 before you left?  
 4 A. I don't remember.  
 5 Q. When you connected your  
 6 desktop from Norfolk, Virginia in  
 7 your mother's home in New York to  
 8 the internet, do you know whether  
 9 you connected it directly to the  
 10 router or whether you connected it  
 11 via Wi-Fi?  
 12 A. The desktop.  
 13 Q. The desk top?  
 14 A. I don't remember.  
 15 Q. Do you know if there was a  
 16 cord going from the computer -- from  
 17 the tower --  
 18 A. In 2004?  
 19 Q. -- to the router?  
 20 A. In 2004?  
 21 Q. In 2004.  
 22 A. I don't remember.  
 23 Q. Does the desktop that you  
 24 brought in 2004 -- did it have a  
 25 wireless card?

1 Y. RAYMOND-WRIGHT  
 2 A. No.  
 3 Q. Okay.  
 4 So it had to be a hard  
 5 connection, a cord connection to the  
 6 internet?  
 7 A. Probably.  
 8 MR. BECKERMAN: I object to  
 9 the form of that question.  
 10 MS. BURTON: Thank you.  
 11 Q. Did the computer that you  
 12 had, the desktop computer that you  
 13 brought to New York from Norfolk,  
 14 did it have an external hard drive?  
 15 A. No.  
 16 Q. Do you know what kind of  
 17 hard drive it had?  
 18 A. No.  
 19 Q. How about the laptop, did  
 20 it have an external hard drive?  
 21 A. No.  
 22 Q. Do you know what kind of  
 23 hard drive it had?  
 24 A. No.  
 25 Q. And what kind of laptop was

1 Y. RAYMOND-WRIGHT  
 2 it?  
 3 A. HP.  
 4 Q. Do you know when the  
 5 internet -- when your mother's home  
 6 first had an internet connection?  
 7 A. Do I remember?  
 8 Q. Do you have any knowledge  
 9 of when your mother's home first got  
 10 the ability to go on the internet?  
 11 A. Yes.  
 12 Q. When was that?  
 13 A. I think it was 2000.  
 14 Q. 2000, okay.  
 15 At the time was it a  
 16 wireless connection? Did she have  
 17 Wi-Fi?  
 18 A. No.  
 19 Q. Do you know when your  
 20 mother got Wi-Fi or when your  
 21 mother's house got Wi-Fi?  
 22 A. No, I don't remember.  
 23 Q. Do you know when you came  
 24 to New York to have your first child  
 25 in January of 2003 whether there was

1 Y. RAYMOND-WRIGHT  
 2 Wi-Fi?  
 3 A. Yes.  
 4 Q. There was?  
 5 A. Yes.  
 6 Q. Do you know what prompted  
 7 her to get Wi-Fi?  
 8 MR. BECKERMAN: Objection.  
 9 It assumes a fact not in  
 10 evidence.  
 11 A. She didn't get it.  
 12 Q. Who got Wi-Fi for her; if  
 13 you know?  
 14 A. I did.  
 15 Q. You got it?  
 16 A. Correct.  
 17 Q. Okay.  
 18 And you got it before  
 19 January of 2003?  
 20 A. Not before -- I'm not sure.  
 21 Q. Okay.  
 22 But you know that when you  
 23 had your first child in January of  
 24 2003 there was wireless in the  
 25 house?

1 Y. RAYMOND-WRIGHT  
 2 A. I don't think it was  
 3 January of 2003.  
 4 Q. When did you have your  
 5 first child?  
 6 A. February of 2003.  
 7 Q. Okay.  
 8 So you know when you were  
 9 in New York in February of 2003 --  
 10 in February of 2003 when you had  
 11 your first child there was wireless  
 12 in your mother's home?  
 13 A. I'm not sure if it was  
 14 February either. I know I connected  
 15 to the internet connection, but it  
 16 might have been after -- it could  
 17 have been before -- it could have  
 18 been either January, February, March  
 19 all the way to the time I was there.  
 20 I'm not sure when it was  
 21 established.  
 22 Q. I appreciate that.  
 23 So sometime between January  
 24 2003 and May of 2003 you caused  
 25 wireless internet service to be

1 Y. RAYMOND-WRIGHT  
 2 connected in your mother's home?  
 3 A. Correct.  
 4 Q. Why did you do that?  
 5 A. For communication purposes.  
 6 Q. Did you have your laptop  
 7 with you?  
 8 A. I'm not sure.  
 9 Q. I'm just trying to  
 10 understand why you got wireless?  
 11 A. Okay, I'll tell you.  
 12 Q. Please.  
 13 A. Because my husband was on  
 14 deployment to Iraq so I got internet  
 15 connection for e-mail purposes  
 16 between him and me.  
 17 Q. And forgive me, I thought  
 18 you said that your mother's home got  
 19 an internet connection in 2000?  
 20 A. First time it got  
 21 established in 2001. It was 2001.  
 22 It was disconnected after at a  
 23 certain time frame and then it was  
 24 reconnected again in 2003.  
 25 Q. So sometime during the time

1 Y. RAYMOND-WRIGHT  
 2 when you were in New York for the  
 3 birth of your child --  
 4 A. In 2003 it was reconnected.  
 5 Q. So there was a hard wire  
 6 internet connection, not wireless  
 7 internet connection, from 2001 until  
 8 some point when it was disconnected;  
 9 is that correct?  
 10 A. I'm sorry, I didn't  
 11 understand the question.  
 12 Q. You had a non Wi-Fi -- an  
 13 actual wired internet connection in  
 14 your mother's home from 2001 until  
 15 some point before you got wireless;  
 16 is that correct?  
 17 A. I'm guessing so.  
 18 Q. Okay.  
 19 And do you know when it was  
 20 turned off?  
 21 A. I don't remember, but I  
 22 know I called to disconnect it.  
 23 Q. You called and disconnected  
 24 it?  
 25 A. That's correct.

1 Y. RAYMOND-WRIGHT  
 2 Q. Do you know who the  
 3 original internet server was?  
 4 A. I think it was Verizon.  
 5 Q. Okay.  
 6 So you believe you had  
 7 Verizon Service at your mother's  
 8 home and sometime before 2003 you  
 9 cancelled that?  
 10 A. Correct.  
 11 Q. Why did you cancel it?  
 12 A. The bill was too much.  
 13 Q. Your sister was living in  
 14 the home at the time, right?  
 15 A. Of when?  
 16 Q. While there was this first  
 17 internet connection from 2003 to  
 18 2005 -- I'm sorry, 2001 to 2003?  
 19 A. 2001 to 2003, yes, she was  
 20 living there.  
 21 Q. And she was in school?  
 22 A. Yes.  
 23 Q. Did she use the internet to  
 24 your knowledge?  
 25 A. I'm not sure. There was a

1 Y. RAYMOND-WRIGHT  
 2 time it was disconnected where  
 3 she'll use the library.  
 4 Q. So sometime -- and then  
 5 sometime during the time you were in  
 6 New York, January 2003 to May of  
 7 2003, you got a wireless connection?  
 8 A. I'm sorry, what were the  
 9 dates?  
 10 Q. The dates you gave me was  
 11 January of 2003 to May of 2003 when  
 12 you had your first child. Sometime  
 13 during that period you got a  
 14 wireless connection?  
 15 A. Right.  
 16 Q. Who was the internet  
 17 service provider?  
 18 A. I don't remember, but I  
 19 think it was Optimum.  
 20 Q. Okay.  
 21 And why did you get  
 22 wireless as opposed to a  
 23 non-wireless connection?  
 24 A. Just in case I wanted to  
 25 bring my laptop or purchase another

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1 Y. RAYMOND-WRIGHT  
2 laptop.  
3 Q. Do you know how long a  
4 period of time during which there  
5 was no internet connection in your  
6 mother's home?  
7 A. At anytime?  
8 Q. No, you said it was  
9 connected in 2001?  
10 A. 2000.  
11 Q. And then at some point it  
12 was disconnected?  
13 A. Correct.  
14 Q. And then you connected a  
15 wireless system sometime between  
16 January and May of 2003?  
17 A. Correct.  
18 Q. And my question is do you  
19 know how long a period in between  
20 there was no internet connection at  
21 your mother's home?  
22 A. I don't recall.  
23 Q. Okay.  
24 Before you had your first  
25 child do you remember the time --

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1 Y. RAYMOND-WRIGHT  
2 this is an awkward question -- the  
3 time before that you visited New  
4 York?  
5 A. No. I don't remember the  
6 times, no.  
7 Q. Were you pregnant?  
8 A. Before 2003.  
9 Q. You came to New York to  
10 have your first child in January of  
11 2003?  
12 A. Yes.  
13 Q. I'm trying to figure out  
14 the time before that that you  
15 visited New York?  
16 A. Go ahead.  
17 Q. And my question is in the  
18 previous time to when you came to  
19 have your first child?  
20 A. Okay.  
21 Q. Were you pregnant?  
22 A. Yes.  
23 Q. So it was sometime in the  
24 nine months before February of 2003?  
25 A. Correct.

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1 Y. RAYMOND-WRIGHT  
2 Q. Okay.  
3 And when you came at that  
4 time was there internet connection?  
5 A. I don't recall.  
6 Q. Okay.  
7 Did you bring your laptop?  
8 A. I don't recall.  
9 Q. Did you use the computer?  
10 A. I don't recall.  
11 Q. Okay.  
12 While you were in New York  
13 in the summer of 2004 there was a  
14 wireless internet connection, I  
15 think we established that, correct?  
16 A. Correct.  
17 Q. And there was both a  
18 desktop and your laptop -- at least  
19 at some point there was your laptop?  
20 A. Correct.  
21 Q. And there was also a  
22 desktop in the home?  
23 A. Yes.  
24 Q. Okay.  
25 And first it was the

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1 Y. RAYMOND-WRIGHT  
2 desktop that your brother took to  
3 repair?  
4 A. Correct.  
5 Q. And then after your brother  
6 took the desktop to try to repair it  
7 you brought your desktop from  
8 Virginia?  
9 A. Yes. After a certain time  
10 frame, yes.  
11 Q. Do you know how long it was  
12 that there was no desktop in the  
13 home?  
14 A. I don't remember. It was  
15 in between visits.  
16 Q. Okay.  
17 The desktop that you  
18 brought -- I'm sorry, you said that  
19 you had a technician come out  
20 because the computer wasn't working,  
21 correct?  
22 A. Correct.  
23 Q. And I thought you said that  
24 that was the technician that put  
25 parental controls on the computer?



1 Y. RAYMOND-WRIGHT  
 2 A. Um, yes. He tried to do it  
 3 that same day.  
 4 Q. Now, how did he put  
 5 parental controls on the computer if  
 6 all you had was a blue screen?  
 7 A. He did 'cause I had asked  
 8 him to. He tried to, but it didn't  
 9 go through or something. It was a  
 10 while back so I really -- I just  
 11 know during the time frame that's  
 12 what I asked him to do 'cause we  
 13 established what was needed to be  
 14 done once the computer is turned on.  
 15 But once he gave me an estimate of  
 16 what it is I couldn't afford it so.  
 17 Q. So he did not put parental  
 18 controls on the computer?  
 19 A. Not his own way of setting  
 20 it up, but there was already  
 21 parental controls for pornographic  
 22 sites.  
 23 Q. So before the technician  
 24 came out there was already parental  
 25 controls?

1 Y. RAYMOND-WRIGHT  
 2 A. Correct.  
 3 Q. Okay.  
 4 Do you know when the  
 5 parental controls were put on the  
 6 computer?  
 7 A. When it was initially  
 8 bought.  
 9 Q. In 2000?  
 10 A. Correct.  
 11 Q. And did you put those  
 12 parental controls on the computer?  
 13 A. I'm not sure.  
 14 Q. Do you know how the  
 15 parental controls came to be on the  
 16 computer?  
 17 A. I don't remember.  
 18 Q. Okay.  
 19 But you know that when it  
 20 was purchased it was put on there?  
 21 A. Yeah.  
 22 Q. Okay.  
 23 Who was there when the  
 24 computer was purchased?  
 25 A. What do you mean, at the

1 Y. RAYMOND-WRIGHT  
 2 store or in the home?  
 3 Q. At the store -- I'm sorry,  
 4 I'm talking about the computer  
 5 originally in your mother's home  
 6 starting in 2000 that got the blue  
 7 screen that your brother then took  
 8 to try to repair?  
 9 A. Who was there purchasing  
 10 the computer?  
 11 Q. Yes.  
 12 A. My father.  
 13 Q. And you were there as well?  
 14 A. I don't remember.  
 15 Q. Okay.  
 16 I'm sorry, I thought you  
 17 had said earlier that you had been  
 18 there?  
 19 A. In the home.  
 20 Q. Okay.  
 21 You were in the home?  
 22 A. Yes. I don't remember if I  
 23 was in the store 'cause that was in  
 24 2000, we are in 2008 so.  
 25 Q. I understand. I was just

1 Y. RAYMOND-WRIGHT  
 2 trying to clarify.  
 3 A. Yeah, I know I was in the  
 4 home.  
 5 Q. Okay.  
 6 And you know that your  
 7 father is the one that purchased the  
 8 computer?  
 9 A. Correct.  
 10 Q. Okay.  
 11 Do you know if your brother  
 12 was there?  
 13 A. He wasn't there.  
 14 Q. He was not there when the  
 15 computer was purchased?  
 16 A. No.  
 17 Q. And I mean at the store.  
 18 A. You mean at the store?  
 19 Q. Yes.  
 20 A. I don't know.  
 21 Q. Okay.  
 22 But he was not in the home  
 23 at the time?  
 24 A. No.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 Who hooked up the computer?  
 3 A. I don't remember.  
 4 Q. Do you know if you had a  
 5 professional come and hook it up?  
 6 A. I don't remember.  
 7 Q. Okay.  
 8 Do you know if you hooked  
 9 it up?  
 10 A. I don't remember.  
 11 Q. Okay.  
 12 But you know that at that  
 13 point there was some parental  
 14 controls put on the computer?  
 15 A. Correct.  
 16 Q. And other than restricting  
 17 pornographic sites, do you have any  
 18 other knowledge about what  
 19 restrictions were put on the  
 20 computer?  
 21 A. Initially, no.  
 22 Q. Initially, okay.  
 23 Were there later additional  
 24 restrictions put on the computer?  
 25 A. Yes.

