

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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CAPITOL RECORDS, INC., et al.,)
)
Plaintiffs,)
)
v.)
)
NOOR ALAUJAN,)
)
Defendant.)
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Civ. Act. No.
03-CV-11661-NG
(LEAD DOCKET NUMBER)

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SONY BMG MUSIC ENTERTAINMENT, et al.,)
)
Plaintiffs,)
)
v.)
)
JOEL TENENBAUM,)
)
Defendant.)
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Civ. Act. No.
07-CV-11446-NG
(ORIGINAL DOCKET NUMBER)

DECLARATION OF JOHN PERRY BARLOW

1. I, John Perry Barlow, am the vice-chairman of the board of directors of the Electronic Frontier Foundation, an organization I co-founded in 1990. Since May of 1998, I have been a Fellow at the Berkman Center for Internet and Society. I am a poet and musician, and between 1971 and 1995, I was a lyricist for the Grateful Dead, a well renowned American music group. I previously served on the masthead of Wired magazine. In the past I have contributed articles to Wired, the New York Times, and Communications of the Association for Computing

Machinery. I speak, consult, and write for a living.

2. Given my personal experiences in the music industry, and my position as a public intellectual in discourse on copyright, music, and technology, I am able to testify about the historical context of the record industry's anti-file sharing campaign, its larger merits and shortcomings, and the social implications of litigation such as that before this court. I am, in particular, aware of how the economics of "file-sharing" can work to the great benefit of musicians and creators. The Grateful Dead allowed our fans to tape our concerts, essentially giving our music away for "free." In doing so, we may have invented viral marketing, solving an advertising problem that our record companies were never to address and becoming enormously successful in the process.

3. I will testify that the Internet, and peer-to-peer technology in particular, allow us to do that which we, as humans, fundamentally need to do: share art. I will explain how digital technology has finally freed us from the physical medium of CDs and other increasingly antiquated mediums, how this conversion challenges conventional application of the institution of copyright, and why this natural evolution should be welcomed.

4. I will testify that the music industry will never be endangered because, for reasons I will not presume to know with

certainty, we as humans absolutely require music, and because in the music business as I know it, familiarity, not scarcity, creates value. I will explain why this means that the industry surrounding music will never cease to exist in some form. I will explain that the online world presents us with a "gift economy," where no moral blameworthiness attaches to non-commercial sharing, and I will explain why this does not threaten the music industry.

5. I will testify that the recording industry is complicit in allowing itself to hold on to antiquated business models rather than adjust to the changing landscape around them. I will explain why the recording industry must evolve and why it is improper for the industry to attempt to institutionalize stagnation through their litigation and legislation efforts.

6. I will present no exhibits at trial.

7. I have not presented expert testimony, neither by deposition nor at trial, in the past four years.

8. I am receiving no compensation for my testimony in this case.

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


JOHN PERRY BARLOW

Dated: **April 1, 2009**