IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UMG Recordings, Inc. *et al.*, *Plaintiffs*, *vs*. Janne Lanzoni, *Defendant*.	Case No. 4:08-cv-03025 **DEFENDANT'S RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

GENERAL OBJECTIONS

1. Defendant Lanzoni objects to these interrogatories on grounds that they violate Rule 26(g)(2) of the Federal Rules of Civil Procedure, given that the burden and expense of the interrogatories clearly outweigh their likely benefit, considering the needs of the case, the amount in controversy (ten alleged copyright songs worth an approximate total of $10), the parties' resources (Plaintiffs knew that Defendant Lanzoni was indigent and unable to afford legal representation at the time the discovery requests were served), the importance of the issues at stake in the action (ten alleged copyright songs downloaded worth an approximate total of $10), and the importance of discovery in resolving the issues (Plaintiffs are well aware that this discovery is needless, because Defendant Lanzoni was working on February 21, 2007 when the copyrighted files were allegedly downloaded using an IP address allegedly assigned to her home). Plaintiffs have been previously warned:

> "You know, it seems to me that counsel representing the record companies have an ethical obligation to fully understand that they are fighting people without lawyers, to fully understand that, more than just how do we serve

> them, but just to understand that the formalities of this are basically bankrupting people, and its terribly critical that you stop it ...".

Capital Records, Inc. v. Alaujan, Case No. 03-11661-NG, Transcript of Motion Hearing, at 11 (June 17, 2008). Plaintiffs served these discovery requests against Defendant Lanzoni at a time when she had no lawyer, and these discovery requests as a whole were apparently designed to bankrupt her ability to fight the baseless charges that Plaintiffs have made against her. *See also, Elektra Entertainment Group Inc. v. O'Brien*, Case No. CV 06-5289 SJO (MANx), Order to Show Cause, at 2 (C.D. Cal. March 2, 2007)("The concern of this Court is that in these lawsuits, potentially meritorious legal and factual defenses are not being litigated, and instead, the federal judiciary is being used as a hammer by a small group of plaintiffs to pound settlements out of unrepresented defendants.").

2. Defendant Janne Lanzoni objects to Plaintiffs' definitions and instructions. "[T]he use of unreasonable 'definitions' may render the interrogatories so burdensome to the answering party and to the Court, that objections to the entire series should be sustained ***with sanctions***, whether or not an occasional interrogatory might be reasonable." *Diversified Products Corp. v. Sports Center Co*., 42 F.R.D. 3, 4 (D. Md. 1967)(emphasis added). The unnecessarily complicated "definitions" used by Plaintiffs make the interrogatories unduly burdensome, because they require Defendant Janne Lanzoni to refer back to the definitions to determine the scope of every question, and the definitions result in interrogatories that are difficult to construe in some instances. Even if the interrogatories are considered one by one, Defendant Lanzoni would be required to

incorporate the applicable "definitions" in each question. The definitions expand unreasonably the amount of information that is requested. The definitions in this case have so expanded the information requested that many of the interrogatories are unduly burdensome.

3. Defendant Janne Lanzoni objects to Plaintiffs' definition of the term "COMPUTER." Plaintiffs have defined the term "COMPUTER" to mean "all computers and computer components located within YOUR place of residence or otherwise within YOUR possession, custody, or control that had access to the Internet at any time during the preceding three years through YOUR account with SERVICE PROVIDER." In view of the fact that Defendant Lanzoni's home had a wireless router without security enabled, Defendant Lanzoni does not know all computers that may have accessed the Internet at any time during the preceding three years. The expansion of the definition beyond computers located within the place of residence to include any computer under her "control" is indefinite because it is unclear whether the fact that Defendant Lanzoni could theoretically have turned off the wireless router at her home means that ***anyone*** who happened to access the Internet via her wireless network was "otherwise within ... [her] control" within the meaning of Plaintiffs' request. The term becomes more indefinite based on the definition given to the term "YOUR" by Plaintiffs. The term "YOUR" includes "anyone acting under her direction." Given that meaning, it is unclear what "otherwise within YOUR possession, custody, or control" means if "YOUR" is defined to include "anyone acting under her direction." The net effect of these complicated multi-level definitions incorporated into each other might mean that "otherwise within