1 Y. RAYMOND-WRIGHT  
 2 Q. And when did that happen?  
 3 A. I don't remember.  
 4 Q. When did you purchase the  
 5 computer that you brought with you,  
 6 the desktop computer? And if it's  
 7 okay I am going to refer to that as  
 8 your desktop.  
 9 A. Okay.  
 10 Q. So we are talking about the  
 11 desktop computer that you brought  
 12 from Norfolk to New York in the  
 13 summer of 2004.  
 14 A. Okay.  
 15 Q. Do you know when you  
 16 purchased that?  
 17 A. You asked me already and I  
 18 don't remember.  
 19 Q. You don't remember.  
 20 Do you know, approximately,  
 21 how old it was when you brought it  
 22 to New York?  
 23 A. No.  
 24 Q. Okay.  
 25 When it was in your home --

1 Y. RAYMOND-WRIGHT  
 2 actually, strike that.  
 3 Was it ever -- did it ever  
 4 work -- did you ever use it while it  
 5 was in Norfolk before you brought it  
 6 to New York?  
 7 A. Yes.  
 8 Q. So it was hooked up in your  
 9 home?  
 10 A. Yes.  
 11 Q. Was it hooked up to the  
 12 internet?  
 13 A. Yes.  
 14 Q. And who used that computer?  
 15 A. Me and my husband.  
 16 Q. You and your husband?  
 17 A. Yeah. Maybe other people,  
 18 I don't recall.  
 19 Q. What other people may have  
 20 used the computer?  
 21 A. Friends.  
 22 Q. Okay.  
 23 So let's focus on you and  
 24 your husband. What is your  
 25 husband's name?

1 Y. RAYMOND-WRIGHT  
 2 A. Jean Paul Wright.  
 3 Q. And right now he is in  
 4 Chicago or is he deployed?  
 5 A. No, he's in Chicago.  
 6 Q. Okay.  
 7 And do you know what he  
 8 used the computer for?  
 9 A. No.  
 10 Q. Do you know how often he  
 11 used the computer?  
 12 A. No.  
 13 Q. Was it regularly?  
 14 A. I don't recall.  
 15 Q. Did you -- before you took  
 16 the computer from Virginia --  
 17 actually, strike that.  
 18 Was the computer that you  
 19 brought to New York your only  
 20 desktop computer?  
 21 A. Yes.  
 22 Q. Okay.  
 23 And was it hooked up  
 24 continuously from the time you  
 25 bought it until you brought it to

1 Y. RAYMOND-WRIGHT  
 2 New York?  
 3 A. Yes.  
 4 Q. And he used it once a week,  
 5 more than once a week?  
 6 A. I don't remember 'cause  
 7 he's normally overseas. He's at  
 8 work. So there's really -- probably  
 9 twice a month, if anything, if he  
 10 uses the computer.  
 11 Q. Okay.  
 12 And do you know what he  
 13 uses the computer for?  
 14 A. No.  
 15 Q. Do you know if he used the  
 16 internet?  
 17 A. Yes.  
 18 Q. Do you know if he used  
 19 e-mail?  
 20 A. Yes.  
 21 Q. Okay.  
 22 And you also said you also  
 23 used the computer?  
 24 A. Yes.  
 25 Q. What did you use the

1 Y. RAYMOND-WRIGHT  
 2 computer for?  
 3 A. Personal reasons.  
 4 Q. What are those?  
 5 A. On-line banking, research,  
 6 typing up my papers, e-mails, that's  
 7 basically it.  
 8 Q. Did the computer have  
 9 speakers?  
 10 A. Not that I know of.  
 11 Q. Did it make noise?  
 12 A. Yeah, of course.  
 13 Q. When it started up it made  
 14 the Microsoft noise?  
 15 A. Right.  
 16 Q. And it would periodically  
 17 have sound coming out?  
 18 A. Yeah.  
 19 Q. Did you ever hear music  
 20 coming from the computer?  
 21 A. My computer at home in  
 22 Norfolk, Virginia?  
 23 Q. Correct.  
 24 A. If I put a CD into the  
 25 computer, yeah.

1 Y. RAYMOND-WRIGHT  
 2 Q. Okay.  
 3 Other than physically  
 4 putting a CD into the drive of the  
 5 computer did music ever play on the  
 6 computer?  
 7 A. No.  
 8 Q. Do you know if there was  
 9 Kazaa on the computer?  
 10 A. What's that?  
 11 Q. It's -- well, do you know  
 12 if there was Kazaa on the computer?  
 13 Let's start with that.  
 14 A. I don't know what that is.  
 15 Q. Okay.  
 16 Do you know if there was  
 17 any peer-to-peer music system on the  
 18 computer?  
 19 A. I don't even know what that  
 20 is.  
 21 Q. Do you know if there was  
 22 any way to get music from the  
 23 internet using the computer?  
 24 A. Which computer?  
 25 Q. We are talking about the

1 Y. RAYMOND-WRIGHT  
 2 desktop computer that you had in  
 3 your home and that you brought to  
 4 New York in the summer of 2004?  
 5 A. No.  
 6 Q. To your knowledge, there  
 7 was no way to get music from the  
 8 internet on that computer?  
 9 A. That's correct.  
 10 Q. And other than listening to  
 11 music by physically putting a CD in  
 12 the drive there was no way to play  
 13 music on the computer?  
 14 A. No way.  
 15 Q. So the only way to play  
 16 music on the computer was when you  
 17 physically put a CD in there?  
 18 A. Correct.  
 19 Q. Do you know if your husband  
 20 ever used it to listen to music and  
 21 again I'm talking about the desktop  
 22 that you had in Norfolk and you  
 23 brought to New York?  
 24 A. Yes. The same way I use it  
 25 he uses it.

1 Y. RAYMOND-WRIGHT  
 2 Q. He would listen to CDs?  
 3 A. Correct.  
 4 Q. Okay.  
 5 Did he ever listen to music  
 6 over the internet?  
 7 A. No.  
 8 Q. Did you ever listen to  
 9 music over the internet?  
 10 A. No.  
 11 Q. Okay.  
 12 With your laptop did you  
 13 ever listen to music over the  
 14 internet?  
 15 A. Listen to music?  
 16 Q. Yes.  
 17 A. No.  
 18 Q. Did anyone else use your  
 19 laptop?  
 20 A. When?  
 21 Q. At anytime did anyone ever  
 22 use your laptop?  
 23 A. Yes.  
 24 Q. Who?  
 25 A. I don't recall. My college

1 Y. RAYMOND-WRIGHT  
 2 friends, various different people.  
 3 Q. Did your husband ever use  
 4 your laptop?  
 5 A. No, not really.  
 6 Q. Did any of your -- did your  
 7 brothers or your sister ever use  
 8 your laptop?  
 9 A. No.  
 10 Q. Okay.  
 11 And to your knowledge, did  
 12 anyone using your laptop ever listen  
 13 to music over the internet?  
 14 A. To my knowledge, no.  
 15 Q. Okay.  
 16 When you brought the  
 17 desktop computer from Norfolk to New  
 18 York did you only bring the tower?  
 19 A. Correct.  
 20 Q. You didn't bring any of the  
 21 peripherals, the speakers, the  
 22 monitor, or printer, or anything  
 23 like that?  
 24 A. No.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 And you didn't bring an  
 3 external hard drive?  
 4 A. I never owned one.  
 5 Q. Okay.  
 6 When you talked to your  
 7 family about this lawsuit, during  
 8 any conversation in which you talked  
 9 to your family about this lawsuit,  
 10 did you mention that during the  
 11 critical -- during the relevant  
 12 period of time, the summer of 2004,  
 13 you had your desktop from Virginia  
 14 hooked up in the house?  
 15 A. Did I tell them that?  
 16 Q. Did you ever discuss it?  
 17 A. I don't know.  
 18 Q. You don't know or you're  
 19 not sure if you discussed it with  
 20 them?  
 21 A. I'm not sure.  
 22 Q. Was your mother aware that  
 23 during the summer of 2004 your  
 24 desktop was connected?  
 25 A. My mother is hardly home.

1 Y. RAYMOND-WRIGHT  
 2 She doesn't know what goes on with  
 3 the computer.  
 4 Q. Does she know that the  
 5 desktop that had been in your home  
 6 that your brother took to repair --  
 7 did she know that that had stopped  
 8 working?  
 9 A. I'm not sure.  
 10 Q. Okay.  
 11 Did she know that you had  
 12 your laptop there?  
 13 A. I think so.  
 14 Q. You think so, okay.  
 15 And do you know -- I'm  
 16 sorry, I think you said she didn't  
 17 know when you brought your desktop  
 18 up from Virginia --  
 19 A. Okay.  
 20 Q. -- is that correct, to your  
 21 knowledge did she know whether you  
 22 brought your desktop?  
 23 A. To my knowledge she didn't  
 24 know.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 And again, just try to let  
 3 me finish the question.  
 4 A. Okay.  
 5 Q. And just to make sure we  
 6 got it, to your knowledge she did  
 7 not know?  
 8 A. No.  
 9 Q. Okay.  
 10 Did you ever speak with  
 11 Jean Lindor about this case?  
 12 A. My uncle?  
 13 Q. I think it's Jean Lindor,  
 14 Jr., your cousin?  
 15 A. Yes.  
 16 Q. And when did you speak with  
 17 Jean Lindor, Jr.?  
 18 A. Whenever he got subpoenaed.  
 19 Q. And how did you end up  
 20 speaking with him about this case?  
 21 A. I talked to him over the  
 22 phone.  
 23 Q. Did he call you?  
 24 A. My mother.  
 25 Q. You spoke about the

1 Y. RAYMOND-WRIGHT  
 2 subpoena that he received?  
 3 A. Yes.  
 4 Q. Okay.  
 5 And you spoke with him over  
 6 the phone?  
 7 A. Yes.  
 8 Q. Do you recall that  
 9 conversation?  
 10 A. I think it was a date that  
 11 they were trying to setup for me and  
 12 him all together. For him to come  
 13 up to New York instead of doing the  
 14 deposition in Connecticut. It was  
 15 along that line about me coming up  
 16 here because initially I was  
 17 supposed to try to do it again in  
 18 April during the same day that he  
 19 did it, except that he would have  
 20 did it in New York. And he asked  
 21 about the case 'cause he had no  
 22 knowledge about it and I told him to  
 23 Google it.  
 24 Q. And you were speaking  
 25 because he got the subpoena?

1 Y. RAYMOND-WRIGHT  
 2 A. Yes.  
 3 Q. Okay.  
 4 And if I understand your  
 5 testimony, he asked about the case  
 6 and again you just told him to  
 7 Google it?  
 8 A. Correct.  
 9 Q. Why didn't you provide him  
 10 any information about the case?  
 11 A. Because it was probably  
 12 better for him to look up his own  
 13 information and research it on his  
 14 own.  
 15 Q. Why is that better than you  
 16 explaining to him?  
 17 MR. BECKERMAN: I object.  
 18 Q. Okay.  
 19 Why is that better to you  
 20 than you explaining to him your  
 21 understanding of the case?  
 22 A. Because I don't feel like I  
 23 fully understand why the case is  
 24 pointed to my mother or anybody so.  
 25 MS. BURTON: Okay.

1 Y. RAYMOND-WRIGHT  
 2 Why don't we go ahead and  
 3 take a break.  
 4 (Whereupon, a short recess  
 5 was taken.)  
 6 Q. What are the e-mail  
 7 addresses that you've used in the  
 8 last five years?  
 9 A. A Yahoo account, an AOL  
 10 account, and maybe a hotmail  
 11 account.  
 12 Q. Do you still use the Yahoo  
 13 account?  
 14 A. Within the first year?  
 15 Q. Today do you still use the  
 16 Yahoo account?  
 17 A. Yes, I still use that one.  
 18 Q. Okay.  
 19 What is your Yahoo address?  
 20 A. Um, Y-A-Y-A-H-Q at Yahoo  
 21 dot com.  
 22 Q. How about the hotmail  
 23 address, do you still use your  
 24 hotmail account?  
 25 A. Yes.

1 Y. RAYMOND-WRIGHT  
 2 Q. And I'm sorry, is it  
 3 possible that it's Y-A-Y-A-G-Q?  
 4 A. H-Q.  
 5 Q. You are confident it's  
 6 Y-A-Y-A-H-Q?  
 7 A. Correct.  
 8 Q. At Yahoo dot com.  
 9 Do you still use your  
 10 hotmail?  
 11 A. Yes.  
 12 Q. And what is your hotmail  
 13 e-mail address?  
 14 A. Unique underscore ray at  
 15 hotmail dot com, Yanick underscore  
 16 ray at hotmail dot com. I haven't  
 17 used it in probably like three  
 18 years.  
 19 Q. Okay.  
 20 And what about your AOL?  
 21 A. I don't use it like that.  
 22 Q. You don't use AOL for  
 23 e-mail?  
 24 A. I use it, but it's not as  
 25 often or check it often, things like

1 Y. RAYMOND-WRIGHT  
 2 that.  
 3 Q. Okay.  
 4 What is your AOL e-mail  
 5 address?  
 6 A. Y-A-Y-A-H-Q at AOL.  
 7 Q. Did you ever use an e-mail  
 8 of Yanick underscore Wright?  
 9 A. Yes.  
 10 Q. And what was that?  
 11 A. When?  
 12 Q. Through what e-mail  
 13 provider?  
 14 A. Hotmail.  
 15 Q. It was hotmail?  
 16 A. Uh-huh.  
 17 Q. So you have Yanick  
 18 underscore Ray --  
 19 A. Which I haven't used in  
 20 three years.  
 21 Q. Okay.  
 22 And then Yanick underscore  
 23 Wright?  
 24 A. Which I established  
 25 currently.

1 Y. RAYMOND-WRIGHT  
 2 Q. Okay.  
 3 So that's your current  
 4 e-mail address?  
 5 A. Yeah, one of them.  
 6 Q. Okay.  
 7 So currently you use Yanick  
 8 underscore Wright and Y-A-Y-A-H-Q  
 9 are the two e-mail addresses you use  
 10 currently; is that correct?  
 11 A. I have more, but they're  
 12 not on the internet so.  
 13 Q. What do you mean they're  
 14 not on the internet?  
 15 A. Like the BlackBerry. I  
 16 have an e-mail account on that.  
 17 Q. Okay.  
 18 When did you establish the  
 19 Yanick Wright e-mail hotmail  
 20 account?  
 21 A. Um, sometime after 2002.  
 22 Q. Is that when you were  
 23 married?  
 24 A. Correct. And the ray was  
 25 probably stopped using in 2002.

1 Y. RAYMOND-WRIGHT  
 2 Q. You used the Yanick Ray in  
 3 2002, is that what you said?  
 4 A. I probably stopped using it  
 5 in 2002.  
 6 Q. Okay.  
 7 Have you used any other  
 8 e-mail addresses?  
 9 A. Besides the one I just told  
 10 you about with the BlackBerry?  
 11 Q. Correct.  
 12 A. Also Tmail.  
 13 Q. But neither the Tmail nor  
 14 the BlackBerry you used on the  
 15 computer?  
 16 A. Correct.  
 17 Q. On the computer, other than  
 18 Yanick Ray, Yanick Wright,  
 19 Y-A-Y-A-H-Q are there any other  
 20 e-mail addresses you used on a  
 21 computer?  
 22 A. Yes, but I'm not sure when  
 23 I stopped using that one. It's  
 24 Unique0705 at Yahoo dot com.  
 25 Q. Does that have some

1 Y. RAYMOND-WRIGHT  
 2 significant to you the 0705?  
 3 A. My birthday, July 5th.  
 4 Q. July 5th is your birthday?  
 5 A. Correct.  
 6 Q. Okay.  
 7 Do you use that e-mail  
 8 address currently?  
 9 A. No.  
 10 Q. Do you know when you set it  
 11 up?  
 12 A. When, no.  
 13 Q. Do you know if it's in the  
 14 last five years?  
 15 A. I don't remember -- I'm  
 16 sorry, other e-mail addresses, I  
 17 just want to indicate school related  
 18 accounts.  
 19 Q. You have IED accounts?  
 20 A. Yes.  
 21 Q. How many addresses did you  
 22 have in Norfolk, Virginia?  
 23 A. How many addresses?  
 24 Q. Yes.  
 25 MR. BECKERMAN: I object to

1 Y. RAYMOND-WRIGHT  
 2 the form of the question.  
 3 A. Three to five home  
 4 addresses.  
 5 Q. Home addresses.  
 6 So you moved three to five  
 7 times while you were in Norfolk,  
 8 Virginia between 2001 to 2005?  
 9 A. Correct.  
 10 Q. Okay.  
 11 And in any of the homes  
 12 that you lived in Norfolk, Virginia  
 13 who lived in those homes?  
 14 A. Okay, the first one wasn't  
 15 a home. I lived on campus. The  
 16 second one was a rooming house. The  
 17 third one was like a friend. The  
 18 fourth one was me and my husband.  
 19 And the fifth one was me and my  
 20 husband.  
 21 Q. When did you get a home for  
 22 you and your husband?  
 23 A. 2002.  
 24 Q. Okay.  
 25 A. September of 2002.

1 Y. RAYMOND-WRIGHT  
 2 Q. In September of 2002 you  
 3 and your husband moved into a home  
 4 together?  
 5 A. Correct.  
 6 Q. And then he moved one time  
 7 after that?  
 8 A. Correct.  
 9 Q. And then you left Norfolk?  
 10 A. Correct.  
 11 Q. Okay.  
 12 So the first time you lived  
 13 with your husband starting in  
 14 September of 2002 did anyone else  
 15 live there?  
 16 A. Lived there more than  
 17 thirty days, depends.  
 18 Q. What do you mean "depends?"  
 19 A. Meaning, I probably had a  
 20 few friends stay over probably for  
 21 two weeks, seven days, thirty days.  
 22 Q. Did any of your family  
 23 members come and stay for more than  
 24 two days?  
 25 A. Yes.

1 Y. RAYMOND-WRIGHT  
 2 Q. Okay.  
 3 Did your brother come and  
 4 stay for more than a couple of days?  
 5 A. No.  
 6 Q. Did your sister?  
 7 A. Yes.  
 8 Q. Did your -- I'm sorry, do  
 9 you have two brothers?  
 10 A. Yes, I do.  
 11 Q. Okay.  
 12 So did your brother Woody  
 13 come and stay for more than two  
 14 days?  
 15 A. No.  
 16 Q. And I'm sorry, what is the  
 17 name of your other brother?  
 18 A. Carl.  
 19 Q. Carl, did he come and stay  
 20 at all?  
 21 A. No.  
 22 Q. Did either of them come and  
 23 visit you?  
 24 A. No.  
 25 Q. But Kathleen did come and

1 Y. RAYMOND-WRIGHT  
 2 visit?  
 3 A. Correct.  
 4 Q. And do you know how long  
 5 she stayed for?  
 6 A. Probably two weeks to three  
 7 months, depends.  
 8 Q. Did she come on more than  
 9 one occasion?  
 10 A. Yes.  
 11 Q. And she would stay anywhere  
 12 from two weeks to three months?  
 13 A. Correct.  
 14 Q. Did she use the computer  
 15 while she was there?  
 16 A. I guess so, yes.  
 17 Q. And she could have used the  
 18 hard drive -- the computer you then  
 19 took to New York?  
 20 A. Would she have used that  
 21 computer -- that's the thing, I  
 22 don't recall because I don't  
 23 remember when I got the computer.  
 24 Q. Okay.  
 25 And did any of your cousins

1 Y. RAYMOND-WRIGHT  
 2 come and visit you in the first home  
 3 you lived with your husband in  
 4 Norfolk, Virginia?  
 5 A. Cousins?  
 6 Q. Yes.  
 7 A. No.  
 8 Q. Did Gustave Lindor, Jr.  
 9 come and visit you?  
 10 A. No.  
 11 Q. Did he ever come and visit  
 12 you in Norfolk, Virginia?  
 13 A. Yes.  
 14 Q. When did he come and visit  
 15 you in Norfolk, Virginia?  
 16 A. I don't remember.  
 17 Q. Which house were you living  
 18 in?  
 19 A. The first one.  
 20 Q. The first one, okay.  
 21 How long did he stay?  
 22 A. I don't remember.  
 23 Q. Was it more than two days?  
 24 A. Probably.  
 25 Q. More than a week?

1 Y. RAYMOND-WRIGHT  
 2 A. More than a week, yes.  
 3 Q. More than a month?  
 4 A. No.  
 5 Q. Do you know if he ever used  
 6 the computer in your home?  
 7 A. I don't recall if I ever  
 8 had a computer in the first home.  
 9 Q. Okay.  
 10 A. I'm not really sure.  
 11 Q. Okay.  
 12 And then do you know when  
 13 you moved into your second home in  
 14 Norfolk, Virginia?  
 15 A. I think it was the end of  
 16 2004.  
 17 Q. After the birth of your  
 18 first child?  
 19 A. Correct.  
 20 Q. Okay.  
 21 Did Kathleen come visit you  
 22 there?  
 23 A. At the second home?  
 24 Q. At the second home.  
 25 A. Yes.

1 Y. RAYMOND-WRIGHT  
 2 Q. Did she stay for extended  
 3 periods of time again?  
 4 A. Probably at that time she  
 5 stayed for three days.  
 6 Q. Did Gustave Lindor, Jr.  
 7 ever visit you in your second home  
 8 in Norfolk, Virginia?  
 9 A. No.  
 10 Q. Okay.  
 11 So how many times has  
 12 Gustave Lindor, Jr. visited you  
 13 while you were living anywhere,  
 14 other than your mother's home in New  
 15 York?  
 16 A. How many times he came to  
 17 my home in Virginia?  
 18 Q. Any home other than your  
 19 mother's home in New York?  
 20 A. Probably twice.  
 21 Q. Okay.  
 22 At one time was in the  
 23 first home you had with your husband  
 24 some time after September 2002 and  
 25 before the end of 2004?



1 Y. RAYMOND-WRIGHT  
 2 A. Correct.  
 3 Q. And when was the other  
 4 time?  
 5 A. Probably -- I don't recall.  
 6 I do recall the first time, but not  
 7 the second time. I don't know.  
 8 Q. Okay.  
 9 Was it in Virginia?  
 10 A. Yes.  
 11 Q. Okay.  
 12 Has he ever visited you  
 13 while you were -- oh, I guess you  
 14 just moved to Chicago -- strike  
 15 that.  
 16 And on both times that he  
 17 came and visited you he stayed for  
 18 more than a week; is that correct?  
 19 A. The first time was more  
 20 than a week. The second time I  
 21 don't recall.  
 22 Q. You don't recall how long  
 23 it was?  
 24 A. No.  
 25 Q. Do you know whether it was

1 Y. RAYMOND-WRIGHT  
 2 more or less than a month?  
 3 A. It was less than a month.  
 4 Q. On both occasions was it  
 5 less than a month?  
 6 A. Yes.  
 7 Q. Okay.  
 8 Why did Gustave Lindor, Jr.  
 9 come and visit you the first time?  
 10 A. To visit the State of  
 11 Virginia.  
 12 Q. And you may have answered  
 13 this, but do you know whether he  
 14 used a computer in your home?  
 15 A. In the first home I don't  
 16 recall that.  
 17 Q. In either of the times he  
 18 came to visit you did he use a  
 19 computer?  
 20 A. In my home?  
 21 Q. In your home?  
 22 A. No, I don't recall.  
 23 Q. Do you know that he did not  
 24 or you just don't remember one way  
 25 or the other?

1 Y. RAYMOND-WRIGHT  
 2 A. I don't remember if there  
 3 was one in my home at the time frame  
 4 he was there.  
 5 Q. Okay.  
 6 So your cousin, Gustave  
 7 Lindor, Jr., came and visited you on  
 8 two occasions. Your sister Kathleen  
 9 has come on various occasions to  
 10 your homes in Norfolk, Virginia.  
 11 Did anyone else come and visit you  
 12 -- any other -- -- strike that.  
 13 Any other family member  
 14 come and stay with you in your home  
 15 in Norfolk, Virginia?  
 16 A. I remember, yes.  
 17 Q. Which other family members?  
 18 A. On my husband's side.  
 19 Q. Okay.  
 20 Did anyone else from your  
 21 side of the family come and stay  
 22 with you at your homes in Norfolk,  
 23 Virginia?  
 24 A. Not that I recall.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 And you refer to your  
 3 cousin, Gustave Lindor, Jr., as  
 4 Junior Lindor?  
 5 A. No, I don't.  
 6 Q. What do you call him?  
 7 A. JuJu (phonetic spelling),  
 8 that's his nickname that I gave him.  
 9 I don't know.  
 10 Q. Earlier I think you said  
 11 when you were naming people you  
 12 referred to Junior?  
 13 A. Yes.  
 14 Q. But you don't call him  
 15 that?  
 16 A. Not on a regular basis, no.  
 17 But for this purpose, yes.  
 18 Q. Okay.  
 19 And I believe you said that  
 20 Gustave Lindor, Jr. has never been  
 21 to your mother's house in New York  
 22 to your knowledge?  
 23 MR. BECKERMAN: Objection.  
 24 A. That's not what I said.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 Can you tell me whether  
 3 your cousin, Gustave Lindor, Jr.,  
 4 has been to your mother's home in  
 5 New York to your knowledge?  
 6 MR. BECKERMAN: Objection,  
 7 asked and answered.  
 8 A. When he was younger.  
 9 Q. Not in the last ten years?  
 10 A. Not in the last five years.  
 11 Q. Not in the last five years,  
 12 okay.  
 13 He didn't come and see you  
 14 after the birth of your child?  
 15 A. Not in the home, no.  
 16 Q. Not in your mother's home?  
 17 A. Correct.  
 18 Q. Okay.  
 19 And when you were there for  
 20 the summer -- the various times over  
 21 the summer of 2004 he never came and  
 22 visited you in your mother's home?  
 23 A. No.  
 24 Q. Okay.  
 25 There were never any family

1 Y. RAYMOND-WRIGHT  
 2 gatherings?  
 3 A. No, not in the home.  
 4 Q. Not in the home.  
 5 Where were the family  
 6 gatherings?  
 7 A. Various places.  
 8 Q. Can you tell me where?  
 9 A. What do you mean, the name  
 10 of the location?  
 11 Q. Was it another family  
 12 member's home?  
 13 A. A restaurant, the park,  
 14 stuff like that. Or a friend's  
 15 house, yes.  
 16 Q. But there were never any  
 17 family gatherings while you were in  
 18 New York during the summer of 2004  
 19 in any of your family members homes  
 20 to your knowledge?  
 21 A. Not in any homes, no.  
 22 Q. Okay.  
 23 I think you said you were  
 24 in school in Norfolk and forgive me  
 25 you did tell me this, but where were

1 Y. RAYMOND-WRIGHT  
 2 you in school?  
 3 A. Norfolk State University.  
 4 Q. And what were you studying?  
 5 A. Sociology, criminal  
 6 justice.  
 7 Q. Did you take any computer  
 8 classes while you were there?  
 9 A. Yes.  
 10 Q. What computer classes did  
 11 you take?  
 12 A. I don't recall.  
 13 Q. Were they programing  
 14 classes?  
 15 A. No.  
 16 Q. They were basic computer  
 17 classes?  
 18 A. Most likely.  
 19 Q. Did they teach the  
 20 Microsoft Suite of products?  
 21 A. Um, yes.  
 22 Q. Any classes on the use of  
 23 the internet?  
 24 A. No.  
 25 Q. Any classes in which use of

1 Y. RAYMOND-WRIGHT  
 2 the internet was discussed?  
 3 A. No.  
 4 Q. Okay.  
 5 Did you ever take any music  
 6 classes?  
 7 A. Related to computers or  
 8 just music courses?  
 9 Q. Generally.  
 10 A. No.  
 11 Q. Have you ever taken any law  
 12 related classes?  
 13 A. Yes.  
 14 Q. Did you obtain a degree at  
 15 Norfolk State University?  
 16 A. Yes.  
 17 Q. What degree did you get?  
 18 A. Bachelor's in art.  
 19 Q. Do you have any  
 20 schooling -- do you have any higher  
 21 schooling than a bachelor's in art,  
 22 any additional schooling?  
 23 A. Yes, I'm just currently  
 24 going to school. I haven't obtained  
 25 anything.

1 Y. RAYMOND-WRIGHT  
 2 Q. And where are you going to  
 3 school?  
 4 A. In a school in Illinois.  
 5 Q. What school is that?  
 6 A. College of Lake County.  
 7 Q. What are you studying?  
 8 A. Substance abuse.  
 9 Q. You're studying substance  
 10 abuse?  
 11 A. Correct.  
 12 Q. What does that mean?  
 13 A. Um, basically counselor of  
 14 substance abuse, the various aspects  
 15 of it.  
 16 Q. And are you working outside  
 17 the home now?  
 18 A. Currently?  
 19 Q. Yes.  
 20 A. As of today?  
 21 Q. As of today.  
 22 A. No.  
 23 Q. And I know you said you  
 24 just moved to Chicago in the last  
 25 couple of months; is that right?

1 Y. RAYMOND-WRIGHT  
 2 A. Yes.  
 3 Q. Before moving to Chicago  
 4 were you working outside the home?  
 5 A. Yes.  
 6 Q. What were you doing?  
 7 A. Different jobs.  
 8 Q. What was the job that was  
 9 your last job?  
 10 A. My last job -- I worked two  
 11 jobs. You want me to just --  
 12 Q. Please.  
 13 A. First I worked for a  
 14 company that I was a Medicaid  
 15 waiver. I guess, counselor, like  
 16 that. The second job I was a  
 17 supervisor in a woman's shelter.  
 18 Q. How long did you have those  
 19 jobs?  
 20 A. One for about a year. The  
 21 second one for a couple of months.  
 22 Q. At any of your jobs since  
 23 finishing high school have you used  
 24 a computer?  
 25 A. Since finishing high

1 Y. RAYMOND-WRIGHT  
 2 school?  
 3 Q. Yes.  
 4 A. Yes.  
 5 Q. What jobs were those?  
 6 A. That I used a computer?  
 7 Q. Yeah.  
 8 A. Both jobs.  
 9 Q. In all the jobs you've  
 10 held?  
 11 A. Every single one.  
 12 Q. Okay.  
 13 Do you have any music  
 14 related jobs?  
 15 A. No.  
 16 Q. At any of your jobs did you  
 17 access the internet at work?  
 18 A. Yes.  
 19 Q. At the jobs you most  
 20 recently held did you access the  
 21 internet at work?  
 22 A. Yes.  
 23 Q. What did you use the  
 24 internet for?  
 25 A. For resource purpose.

1 Y. RAYMOND-WRIGHT  
 2 Q. Research purpose?  
 3 A. Resource.  
 4 Q. And could you explain what  
 5 you mean by that?  
 6 A. Anything on disability, New  
 7 York State Department of Labor,  
 8 referrals with disability programs,  
 9 um, Department of Housing, that's  
 10 about it.  
 11 Q. Were you provided at any of  
 12 the jobs you've held since high  
 13 school -- did you ever have to use  
 14 your own personal computer or did  
 15 you have to use a work provided  
 16 computer?  
 17 A. Work provided.  
 18 Q. Okay.  
 19 And the laptop that you had  
 20 in Virginia and that you brought to  
 21 New York was that your personal  
 22 laptop?  
 23 A. Correct.  
 24 Q. Okay.  
 25 Have you ever listened to

1 Y. RAYMOND-WRIGHT  
 2 music on a computer at work at any  
 3 of your jobs?  
 4 A. No.  
 5 Q. On the desktop that you  
 6 brought to your mother's home from  
 7 Virginia, your desktop, did it have  
 8 user names?  
 9 A. I think so.  
 10 Q. Do you know what user names  
 11 there were?  
 12 A. Just me and my husband.  
 13 Q. Okay.  
 14 Were they password  
 15 protected?  
 16 A. Most likely.  
 17 Q. Most likely?  
 18 A. Yeah.  
 19 Q. Okay.  
 20 Do you know when you logged  
 21 onto your computer, and I'm speaking  
 22 of the desktop, did you click on an  
 23 icon that had your name?  
 24 A. Yes.  
 25 Q. And then did it open up

1 Y. RAYMOND-WRIGHT  
 2 immediately or did you have to  
 3 type --  
 4 A. No. Most likely mine would  
 5 have password.  
 6 Q. Yours would have a password  
 7 and your husband's would not have a  
 8 password?  
 9 A. Right.  
 10 Q. Okay.  
 11 And did anyone else know  
 12 your password?  
 13 A. No.  
 14 Q. How did your sister  
 15 Kathleen log onto your computer,  
 16 your desktop computer?  
 17 A. Probably using my husband's  
 18 or I'll log her in if she needed to  
 19 use mine.  
 20 Q. Okay.  
 21 You did not give her your  
 22 password?  
 23 A. No.  
 24 Q. Okay.  
 25 Did Woody ever use your

1 Y. RAYMOND-WRIGHT  
 2 computer?  
 3 A. The desktop, no.  
 4 Q. Did he ever use the laptop?  
 5 A. In the home or?  
 6 Q. Anywhere.  
 7 A. Not that I know of.  
 8 Q. Okay.  
 9 And your sister, Kathleen,  
 10 did she ever use the laptop?  
 11 A. Occasionally.  
 12 Q. And was the laptop password  
 13 protected?  
 14 A. Most likely.  
 15 Q. On the desktop computer did  
 16 you ever see Kazaa on it?  
 17 A. On the desktop computer?  
 18 Q. Yes.  
 19 A. I don't know what that is.  
 20 Q. Okay.  
 21 Then let me backup a little  
 22 bit. You said earlier that you  
 23 discussed this lawsuit with a lot of  
 24 people in your family, your sister,  
 25 your brother?

1 Y. RAYMOND-WRIGHT  
 2 A. As far as depositions.  
 3 Q. Okay.  
 4 You also said you Googled  
 5 (sic) --  
 6 A. Yes.  
 7 Q. -- your mother's name to  
 8 find out information about the  
 9 lawsuit?  
 10 A. Right, correct.  
 11 Q. And you knew the lawsuit  
 12 was about downloading music?  
 13 A. Before Googling (sic) it.  
 14 Q. Before Googling (sic) it  
 15 and certainly after Googling (sic)  
 16 it?  
 17 A. Yes.  
 18 Q. Now, when you Googled (sic)  
 19 it -- I'm just a little confused you  
 20 say you never heard of Kazaa, but  
 21 you Googled (sic) this lawsuit there  
 22 was no discussion of Kazaa in any of  
 23 the articles you read?  
 24 A. I just remember reading  
 25 something about P2P on the internet.

1 Y. RAYMOND-WRIGHT  
 2 I just remember reading something  
 3 about P2P networking, but this was a  
 4 while ago when I Googled (sic) it.  
 5 It wasn't recent in 2007 or 2008. I  
 6 didn't see any reason to look for it  
 7 after the past.  
 8 Q. Okay.  
 9 So you don't recall whether  
 10 any of the articles you read  
 11 mentioned Kazaa?  
 12 A. Correct.  
 13 Q. But you know they mentioned  
 14 peer-to-peer network?  
 15 A. Correct.  
 16 Q. You're just not sure which  
 17 one?  
 18 A. Correct.  
 19 Q. Okay.  
 20 Do you know if any of the  
 21 articles mentioned the user name JR  
 22 Lindor?  
 23 A. Never heard of anything  
 24 about it.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 It's just sort of --  
 3 MR. BECKERMAN: Objection.  
 4 MS. BURTON: Really.  
 5 A. Are you making a statement  
 6 that the article actually had JR  
 7 Lindor in it.  
 8 Q. I'm not making any  
 9 statement. I'm just trying to  
 10 understand how many articles did you  
 11 read when you Googled (sic) it?  
 12 A. I don't remember 'cause it  
 13 was before 2007 so I really don't  
 14 remember.  
 15 Q. Do you know if it was more  
 16 than one --  
 17 A. Probably.  
 18 Q. -- when you did you type in  
 19 the name Marie Lindor?  
 20 A. Yes.  
 21 Q. How many results did you  
 22 get to the best of your memory?  
 23 A. A full page.  
 24 Q. Did you click on all of  
 25 them?

1 Y. RAYMOND-WRIGHT  
 2 A. No.  
 3 Q. How many did you click on?  
 4 A. Probably the first two.  
 5 Q. The first two and were  
 6 either of them Mr. Beckerman's blog  
 7 that he maintains as "Recording  
 8 Industry verses The People?"  
 9 A. I'm not sure.  
 10 Q. Okay.  
 11 Were you aware that  
 12 Mr. Beckerman maintains a blog  
 13 called "Reporting Industry verses  
 14 The People?"  
 15 A. Do I recall it?  
 16 Q. Are you aware?  
 17 A. I am now.  
 18 Q. Just from me saying it?  
 19 A. Yes.  
 20 Q. Were you aware just prior  
 21 to me telling you a second ago?  
 22 A. No.  
 23 Q. No, you were not aware?  
 24 A. No.  
 25 Q. Okay.

1 Y. RAYMOND-WRIGHT  
 2 And to your knowledge have  
 3 you ever visited Mr. Beckerman's  
 4 blog?  
 5 A. To my knowledge I really  
 6 don't remember. I do remember  
 7 seeing something once you stated it.  
 8 It's blog statements made, I guess,  
 9 by other individuals about the case.  
 10 That's about it. So I don't know if  
 11 it's a blog related to  
 12 Mr. Beckerman.  
 13 Q. Okay.  
 14 So the sites you visited --  
 15 and you said at least two you  
 16 visited?  
 17 A. Uh-huh.  
 18 Q. And were they articles  
 19 followed by comments by individuals?  
 20 A. Yes.  
 21 Q. Okay.  
 22 But you don't know whether  
 23 any of these articles or comments  
 24 that you read referenced Kazaa or JR  
 25 Lindor?

1 Y. RAYMOND-WRIGHT  
 2 A. No.  
 3 Q. Did you know what a  
 4 peer-to-peer network is?  
 5 A. As of today or during the  
 6 time of the article?  
 7 Q. When you read the article?  
 8 A. No.  
 9 Q. Were you curious?  
 10 A. I don't recall.  
 11 Q. Were you -- well, you read  
 12 articles about your mother's lawsuit  
 13 and they mentioned that it involved  
 14 downloading music on the internet  
 15 and it mentioned that it involved  
 16 peer-to-peer networking, correct?  
 17 A. Yes.  
 18 Q. And yet you didn't know  
 19 what a peer-to-peer network was?  
 20 A. No.  
 21 Q. And you didn't make any  
 22 inquiries to find out what it was?  
 23 A. No. During that time I  
 24 really don't recall if I did or  
 25 didn't.

1 Y. RAYMOND-WRIGHT  
 2 Q. Okay.  
 3 And you didn't -- do you  
 4 know if you made any inquiries to  
 5 determine what peer-to-peer network  
 6 is?  
 7 A. During that time frame of  
 8 the first time I read the articles,  
 9 no.  
 10 Q. At anytime did you make an  
 11 inquiry as to what peer-to-peer  
 12 network was at issue?  
 13 A. Yes.  
 14 Q. And when was that?  
 15 A. Probably recently.  
 16 Q. How recently?  
 17 A. Last year.  
 18 Q. Last year in 2007?  
 19 A. Correct.  
 20 Q. Okay.  
 21 And what did you learn?  
 22 MR. BECKERMAN: I am going  
 23 to object to this line of  
 24 questioning I don't see how it  
 25 could lead to evidence of any

1 Y. RAYMOND-WRIGHT  
 2 kind.  
 3 MS. BURTON: Okay.  
 4 Q. What did you learn?  
 5 A. Um, I guess like various  
 6 programs where you download music  
 7 and I guess you click a box or  
 8 something and it comes up that other  
 9 people can share basically whatever  
 10 you download.  
 11 Q. And you learned about  
 12 various peer-to-peer programs?  
 13 A. I asked a friend, yeah.  
 14 Q. You asked a friend.  
 15 Who did you ask?  
 16 MR. BECKERMAN: Can I have  
 17 a continuing objection to the  
 18 questioning about her  
 19 investigation of what  
 20 peer-to-peer networking is.  
 21 MS. BURTON: Absolutely.  
 22 MR. BECKERMAN: Okay.  
 23 I have a continuing  
 24 objection.  
 25 Q. Who did you ask?

1 Y. RAYMOND-WRIGHT  
 2 A. Just a friend.  
 3 Q. Which friend?  
 4 A. What do you mean "which  
 5 friend?"  
 6 Q. Which friend?  
 7 A. Just somebody that I know  
 8 who knows about computers.  
 9 Q. And what is the name of  
 10 this person?  
 11 MR. BECKERMAN: Objection.  
 12 A. I don't really want to  
 13 involve other people in this case  
 14 'cause they really don't have  
 15 nothing to do with it.  
 16 Q. I appreciate that.  
 17 What is his name?  
 18 A. Emanuel Lewis (phonetic  
 19 spelling).  
 20 MR. BECKERMAN: Objection.  
 21 This is a pro se litigant and  
 22 I'm going to tell you you have a  
 23 right to object just as I have a  
 24 right to object.  
 25 THE WITNESS: Okay.

1 Y. RAYMOND-WRIGHT  
 2 MR. OPPENHEIM: Mr.  
 3 Beckerman, that's not accurate.  
 4 And unless she is your client  
 5 you shouldn't be rendering legal  
 6 advice to her during a  
 7 deposition. That's inaccurate.  
 8 MR. BECKERMAN: Well, you  
 9 shouldn't be asking her improper  
 10 questions.  
 11 MR. OPPENHEIM: It's not an  
 12 improper question.  
 13 MR. BECKERMAN: She is a  
 14 pro se litigant and should have  
 15 some shred of human decency --  
 16 MR. OPPENHEIM: It has  
 17 nothing to do with human  
 18 decency.  
 19 MR. BECKERMAN: I know it  
 20 has nothing to do with human  
 21 decency.  
 22 MR. OPPENHEIM:  
 23 Mr. Beckerman, please.  
 24 MS. BURTON: Your objection  
 25 is noted.

1 Y. RAYMOND-WRIGHT  
 2 Q. What is his name?  
 3 A. Emanuel Lewis.  
 4 Q. Emanuel Lewis?  
 5 A. Correct.  
 6 Q. Does he live in Norfolk,  
 7 Virginia?  
 8 A. No.  
 9 Q. Where does he live?  
 10 A. I don't recall as of today.  
 11 Q. Where did he live at the  
 12 time you spoke to him?  
 13 A. Probably in Georgia.  
 14 Q. Was he in the military at  
 15 the time?  
 16 A. Is that person in the  
 17 military?  
 18 Q. Is Emanuel Lewis in the  
 19 military?  
 20 A. No.  
 21 Q. Okay.  
 22 But he was living in  
 23 Georgia at the time you spoke to  
 24 him?  
 25 A. Correct.

1 Y. RAYMOND-WRIGHT  
 2 Q. And he works with  
 3 computers?  
 4 A. He knows about computers.  
 5 Q. Okay.  
 6 And you called him and you  
 7 asked him about peer-to-peer  
 8 networks?  
 9 A. Yes.  
 10 Q. And that was sometime in  
 11 2007?  
 12 A. Probably.  
 13 Q. And he told you about  
 14 various peer-to-peer networks?  
 15 A. Yes.  
 16 Q. Did he mention Kazaa?  
 17 A. I don't think so.  
 18 Q. Which peer-to-peer networks  
 19 did he mention to your knowledge?  
 20 A. LimeWire, BearShare, I  
 21 don't remember -- just only those  
 22 two.  
 23 Q. And what did he say?  
 24 A. Oh, actually, Rap City.  
 25 Something like that. And that's

1 Y. RAYMOND-WRIGHT  
 2 about it.  
 3 Q. Did you discuss  
 4 peer-to-peer networking with anyone  
 5 else other than Emanuel Lewis?  
 6 A. No.  
 7 Q. No one in your family?  
 8 A. I didn't see a reason to.  
 9 Q. When you were discussing  
 10 this lawsuit with various members of  
 11 your family and you knew the lawsuit  
 12 was about peer-to-peer networks you  
 13 didn't ask any of them about  
 14 peer-to-peer networks?  
 15 A. I didn't see a reason to.  
 16 Q. But did you ask them?  
 17 A. No.  
 18 Q. Did you ask Junior about  
 19 peer-to-peer networks?  
 20 A. No.  
 21 Q. Did you ask Junior whether  
 22 he had ever used a peer-to-peer  
 23 network?  
 24 A. No.  
 25 Q. Did you ask Woody about

1 Y. RAYMOND-WRIGHT  
 2 peer-to-peer networks?  
 3 A. No.  
 4 Q. Did you ask whether Woody  
 5 had ever used a peer-to-peer  
 6 network?  
 7 A. Have I ever asked them him  
 8 that?  
 9 Q. Yes.  
 10 A. No.  
 11 Q. I'm sort of -- that's fine.  
 12 It's just sort of surprising to me  
 13 your mom is getting sued and you --  
 14 MR. BECKERMAN: I object to  
 15 you constantly making  
 16 statements.  
 17 MS. BURTON: Okay.  
 18 MR. BECKERMAN: I want to  
 19 tell you the magistrate judge is  
 20 in this building. So if you  
 21 feel there is a question that  
 22 you think is improper we can  
 23 always go to the magistrate and  
 24 take it up with him.  
 25 THE WITNESS: Okay.

1 Y. RAYMOND-WRIGHT  
 2 MR. BECKERMAN: But you are  
 3 not required to answer any  
 4 questions if they're improper  
 5 questions. You are entitled to  
 6 object. Just 'cause you can't  
 7 afford an attorney doesn't mean  
 8 you don't have the right to do  
 9 the same things an attorney  
 10 would do. You are representing  
 11 yourself and you have the right  
 12 to do those things.  
 13 THE WITNESS: Okay.  
 14 MS. BURTON: And although  
 15 an attorney could object at a  
 16 deposition, generally you are  
 17 required to answer all questions  
 18 that are not attorney/client  
 19 privilege.  
 20 MR. BECKERMAN: Generally,  
 21 it would be up to the  
 22 magistrate. Generally, if  
 23 someone refuses to answer it's  
 24 up to the magistrate whether  
 25 it's a proper question or not.

1 Y. RAYMOND-WRIGHT  
 2 The magistrate is in this  
 3 building. We are going to be  
 4 seeing him in a little while and  
 5 you can bring anything up to  
 6 him.  
 7 THE WITNESS: I have to  
 8 see him too?  
 9 Q. No, you don't.  
 10 MR. BECKERMAN: You don't  
 11 have to see him.  
 12 Q. Why did you sell the  
 13 desktop computer that you brought to  
 14 New York?  
 15 A. 'Cause I was moving.  
 16 Q. And did you have another  
 17 desktop computer?  
 18 A. Most likely.  
 19 Q. You don't know whether you  
 20 had another desktop computer?  
 21 A. Most likely, meaning, yes.  
 22 Q. You did have another  
 23 desktop computer?  
 24 A. Not during the time of the  
 25 sale or anything like that, but I'm

1 Y. RAYMOND-WRIGHT  
 2 sure I had some use or access to  
 3 something.  
 4 Q. And you said your  
 5 husband -- I'm sorry.  
 6 Did your husband use your  
 7 laptop computer?  
 8 A. I don't recall.  
 9 Q. Okay.  
 10 I am just wondering if you  
 11 didn't have another desktop computer  
 12 why you sold?  
 13 A. Maybe at that time he was  
 14 on deployment, maybe he was in Iraq.  
 15 Who knows. I don't remember what he  
 16 does 'cause I don't know -- I just  
 17 don't recall what he does. I just  
 18 know what I do.  
 19 Q. Okay.  
 20 But you sold your desktop  
 21 computer and you are not sure that  
 22 if the time you sold it at the  
 23 garage sale you had another desktop?  
 24 A. Correct.  
 25 Q. Okay.



1 Y. RAYMOND-WRIGHT  
 2 And the desktop that you  
 3 sold was the one that you took to  
 4 New York?  
 5 A. Uh-huh.  
 6 Q. It was a computer you used  
 7 regularly, correct?  
 8 A. Most likely.  
 9 Q. And you said you used it  
 10 for school papers?  
 11 A. Yes.  
 12 Q. Research?  
 13 A. Yes.  
 14 Q. E-mail?  
 15 A. Yes.  
 16 Q. Banking?  
 17 A. Correct.  
 18 Q. Did you transfer any files  
 19 before you sold it?  
 20 A. Yes.  
 21 Q. And where did you transfer  
 22 those files to?  
 23 A. One of those flash things,  
 24 flash cards.  
 25 Q. You transferred it to a

1 Y. RAYMOND-WRIGHT  
 2 flash drive?  
 3 A. Uh-huh.  
 4 Q. And what did you do with  
 5 that flash drive?  
 6 A. Probably downloaded it do  
 7 laptop or the next desktop.  
 8 Q. Okay.  
 9 You know you transferred it  
 10 to something?  
 11 A. Most likely.  
 12 Q. Okay.  
 13 Do you still have that  
 14 flash drive?  
 15 A. No.  
 16 Q. What happened to it?  
 17 A. I don't recall.  
 18 Q. When is the last time you  
 19 are aware of having that flash  
 20 drive?  
 21 A. I don't remember.  
 22 Q. Okay.  
 23 Did you have it when you  
 24 moved from Norfolk?  
 25 A. In 2005? Which year 'cause

1 Y. RAYMOND-WRIGHT  
 2 I moved back and forth?  
 3 Q. In your most recent move.  
 4 I think you said it was in 2008.  
 5 A. Correct.  
 6 Q. Did you have a flash drive?  
 7 A. When I moved from Norfolk  
 8 in 2008 -- I moved there in 2005 --  
 9 I moved from there in 2005. I moved  
 10 out of New York in 2008.  
 11 Q. I'm sorry.  
 12 Did you have the flash  
 13 drive when you moved out of Norfolk  
 14 in 2005?  
 15 A. I don't remember.  
 16 Q. Did you have the flash  
 17 drive when you were in New York  
 18 between 2005 and 2008?  
 19 A. I don't think so.  
 20 Q. Okay.  
 21 And you don't know what  
 22 happened to it?  
 23 A. I wouldn't have no reason  
 24 to have it once I downloaded what  
 25 was needed so.

1 Y. RAYMOND-WRIGHT  
 2 Q. Well, they can be reused.  
 3 A. Well, it's only \$10 so it  
 4 could easily be bought.  
 5 Q. So it just disappeared?  
 6 A. Most likely.  
 7 Q. Okay.  
 8 Did you ever burn CDs on  
 9 the desktop that you took to New  
 10 York?  
 11 A. No.  
 12 Q. You never made any copies  
 13 of CDs for your car or family and  
 14 friends?  
 15 MR. BECKERMAN: Objection,  
 16 asked and answered.  
 17 A. No.  
 18 Q. Okay.  
 19 Did you ever see any  
 20 members of your family make copies  
 21 of CDs?  
 22 A. No.  
 23 Q. Did you ever see any  
 24 members of your family make CD  
 25 covers?

1 Y. RAYMOND-WRIGHT  
 2 A. No.  
 3 Q. Did you ever use the  
 4 internet to share files, any type of  
 5 files?  
 6 A. Use the internet?  
 7 Q. Yes.  
 8 A. To share files?  
 9 Q. Yes.  
 10 A. I really don't understand  
 11 that question. It kind of depends.  
 12 Q. Okay.  
 13 Did you ever transfer  
 14 information over the internet?  
 15 A. Like pictures, e-mails.  
 16 Q. Just over e-mail?  
 17 A. Exactly.  
 18 Q. Okay.  
 19 Do you know if any member  
 20 of your family ever used the  
 21 internet to share files?  
 22 A. I don't know what they do.  
 23 I don't know.  
 24 Q. Do you know if they ever  
 25 used your desktop computer to share

1 Y. RAYMOND-WRIGHT  
 2 files?  
 3 A. Not that I know of.  
 4 Q. Did you ever run a search  
 5 on your desktop computer --  
 6 actually, strike that.  
 7 Were you aware of this  
 8 lawsuit at the time you sold your  
 9 desktop computer at a garage sale?  
 10 A. Um, was I aware? I  
 11 actually don't even know when I sold  
 12 it or when I was aware of the  
 13 lawsuit so I can't answer that  
 14 question.  
 15 Q. Okay.  
 16 Did you ever search your  
 17 desktop for Kazaa?  
 18 A. For that particular  
 19 program, no.  
 20 Q. Okay.  
 21 Did you ever search the  
 22 desktop that you took to New York  
 23 and sold at a garage sale for any  
 24 peer-to-peer network?  
 25 A. No. Not me personally, no.

1 Y. RAYMOND-WRIGHT  
 2 Q. Did anyone?  
 3 A. Not that I know of.  
 4 Q. Okay.  
 5 Did you ever look on the  
 6 desktop to see if there were any  
 7 user names?  
 8 A. I don't remember -- if  
 9 there was any extra user names?  
 10 Q. Right.  
 11 A. I don't remember that.  
 12 Q. You don't remember doing  
 13 that?  
 14 A. Searching to see if there  
 15 was another user name on the  
 16 desktop, no.  
 17 Q. Okay.  
 18 You don't believe you did?  
 19 A. No.  
 20 Q. Okay.  
 21 And you don't believe you  
 22 searched for any peer-to-peer  
 23 networks?  
 24 A. I don't know how to do  
 25 that.

1 Y. RAYMOND-WRIGHT  
 2 Q. Did you ever pull up the  
 3 screen that lists all of the  
 4 programs? You can do it from the  
 5 start menu and it lists all of the  
 6 programs on the computer.  
 7 A. Maybe before I sold it. I  
 8 don't recall.  
 9 Q. Okay.  
 10 Do you know if you ever  
 11 looked to see whether there were any  
 12 peer-to-peer networks on that start  
 13 menu, any peer-to-peer programs?  
 14 A. Before or after this case?  
 15 It depends.  
 16 Q. At any time. And I'm  
 17 talking about the desktop that you  
 18 took from Norfolk to New York?  
 19 A. I don't recall.  
 20 Q. Did you ever see an icon on  
 21 the desktop, it would be a green K  
 22 on your desktop, the one that went  
 23 to New York?  
 24 A. No.  
 25 Q. You don't recall seeing

1 Y. RAYMOND-WRIGHT  
2 that?  
3 A. No, I don't recall seeing  
4 that.  
5 Q. Okay.  
6 Did you have icons on the  
7 desktop?  
8 A. Yes.  
9 Q. Do you ever recall going  
10 from the start menu and seeing an  
11 icon that would be a green K?  
12 A. I never seen anything like  
13 that.  
14 Q. Okay.  
15 Did you ever see a file on  
16 the desktop called KMD.EXE?  
17 A. I don't even know what that  
18 is.  
19 Q. Did you ever see it?  
20 A. No.  
21 Q. Okay.  
22 But you never looked for it  
23 either?  
24 A. No.  
25 Q. When did you take the

1 Y. RAYMOND-WRIGHT  
2 Q. Was there ever an occasion  
3 where there were two desktops at  
4 your mother's house?  
5 A. Um, I'm not sure. I doubt  
6 it.  
7 Q. Okay.  
8 So it sounds like it's  
9 likely you took your desktop back  
10 before your brother brought the  
11 repaired desktop?  
12 A. I don't know if there was  
13 one there when I took it. I don't  
14 remember if there was two, three. I  
15 don't recall anything. I just don't  
16 remember why I took it. I don't  
17 remember when I took it. I just  
18 don't recall.  
19 MR. BECKERMAN: It's 12:25  
20 we have and to be upstairs at  
21 12:30.  
22 MS. BURTON: Okay.  
23 Well, unfortunately -- we  
24 can go off the record.  
25 (Whereupon, an off the

1 Y. RAYMOND-WRIGHT  
2 computer -- and I'm speaking of the  
3 desktop that you brought from  
4 Norfolk to New York, when did you  
5 take it back?  
6 A. I don't remember. I really  
7 don't recall that.  
8 Q. Okay.  
9 What prompted you to take  
10 it back to Virginia?  
11 A. I don't remember.  
12 Q. You don't know why you took  
13 it back?  
14 A. No.  
15 Q. Do you know whether you  
16 took it back because your brother  
17 returned the computer that had the  
18 blue screen?  
19 A. Maybe, maybe not.  
20 Q. Did your brother ever  
21 return the computer that had the  
22 blue screen?  
23 A. I don't remember 'cause I  
24 don't live there. So I don't know  
25 what goes on after I leave.

1 Y. RAYMOND-WRIGHT  
2 record discussion was held.)  
3 Q. Do you have an iPod?  
4 A. Currently?  
5 Q. Yes.  
6 A. No.  
7 Q. Did you ever have an iPod?  
8 A. No.  
9 Q. You never had an iPod?  
10 A. No.  
11 Q. Have you ever had an Mp3  
12 player?  
13 A. A Zune.  
14 Q. A Zune?  
15 A. Uh-huh.  
16 Q. How did you get music onto  
17 your Zune?  
18 A. CDs.  
19 Q. When did you have the Zune?  
20 A. When?  
21 Q. Yes.  
22 A. Sometime this year.  
23 Q. You got it in 2008?  
24 A. Yes.  
25 Q. You have it currently?

1 Y. RAYMOND-WRIGHT  
 2 A. Most likely.  
 3 Q. Okay.  
 4 Did you have an Mp3 player  
 5 before 2008?  
 6 A. No.  
 7 Q. Do you know if your sister  
 8 Kathleen had an Mp3 player?  
 9 A. I don't know.  
 10 Q. Okay.  
 11 And how did you get --  
 12 well, you got it in 2008?  
 13 A. Yes, I just got it.  
 14 Q. Okay.  
 15 What kind of music do you  
 16 listen to?  
 17 A. Reggae.  
 18 Q. Reggae?  
 19 A. Yeah.  
 20 Q. Anything else?  
 21 A. Not really -- R&B maybe. I  
 22 don't know.  
 23 Q. Reggae and R&B?  
 24 A. But most likely more  
 25 Reggae.

1 Y. RAYMOND-WRIGHT  
 2 Q. More Reggae?  
 3 A. Yeah.  
 4 Q. Do you listen to the radio?  
 5 A. Yes.  
 6 Q. What station do you listen  
 7 to in New York?  
 8 A. In New York -- I don't even  
 9 know what the stations are. I don't  
 10 know if they're the same. But  
 11 probably 107.5, 105.1.  
 12 Q. And you purchase Reggae  
 13 CDs?  
 14 A. Yeah.  
 15 Q. Did you purchase them from  
 16 a store or on-line?  
 17 A. No, at a store.  
 18 Q. At a store, okay.  
 19 And how did you listen --  
 20 did you listen to your Reggae CDs  
 21 when you were in New York for the  
 22 summer of 2004?  
 23 A. Most likely.  
 24 Q. How did you listen to them?  
 25 A. In my car.

1 Y. RAYMOND-WRIGHT  
 2 Q. Did you ever listen to them  
 3 in your mother's home?  
 4 A. No.  
 5 Q. Okay.  
 6 Did you ever use Kazaa?  
 7 A. I don't even know what that  
 8 is to this day.  
 9 Q. To your knowledge have you  
 10 ever used Kazaa?  
 11 A. To my knowledge I never  
 12 used it. I don't know what it is.  
 13 Q. To your knowledge has any  
 14 member of you family used Kazaa?  
 15 A. I don't know what other  
 16 family members do, but that's it.  
 17 Q. To your knowledge did any  
 18 other family member use Kazaa?  
 19 A. No.  
 20 MS. BURTON: Okay.  
 21 At this time I have no  
 22 further questions for this  
 23 witness.  
 24 MR. BECKERMAN: I have no  
 25 questions.

1 Y. RAYMOND-WRIGHT  
 2 MS. BURTON: Thank you,  
 3 very much, for your time.  
 4 MR. BECKERMAN: Thank you.  
 5 (Whereupon, the proceedings  
 6 were concluded at 12:30 P.M.)  
 7  
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1  
2 STATE OF NEW YORK )

3 ss:

4 COUNTY OF NEW YORK )

5  
6 I, YANICK RAYMOND-WRIGHT, the  
7 witness herein, having read the foregoing  
8 testimony of the pages of this deposition  
9 do hereby certify it to be a true and  
10 correct transcript, subject to the  
11 corrections, if any, shown on the attached  
12 page.

13  
14 oOo

15  
16  
17  
18 YANICK RAYMOND-WRIGHT

19  
20  
21  
22 Subscribed and sworn to before me  
23 this \_\_\_\_\_ day of \_\_\_\_\_, 2008

1  
2 C E R T I F I C A T E

3  
4 I, DENISE RIZEK, a Shorthand  
5 Reporter and Notary Public within and for  
6 the State of New York, do hereby certify:

7 That the foregoing proceedings  
8 were taken down by me in shorthand and  
9 thereafter transcribed under my direction  
10 and supervision, and that the within  
11 transcript is a true record of such  
12 proceedings.

13 I further certify that I am not  
14 related to any of the parties to this  
15 action by blood or marriage, and that I am  
16 in no way interested in the outcome of  
17 this matter.

18 IN WITNESS WHEREOF, I have  
19 hereunto set my hand this \_\_\_\_\_ day of  
20 \_\_\_\_\_, 2008.

21  
22  
23 DENISE RIZEK  
24  
25

1  
2 I N D E X

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5 EXAMINATION CONDUCTED BY: PAGE:  
6 MS. BURTON..... 4:8  
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2 E R R A T A S H E E T  
3 V E R I T E X T / N E W Y O R K R E P O R T I N G , L L C

4 CASE NAME: UMG Recordings v Marie C.

5 Linder

6 DATE OF DEPOSITION: May 21, 2008

7 WITNESS' NAME: Yanick Raymond-Wright

8 PAGE/LINE(S) / CHANGE REASON

9	/	/	/	/
10	/	/	/	/
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21 YANICK RAYMOND-WRIGHT

22 SUBSCRIBED AND SWORN TO

23 BEFORE ME THIS \_\_\_\_\_ DAY

24 OF \_\_\_\_\_, 2008.

25 NOTARY PUBLIC

STATE of Illinois  
COUNTY of LAKE

ERRATA SHEET  
VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: UMG Recordings v Marie C. Lindor

DATE OF DEPOSITION: May 21, 2008

WITNESS' NAME: Yanick Raymond-Wright

page	line	change	reason
5	7	"1047" to "1027"	verified and corrected
8	5	"yes" to "no"	verified and corrected
58	14	"it could have been any of" to "June 2004"	clarified
58	15	delete entire line	clarified
58	18	"yes" to "no"	clarified
69	11	"I don't remember" to "yes"	verified and corrected
77	11	"my home" to "storage"	verified and corrected
77	13	"yes" to "no"	verified and corrected
77	25	"after." to "after May 2006"	did not complete sentence
78	8	"basis" to "basis in the summer of 2006"	did not complete sentence
80	4	"correct" to "no"	verified and corrected
80	6	"correct" to "no"	verified and corrected
80	15	"yes." to "yes, in May 2006"	clarified
82	8	"white" to "black"	verified and corrected
84	5	"2005" to "2006"	verified and corrected
86	10	"correct" to "correct, after summer 2006"	clarified
86	13	"that's correct" to "no"	verified and corrected
88	14	"sure." to "sure since I never stated I left in August of 2004"	clarified
97	19	"Optimum" to "Verizon DSL"	verified and corrected
101	10	"yes" to "yes in 2006"	verified and corrected
103	10	"correct" to "I do not know"	clarified
103	21	"yeah" to "I do not know"	clarified
107	14	"Okay" to "Okay, but it was in Spring of 2006"	clarified
117	13	"I think so" to "I don't think so"	clarified
132	16	"2004" to "2002"	verified and corrected
132	19	"correct" to "no"	verified and corrected
164	18	"likely" to "likely not"	miss transcription
165	24	"correct." to "correct I didn't have one"	did not complete sentence

  
YANICK RAYMOND-WRIGHT

SUBSCRIBED AND SWORN TO  
BEFORE ME THIS 14 DAY  
OF AUGUST, 2008.

  
NOTARY PUBLIC



# EXHIBIT T

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ATLANTIC RECORDING CORP.,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 4:06-CV-1708 CEJ
	)	
JENNA RALEIGH,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court on the plaintiffs' motion to dismiss defendant's counterclaims, and on the motion of defendant to join the Recording Industry Association of America as a counterclaim defendant. The issues are fully briefed.

**I. Legal Standard**

The purpose of a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure is to test the legal sufficiency of the complaint. The factual allegations of a complaint are assumed true and construed in favor of the plaintiff, "even if it strikes a savvy judge that actual proof of those facts is improbable." Bell Atlantic Corp. v. Twombly, --- U.S. ---, 127 S. Ct. 1955, 1965 (May 21, 2007) citing Swierkiewicz v. Sorema N.A., 534 U.S. 506, 508 n.1 (2002); Neitzke v. Williams, 490 U.S. 319, 327 (1989) ("Rule 12(b)(6) does not countenance . . . dismissals based on a judge's disbelief of a complaint's factual allegations"); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (a well-



pleaded complaint may proceed even if it appears "that a recovery is very remote and unlikely"). The issue is not whether the plaintiff will ultimately prevail, but whether the plaintiff is entitled to present evidence in support of his claim. Id. A viable complaint must include "enough facts to state a claim to relief that is plausible on its face." Bell Atlantic Corp., 127 S. Ct. at 1974. See also id. at 1969 ("no set of facts" language in Conley v. Gibson, 355 U.S. 41, 45-46 (1957), "has earned its retirement.") "Factual allegations must be enough to raise a right to relief above the speculative level." Id. at 1965.

## **II. Background**

Plaintiffs are copyright owners or licensees of exclusive rights with respect to certain copyrighted sound recordings. They allege that defendant Jenna Raleigh has used an online media distribution system to download the copyrighted recordings, to distribute those recordings to other users of the system, and/or to make the copyrighted recordings available for distribution to others without the permission or consent of plaintiffs.

Defendant denies that she is responsible for the allegedly infringing activity plaintiffs have traced to an Internet Protocol (IP) address that they have linked to her. She asserts that plaintiffs' attempt to seek relief under the Copyright Act constitutes extortion and wire and mail fraud within the terms of the Racketeer Influenced and Corrupt Organization Act (RICO), 18 U.S.C. § 1961 *et seq.* Defendant further proposes to be named class representative for a class of all persons falsely accused of

illegally downloading copyrighted sound recordings. Finally, defendant asserts that the Recording Industry Association of America (RIAA), a trade group, is a necessary and indispensable party to this action, and she moves to join RIAA as a counterclaim defendant.

In their motion to dismiss defendant's counterclaims, plaintiffs assert that the counterclaims are premised on privileged settlement communications and are subject to immunity under the Noerr-Pennington doctrine. See Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc., 365 U.S. 127 (1961); and United Mine Workers v. Pennington, 381 U.S. 657 (1965). Consequently, plaintiffs assert, the counterclaims are barred as a matter of law and should be dismissed. Plaintiffs further contend that defendant has failed to allege the essential elements of any of her claims of relief, and so her counterclaims fail as a matter of law. Plaintiffs deny that the RIAA is a necessary party under Rule 19(a), Fed. R. Civ. P., and they maintain that defendant has no viable counterclaim against the RIAA.

### **III. Discussion**

Defendant brings the following counterclaims: racketeering (Count I) and conspiracy (Count II) under RICO, 18 U.S.C. § 1962; fraudulent misrepresentation (Count III); prima facie tort (Count IV); and conspiracy (Count V). Defendant also asks the Court to certify a class of all persons falsely accused of illegally downloading copyrighted sound recordings and to appoint plaintiff

as the class representative. In the alternative, defendant moves for leave to amend the counterclaim.

Defendant's counterclaims purport to describe a conspiratorial scheme of racketeering and extortion by the RIAA and plaintiffs. Defendant alleges that the RIAA and recording companies have engaged in an organized campaign by filing lawsuits against "Doe" defendants identified only by IP addresses, engaging in *ex parte* discovery to identify the "Doe" defendants, notifying them of the alleged violations of the Copyright Act, and demanding a settlement.

Defendant describes the above procedure as "an organized effort and pattern of:

- (1) using the mails to send threatening and intimidating letters designed to instill fear of litigation and economic loss and harm; and
- (2) using the mails to send letters containing false and misleading information; and
- (3) using the telephone to make settlement demands and, through a 'Settlement Information Line,' to arrange settlements and collect monies from innocent individuals; and
- (4) filing and dismissing frivolous lawsuits instituted solely to obtain *ex parte* discovery and intended to circumvent the requirements of federal copyright law."

Defendant also accuses plaintiffs of forming an association for the purpose of attempting to extort money and using misrepresentations, threats, fear of economic loss, and lawsuits in order to obtain cash settlements. Finally, defendant alleges that plaintiffs have demanded "outrageous amounts of money to settle their baseless claims" under the Copyright Act. *Id.* at 15.

**Noerr-Pennington Immunity**

Defendant's counterclaims are based on plaintiffs' investigation of suspected copyright infringement, the filing of a lawsuit against her claiming infringement, and communicating their settlement offer and threatening further litigation proceedings. Plaintiffs argue that such claims are barred by the Noerr-Pennington doctrine.

The Noerr-Pennington doctrine immunizes those who petition the government for redress of grievances from antitrust liability. Prof'l Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc., 508 U.S. 49, 56 (1993), citing Noerr, supra, 365 U.S. 127; and Pennington, supra, 381 U.S. 657. This immunity applies when citizens seek relief in the courts. Id., citing California Motor Transport Co. v. Trucking Unlimited, 404 U.S. 508, 510 (1972). See also Porous Media Corp. v. Pall Corp., 186 F.3d 1077, 1080 n 4 (8th Cir. 1999).

Under the Noerr-Pennington doctrine, "participation in the judicial process cannot be asserted as a basis for civil antitrust liability" unless it is merely a "sham cover" for an attempt to directly interfere with a competitor's business. Central Telecommunications, Inc. v. TCI Cablevision, Inc., 610 F.Supp. 891 (W.D. Mo. 1985). "[I]n the litigation context, not only petitions sent directly to the court in the course of litigation but also 'conduct incidental to the prosecution of the suit' is protected by the Noerr-Pennington doctrine." Sosa v. DirectTV, 437 F.3d 923, 934 (9th Cir. 2006), quoting Columbia Pictures Indus., Inc. v. Prof'l

Real Estate Investors, Inc., 944 F.2d 1525, 1528-29 (9th Cir. 1991), aff'd 508 U.S. 49 (1993).

The Noerr-Pennington doctrine arose in the antitrust context, but it is applied outside that context. See, e.g., Central Telecommunications, Inc. v. TCI Cablevision, Inc., 800 F.2d 711, 717 n 7 (8th Cir. 1986) (doctrine "is equally applicable to many types of claims which seek[] to assign liability on the basis of [a litigant's] exercise of its first amendment rights.").<sup>1</sup> If the Noerr-Pennington doctrine applies to plaintiffs' filing of this action and to their attempts to settle their claims with defendant, the plaintiffs are immune from liability for those activities, and the defendant's counterclaims must be dismissed. Defendant, however, alleges that the plaintiff's claims fall within the "sham" litigation exception to the Noerr-Pennington doctrine.

**Sham Litigation Exception**

Noerr-Pennington immunity does not extend to "sham" litigation. Prof'l Real Estate Investors, *supra*, 508 U.S. at 60. A lawsuit is a "sham" if it is (1) objectively baseless such that no reasonable litigant could realistically expect success on the merits, and (2) subjectively motivated by bad faith. Id.

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<sup>1</sup> See also NAACP v. Claiborne Hardware, Co., 458 U.S. 886 (1982) (boycott of white merchants to secure compliance with demands for racial equality); and Hufsmith v. Weaver, 817 F.2d 455, 458-59 (8th Cir. 1987), citing In re IBP Confidential Business Documents Litigation, 755 F.2d 1300 (8th Cir. 1985) (recognized the doctrine's application to claims of "tortious interference with business and to alleged conspiracies under 42 U.S.C. § 1983.").

"The existence of probable cause to institute legal proceedings precludes a finding that an anti-trust litigant has engaged in sham litigation." Id. at 62. "Probable cause to institute civil proceedings requires no more than a reasonable belief that there is a chance that [a] claim may be held valid upon adjudication.'" Id., quoting Hubbard v. Beatty & Hyde, Inc., 178 N.E.2d 485, 488 (1961) (additional citation omitted). If there is no factual dispute over the predicate facts of the underlying legal proceeding, a court may decide probable cause as a matter of law. Id. at 63. The Professional Real Estate Investors Court found probable cause existed when the respondent's copyright infringement action was warranted by existing law. Id. at 65.

Under the Copyright Act, a person who violates the exclusive rights of a copyright owner is an infringer of the copyright or right of the owner. 17 U.S.C. § 501(a). The legal or beneficial owner of an exclusive right under a copyright "is entitled . . . to institute an action for any infringement of that particular right." 17 U.S.C. § 501(b). Plaintiffs are the holders or exclusive licensees of the copyrighted sound recordings, a fact which defendant does not dispute. As such, plaintiffs have a statutory right to bring suit against an alleged infringer.

Defendant disputes that the plaintiffs have probable cause to bring suit against her. She denies that she engaged in any infringing activity. Defendant does not deny that plaintiffs linked the allegedly infringing activity to the IP address of a computer to which she had access. However, she states that she

resided in a sorority house and owned a computer that was not password-protected, and thus any one of the house's residents could have used her computer to engage in unlawful infringement.

The Court finds that defendant's denial that she personally engaged in any wrongdoing is not sufficient to bar this action by plaintiffs. Plaintiffs claim they have linked infringing activity to an IP address for a computer to which defendant admits she had access. While the facts have not been determined at this early stage of the lawsuit, plaintiffs are entitled to present evidence in support of their claim. Whether they can prevail in the face of defendant's denials is an issue that will be decided after the parties have had the opportunity to conduct full discovery. The Court finds that the plaintiffs' action does not fall within the "sham" litigation exception to the Noerr-Pennington doctrine.

**Conduct Incident to Litigation**

Defendant objects to the plaintiffs' filing of the action against a "Doe" defendant linked to an IP address, and the subpoena of the Internet service provider to determine the identity of the user of that address.

Under 17 U.S.C. § 512(h)(1), a copyright owner "may request the clerk of any United States district court to issue a subpoena to a service provider for identification of an alleged infringer." Plaintiffs thus are entitled under the Copyright Act to engage in *ex parte* discovery and bringing suit against "John Doe" defendants.

Defendant's contention that the "Doe" lawsuits are "frivolous" and "intended to circumvent the requirements of federal copyright

law" is unwarranted, because the procedure is in fact a provision of federal copyright law.

Defendant also objects to the amount of damages requested by plaintiffs as "outrageous." The Court finds that, as a matter of law, any damages within the statutorily-authorized range of \$750 to \$30,000 per each infringed work cannot be deemed outrageous. See 17 U.S.C. § 504(c)(1).

Finally, defendant characterizes the plaintiffs' settlement demand letters as extortion, a claim that is discussed below. The Court observes, however, that a settlement demand is a normal activity incident to litigation, and as such, plaintiffs are immune from liability for sending settlement demand letters under the Noerr-Pennington doctrine. The Court also notes that settlement can be a "just, speedy, and inexpensive" determination of an action, see Rule 1, Fed. R. Civ. P., and as such, demands for settlement are authorized by the Federal Rules.

The Court concludes that the plaintiffs' filing of lawsuits against "Doe" defendants, *ex parte* discovery, efforts to settle their claims with defendant, and request for damages within the statutory range are conduct incident to the underlying litigation. This action is not "sham" litigation. As such, plaintiffs are immune from liability for these activities under the Noerr-Pennington doctrine. The counterclaims thus fail to state a claim upon which relief can be granted, and the Court will dismiss them.



**RICO Claims**

Defendant claims that plaintiffs have made threats of litigation and settlement demands that contain "misrepresentations." Defendant characterizes these actions as extortion and racketeering under RICO, 18 U.S.C. § 1961 *et seq.*

Title 18, Section 1962<sup>©</sup>, of the United States Code provides: "It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt."

Racketeering activity is defined in 18 U.S.C. § 1961 to include, *inter alia*, offenses under 18 U.S.C. §§ 1951 (relating to interference with commerce, robbery, or extortion) and 1952 (relating to racketeering). A pattern of racketeering activity requires at least two acts of racketeering activity in a ten-year period. 18 U.S.C. § 1961(5). Extortion is defined as "the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right." 18 U.S.C. § 1951(b)(2). RICO also prohibits the use of mail or any facility in interstate commerce (e.g., telephone) with intent to promote, manage, carry on or facilitate unlawful activity. 18 U.S.C. § 1952(a).

Plaintiffs argue that threats of litigation and demands for settlement do not constitute extortion within the meaning of RICO. The Court agrees. The Eighth Circuit has specifically addressed

this issue, and it held that even a groundless, bad-faith threat to sue does not instill "'fear' within the meaning of the criminal statute prohibiting extortion." I.S. Joseph Co., Inc. v. J. Lauritzen A/S, 751 F.2d 265, 267 (8th Cir. 1984).

A majority of federal jurisdictions have held that a threat to file a lawsuit unless a settlement demand is accepted, regardless of whether the threat was made in good faith, is not a wrongful threat within the meaning of extortion statutes. Rendelman v. State, 927 A.2d 468, 479-80 (Md. 2007) (citations omitted) (construing Maryland's extortion statute, which contains the same "economic injury" language as RICO). "A civil action is a lawful means for people to have their private disputes, including financial disputes, decided." Id. at 481. A typical demand letter "serves notice to a potential defendant that the potential plaintiff plans to pursue litigation, unless the underlying dispute can be privately resolved, by an agreement to pay money or other legitimate consideration. . . . Settlement demands of this sort are overtures to negotiation, not threats to inflict economic injury." Id. Defendant's counterclaims based on RICO thus fail to state a claim for extortion and racketeering within the meaning of that statute, providing an additional ground for dismissal of those claims.

#### **Motion to Join RIAA**

Defendant moves to join the RIAA as counterclaim defendants, claiming that the RIAA is a necessary and indispensable party for the adjudication of defendant's RICO claims. Because the Court has

found that the RICO claims fail to state a claim upon which relief can be granted, the motion to join the RIAA is moot and will be denied.

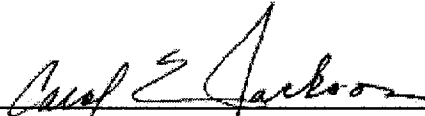
**Leave to Amend**

The defendant seeks leave to amend her counterclaims in the event the plaintiffs' motion is denied. Because defendant has not indicated the substance of any proposed amendments, the Court will deny the request.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiffs' motion to dismiss defendant's counterclaims [# 25] is **granted**. The counterclaims are **dismissed for failure to state a claim**.

**IT IS FURTHER ORDERED** that defendant's motion for leave to join the Recording Industry Association of America as a counterclaim defendant [# 18] is **denied**.

  
CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 18th day of August, 2008.

# EXHIBIT U

Woody Raymond  
817 East 21th Street  
Brooklyn, NY 11210  
Tel - 917-887-6506

September 26, 2005

Shook, Hardy & Bacon LLP  
2555 Grant Blvd.  
Kansas City, MI 64108  
Attn: Ian C. Losasso, Esq.

Re: Civil Action 05CV1095

Dear Mr. Losasso:

I am receipt of your correspondence. However, we have no record that your letter dated August 3, 2005 was being held at the post office. As you know, I am responding to your inquiries. If you wanted to contact me or my mother, you should have mail a copy of the letter to me as your counsel, J. Christopher Jensen, Esq., did.

First, we have information from Verizon that my mother, Marie C. Lindor, did not have any knowledge that the account existed on August 7, 2004. Your letter did not include the verification from Verizon as you agree you will forward to me during our conversation on July 7, 2005. Kindly provide same.

Second, we did discuss the Media Access Control (MAC) Address from the information which was captured on August 7, 2004. Please provide same as soon as possible to me.

Third, on July 7, 2005, I explained to you as stated in the Answer to the complaint that the internet was connected to a wireless router. You told me that you will sent someone to inspect the computer. Hence, I am confused how you came to the conclusion that her internet line which was located inside her premises was not connected to a Wireless Router without an inspection. Please elaborate.

Lastly, if you would like to amicably resolve this matter as you sated on your letter dated September 2, 2005, kindly contact me at 917-887-6506 to discuss same.

Very Truly yours



Woody Raymond

September 26, 2005  
Page 2

Cc: J. Christopher Jensen, Esq.  
Maryann Penney, Esq.  
The Honorable Robert M. Levy

# EXHIBIT V

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Atlantic Recording Corporation, et al.,

No. CV-06-02076-PHX-NVW

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Plaintiffs,

**ORDER**

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vs.

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Pamela and Jeffrey Howell, wife and  
husband,

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Defendants.

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This is a suit for copyright infringement brought by seven major recording companies against Defendant Jeffrey Howell ("Howell"). The recording companies allege that Howell used the KaZaA file-sharing program to download 54 of their sound recordings and to distribute them to other users of the network. The court previously denied the recording companies' Motion for Summary Judgment based in part on Howell's testimony that he had legally purchased the music at issue, that he did not place the recordings in the KaZaA shared folder, that the KaZaA program was making files in other locations on his hard drive available for download without his authorization, and that other users of the computer could be responsible for sharing the music. (Doc. # 91.) However, Howell had not cooperated with the recording companies' proper requests to conduct a forensic examination of his computer hard drive and to produce certain backup media that he supposedly created. (Doc. # 86). The court therefore granted the recording companies' motion to compel that discovery and granted them leave to take additional



1 discovery. With the benefit of their additional discovery, the recording companies have  
2 now moved for terminating sanctions based on Howell's willful spoliation of material  
3 evidence. (Doc. # 103.)<sup>1</sup>

4 **I. Howell's Willful Destruction of Evidence Demands Terminating Sanctions**

5 Sanctions, including default judgment, may be imposed against a party who fails to  
6 comply with the court's order to provide or permit discovery. Fed. R. Civ. P. 37(b).  
7 Courts also have the inherent power to impose default judgment when "a party has  
8 engaged deliberately in deceptive practices that undermine the integrity of judicial  
9 proceedings . . . , has willfully deceived the court and engaged in conduct utterly  
10 inconsistent with the orderly administration of justice." *Leon v. IDX Sys. Corp.*, 464 F.3d  
11 951, 958 (9th Cir. 2006) (quoting *Anheuser-Busch, Inc. v. Natural Beverage Distribs.*, 69  
12 F.3d 337, 348 (9th Cir. 1995)). Factors to evaluate when considering default as a  
13 sanction include: "(1) the public's interest in expeditious resolution of litigation; (2) the  
14 court's need to manage its dockets; (3) the risk of prejudice to the party seeking  
15 sanctions; (4) the public policy favoring disposition of cases on their merits; and (5) the  
16 availability of less drastic sanctions." *Id.*

17 Howell has repeatedly destroyed evidence central to the factual allegations in this  
18 case. He admits that he removed the KaZaA program from his computer and deleted the  
19 contents of the shared folder shortly after receiving notice of this lawsuit. (Doc. # 106,  
20 Ex. 1 at 105:19-25, 349:19-24.) Although he testified that he created DVDs to backup  
21 his shared folder before he removed it (*id.*), the DVDs he produced in discovery are  
22 inaccurate and unworthy of belief. The DVDs he created are not true backups because  
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25 <sup>1</sup> The recording companies have also moved to dismiss Defendant Pamela Howell  
26 because she and Jeffrey Howell are no longer married. The recording companies named her  
27 as a defendant solely for the purposes of marital community liability. Pamela Howell has  
28 stipulated to dismissal without prejudice. (Doc. # 113, Ex. B.) She will therefore be  
dismissed without prejudice.

1 they do not contain information about the files' original locations. Furthermore, the file  
2 creation dates for several files on one of the DVDs suggest that Howell created the DVDs  
3 well after he removed KaZaA from his computer. The DVDs also contain files that were  
4 not being shared by Howell's computer in January of 2006, so they do not accurately  
5 represent the contents of his shared folder at that time. (Doc. # 103, Ex. F at ¶¶ 36–39.)  
6 Howell now disavows his previous testimony that the DVDs were created to preserve the  
7 evidence. Instead, he explains that he simply wanted to keep his files for future use.  
8 (Doc. # 111, Ex. A at 31:11–21.) Howell's shifting explanations for creating the DVDs  
9 calls his credibility into question, especially given that he is a sophisticated computer user  
10 and knows how to make a proper backup disk. (*Id.*; doc. # 80 at 40:1 to 41:17.) In any  
11 event, the DVDs that Howell created did not preserve the substantial amount of material  
12 evidence that he destroyed by uninstalling KaZaA.

13 The recording companies' forensic examination also shows that Howell reinstalled  
14 his computer's operating system on January 2, 2007, a few weeks after he had received  
15 their requests for copies of various files on his computer. (Doc. # 103, Ex. F ¶ 27.)  
16 Howell also downloaded a program called Aevita Wipe & Delete in November, 2006,  
17 shortly after he filed his answer in this suit.<sup>2</sup> Then, in the middle of the discovery period,  
18 he used that program to permanently delete all traces of certain files on his computer.  
19 The Aevita software usually creates a log of the files it has deleted, but in Howell's case,

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<sup>2</sup> The program is advertised as follows:

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(Doc. # 103, Ex. G.)

1 that log is missing. (*Id.* ¶ 29.) After taking these steps, Howell testified to facts that  
2 could not be disproved because he had destroyed the pertinent evidence. He swore that  
3 none of the music on his computer was downloaded through KaZaA, that none of it was  
4 in his shared folder, and that the program was allowing access to other locations on his  
5 hard drive.

6 Howell admitted in his deposition and at the August 25, 2008 hearing that he  
7 acted with full knowledge of his duty to preserve all of the evidence relevant to the  
8 recording companies' claims. (Doc. # 106, Ex. 1 at 105:19–25.) He explains, however,  
9 that he removed KaZaA, reinstalled his operating system, and ran the Aevita software to  
10 ensure that KaZaA would no longer function on his computer. But Howell had the means  
11 to prevent KaZaA from continuing to function and also preserve the evidence. Given the  
12 serious claims he was confronting, he would have done so if that evidence was as  
13 powerfully exonerating as he describes. It is implausible that Howell would destroy the  
14 only evidence that could exonerate him simply to remove KaZaA from his computer. It is  
15 entirely incredible that his systematic and pervasive destruction of every last bit of  
16 evidence pertaining to the claims against him was simply an effort to tidy up his  
17 computer. The timing and character of Howell's actions show that they were deliberately  
18 calculated to conceal the truth and that he willfully destroyed evidence to deceive the  
19 court.

20 Howell's brazen destruction of evidence has wholly undermined the integrity of  
21 these judicial proceedings. The evidence that Howell destroyed could have been used to  
22 determine the origin of the music files, their locations on the hard drive, the settings and  
23 integrity of the KaZaA software, and many other relevant facts. Without these facts, the  
24 recording companies and the court are unable to examine the factual accuracy of  
25 Howell's defenses. The expert was only able to recover a handful of file references to the  
26 shared folder from the unallocated space on Howell's hard drive. That small fragment of  
27 data does not prove or disprove Howell's contention that the sound recordings were not in  
28

1 his shared folder. The recording companies' remaining evidence regarding the origin and  
2 locations of the sound files is tenuous and circumstantial. Howell's actions have made it  
3 impossible to decide this case on the merits. The prejudice to the court and to the  
4 recording companies is irretrievable.

5         Such circumstances demand the imposition of a default judgment against Howell.  
6 Imposition of default judgment is an extreme sanction to be used as a last resort, but no  
7 lesser sanction will adequately deter the repetition of this kind of easily accomplished and  
8 highly prejudicial destruction of evidence. "One who anticipates that compliance with  
9 discovery rules, and the resulting production of damning evidence, will produce an  
10 adverse judgment, will not likely be deterred from destroying that decisive evidence by  
11 any sanction less than the adverse judgment he (or she) is tempted to thus evade."  
12 *Computer Assoc. Int'l, Inc. v. Am. Fundware, Inc.*, 133 F.R.D. 166, 170 (D. Colo. 1990).  
13 *See also Arista Records, L.L.C. v. Tschirhart*, 241 F.R.D. 462, 465 (W.D. Tex. 2006);  
14 *Cabnetware, Inc. v. Sullivan*, 1991 U.S. Dist. LEXIS 20329 at \*11-12 (E.D. Cal. July 15,  
15 1991); *Wm. T. Thompson Co. v. General Nutrition Corp.*, 593 F. Supp. 1443, 1456 (C.D.  
16 Cal. 1984). It will not suffice to impose a presumption that the evidence lost was  
17 damaging to Howell. The evidence destroyed here was so central to the allegations in this  
18 case that imposing such a presumption would effectively establish his liability.  
19 Imposition of a default judgment is therefore the only appropriate sanction, both for its  
20 deterrent effect and to remedy the prejudice inflicted on the recording companies and on  
21 the court.

#### 22 **IV. Relief Will Be Granted**

##### 23 **A. Statutory Damages**

24         The recording companies have elected to seek minimum statutory damages under  
25 17 U.S.C. § 504(c)(1) instead of proving actual injury. The statute "provides that the  
26 author's entitlement, per infringed work, is 'a sum of not less than \$750 or more than  
27 \$30,000 as the court considers just.'" *BMG Music v. Gonzalez*, 430 F.3d 888, 891 (7th  
28

1 Cir. 2005) (quoting 17 U.S.C. § 504(c)(1)). No evidentiary hearing on damages is  
2 necessary because the recording companies seek only minimum statutory damages, and  
3 those damages are easily ascertainable from the complaint. *Ortiz-Gonzalez v. Fonovisa*,  
4 277 F.3d 59, 63–64 (1st Cir. 2002). The requested statutory damages of \$750 per sound  
5 recording, a total of \$40,500, will therefore be awarded.

### 6 **B. Injunction**

7 The recording companies also request an injunction pursuant to 17 U.S.C. § 502(a)  
8 prohibiting Howell from further copyright infringement and requiring the destruction of  
9 any unauthorized copies of the sound recordings that Howell may hold in any medium.  
10 (Doc. # 1 ¶ 20.) Title 17, section 502(a), United States Code, provides that “[a]ny court  
11 having jurisdiction of a civil action arising under this title may . . . grant temporary and  
12 final injunctions on such terms as it may deem reasonable to prevent or restrain  
13 infringement of a copyright.” An injunction against a Kazaa user found to have infringed  
14 copyrights may be “appropriate to ensure that the misconduct does not recur as soon as  
15 the case ends.” *BMG Music*, 430 F.3d at 893 (affirming a district court order enjoining a  
16 defendant from downloading copyrighted sound recordings). An injunction will therefore  
17 be entered prohibiting Howell from further downloading or distributing the recording  
18 companies’ copyrighted sound recordings without authorization.

### 19 **C. Costs**

20 The recording companies also seek, pursuant to 17 U.S.C. § 505, the cost of their  
21 \$350 filing fee. That section of the Copyright Act provides, in part, that “the court in its  
22 discretion may allow the recovery of full costs by or against any party other than the  
23 United States or an officer thereof.” 17 U.S.C. § 505. Costs have been awarded in  
24 infringement cases to: “(1) deter future copyright infringement, (2) ensure that all holders  
25 of copyrights which have been infringed will have equal access to the court to protect  
26 their works, and (3) penalize the losing party and compensate the prevailing party.” *A &*  
27

1 *N Music Corp. v. Venezia*, 733 F. Supp. 955, 959 (E.D. Pa. 1990) (citations omitted).

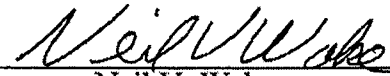
2 Costs will be awarded to Plaintiffs in service of these ends.

3 IT IS THEREFORE ORDERED that the Motion for Terminating Sanctions (doc. #  
4 103) is granted as against Defendant Jeffrey Howell, his answer to the complaint is  
5 stricken, and default judgement will be entered against him for \$40,500.00 in statutory  
6 damages and \$350.00 in costs and for a permanent injunction.

7 IT IS FURTHER ORDERED that Plaintiff's Motion to Dismiss Pamela Howell  
8 Without Prejudice (doc. # 113) is granted.

9 IT IS FURTHER ORDERED that, upon entry of the separate Judgment and  
10 Permanent Injunction this day, the Clerk shall terminate this action.

11 DATED this 29<sup>th</sup> day of August, 2008.

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15 Neil V. Wake  
16 United States District Judge  
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