YOUR possession, custody, or control" is limited to circumstances where she was somehow ***directing*** the possession, custody, or control. The term "YOUR place of residence" becomes indefinite due to Plaintiffs' definition of "YOUR." The definition of the term "YOUR" is not limited in time or place, and includes within the definition of "anyone acting under her direction" apparently at any time or place. The definition given to the term "YOUR" by Plaintiffs would literally include employees and students who might be acting under Defendant Lanzoni's direction at one time or another. Since "YOUR" includes "anyone acting under her direction," the definition of "YOUR place of residence" would appear to include the residence of any employee, student, or other person who had ever acted under Defendant Lanzoni's direction. The net effect is that the complicated definitions provided by Plaintiffs make it difficult for Defendant Lanzoni to understand clearly what meaning Plaintiffs intend for these terms to have, and she objects to being forced to speculate concerning exactly what she is being asked. The definition of "COMPUTER" is further rendered indefinite because it is defined by Plaintiffs to include "computer components." It is unclear what "computer components" means in this context, especially since the definition implies that it is something ***other than*** a computer. For example, it is unclear whether the term "computer component" includes a wireless router. It is conceivable that the answer to a particular request may be different depending on whether the term "COMPUTER" includes the wireless router within the definition of "computer component."

4. Defendant Janne Lanzoni objects to Plaintiffs' discovery requests to the extent that the purpose of the discovery requests is to gather information for use in

proceedings other than the pending suit. The deadline for amending the complaint has passed. Therefore, all discovery aimed at finding out information about other parties who might have connected to the wireless network at Defendant Lanzoni's home could only be used in a different future proceeding, and would not be for use in this proceeding. Moreover, Defendant Lanzoni does not have the resources or the time to attempt to undertake an investigation on behalf of Plaintiffs concerning other third parties who are not known to her and/or are not parties to this lawsuit. As the Supreme Court has said, discovery is properly denied where its purpose is to obtain information for use in proceedings other than the present suit.

> In deciding whether a request comes within the discovery rules, a court is not required to blind itself to the purpose for which a party seeks information. Thus, when the purpose of a discovery request is to gather information for use in proceedings other than the pending suit, discovery properly is ***denied***.

Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 353 (1978)(emphasis added). Moreover, to the extent that Plaintiffs seek to compel non-parties to this lawsuit to provide their sensitive and confidential information to create data for a party's expert witness, the discovery requests are objectionable. *Builders Association of Greater Chicago v. City of Chicago*, Case No. 96 C 1122, 2001 U.S. Dist. LEXIS 14076, at *22 (N.D. Ill. August 30, 2001), *aff'd*, 256 F.3d 642 (7th Cir. 2001).

5. Defendant Janne Lanzoni objects to Plaintiffs' discovery requests to the extent that they seek information as to which she has no knowledge. Defendant Lanzoni can only respond to discovery requests to the extent of her own knowledge and information.

6. Defendant Janne Lanzoni objects to Plaintiffs' definition of "MADE AVAILABLE" and "MAKE AVAILABLE." Plaintiffs have previously litigated the issue of whether this definition is actionable, and the issue has been decided against Plaintiffs. Plaintiffs are collaterally estopped from using this theory of liability. In addition, it is an abuse of process for Plaintiffs to force Defendant Lanzoni to re-litigate an issue that Plaintiffs are collaterally estopped to pursue.

7. Defendant Janne Lanzoni objects to these interrogatories to the extent that they seek information protected by the attorney-client privilege, attorney work product doctrine, husband-wife spousal privilege, or any other applicable privilege.

The following responses to Plaintiffs interrogatories include each and every one of Defendant Lanzoni's general objections, which shall be deemed to be incorporated by reference as if set forth in full in each response.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

For each COMPUTER located at YOUR residence during the three years prior to the date the Complaint in this action was filed, IDENTIFY the COMPUTER by brand name; model number; serial number; and MAC address.

RESPONSE: Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "IDENTIFY," which because it is in all capital letters presumably has a special meaning, yet it is not defined as applied to a "COMPUTER," but is only defined "with respect to persons". Defendant Lanzoni objects to being forced

to speculate as to what special meaning Plaintiffs intend to ascribe to the term "IDENTIFY" as it is used in this interrogatory.

Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "YOUR place of residence" for the reasons discussed above in the general objections. The term "YOUR place of residence" becomes indefinite due to Plaintiffs' complicated definition of "YOUR." The definition of the term "YOUR" is not limited in time or place, and includes within its scope "anyone acting under her direction" apparently at any time or place. The definition given to the term "YOUR" by Plaintiffs would literally include employees and students who might have acted under Defendant Lanzoni's direction at one time or another for reasons completely unrelated to and having no relevance to the issues involved in this lawsuit. Since "YOUR" includes "anyone acting under her direction," the definition of "YOUR place of residence" would appear to literally include the residence of any employee, student, neighbor, friend, or other person who had ever acted under Defendant Lanzoni's direction. The net effect is that the complicated definitions provided by Plaintiffs make it difficult for Defendant Lanzoni to understand clearly what meaning Plaintiffs intend for these terms to have, and she objects to being forced to speculate concerning the scope of this interrogatory as defined by Plaintiffs.

Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "IDENTIFY ***the*** COMPUTER." Plaintiffs have defined the term "COMPUTER" to mean "all computers and computer components located within YOUR place of residence or otherwise within YOUR possession, custody, or control that had

access to the Internet at any time during the preceding three years through YOUR account with SERVICE PROVIDER." Thus, the term "COMPUTER" is not defined as a singular item, but encompasses a potentially unknown number of devices (as a result of Plaintiffs' complicated definitions). The interrogatory is potentially confusing because a defined term that is specifically defined as a plurality of items is used apparently in the singular form. Defendant Lanzoni further objects to this request as vague and indefinite in its use of the term "COMPUTER," because it is unclear whether the term as defined includes a stand-alone wireless router. The request is broad enough, because of the complicated definitions used by Plaintiffs, to encompass unknown computers that may have accessed the Internet via the wireless network.

Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "located at YOUR residence." If this is intended to include any computer located where it could connect to the wireless network at Defendant Lanzoni's residence, then Defendant Lanzoni is unable to provide a complete answer.

Defendant Lanzoni objects to this interrogatory on grounds that it counts as more than one interrogatory, because it asks Defendant to "IDENTIFY" more than one item. *Larson v. Correct Craft, Inc.*, No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS 78028, at *12 (Oct. 25, 2006); *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684, 686 (D. Nev. 1997); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004).

Defendant Lanzoni objects to this interrogatory on grounds that it assumes the items that are within the scope of this interrogatory have a brand name; model number;

serial number; and MAC address, and if so, that Defendant Lanzoni has some way of determining what they are.

Defendant Lanzoni objects to this interrogatory on grounds that the item described below as Item 1 was no longer in use on February 21, 2007, when the acts alleged in the complaint occurred. Defendant Lanzoni objects to this interrogatory on grounds that the item described below as Item 3 was not in use until after February 21, 2007, when the acts alleged in the complaint occurred.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds as follows:

Item 1 - Apple Computer, model m3409, serial no. XB6041NS3FS, unknown MAC address, obtained used at Houston Apple Users Group Swap Meet.

Item 2 – generic home built PC clone, unknown model, unknown serial number, unknown MAC address, obtained used by Fred Garcia, became inoperational in late 2007 or early 2008; and the parts were discarded or cannibalized for use in another computer before this lawsuit was commenced.

Item 3 – Computer Network Solutions, system model GB85010A, serial No. B10345, unknown MAC address, obtained used after Item 2 became inoperative.

INTERROGATORY NO. 2:

IDENTIFY any and all computer networking hardware used in the last three years on the COMPUTER including, but not limited to routers, hubs, and Ethernet cards.

RESPONSE: Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "***on*** the COMPUTER," and as understood by Defendant Lanzoni, this does not appear to include within its scope a stand-alone wireless router.

Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "***the*** COMPUTER." Plaintiffs have defined the term "COMPUTER" to mean "all computers and computer components located within YOUR place of residence or otherwise within YOUR possession, custody, or control that had access to the Internet at any time during the preceding three years through YOUR account with SERVICE PROVIDER." Thus, the term "COMPUTER" is not defined as a singular item, but encompasses a potentially unknown number of devices (as a result of Plaintiffs' complicated definitions). The interrogatory is potentially confusing because a defined term that is specifically defined as a plurality of items is used apparently in the singular form.

Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "IDENTIFY," which because it is in all capital letters presumably has a special meaning, yet it is not defined as applied to computer networking hardware, but is only defined "with respect to persons". Defendant Lanzoni objects to being forced to speculate as to what special meaning Plaintiffs intend to ascribe to the term "IDENTIFY" as it is used in this interrogatory.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds as follows:

Wireless router, 2wire.com, serial No. 315116065076.

INTERROGATORY NO. 3:

IDENTIFY the owner of the COMPUTER.

RESPONSE: Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "***the*** COMPUTER." Plaintiffs have defined the term "COMPUTER" to mean "all computers and computer components located within YOUR place of residence or otherwise within YOUR possession, custody, or control that had access to the Internet at any time during the preceding three years through YOUR account with SERVICE PROVIDER." Thus, the term "COMPUTER" is not defined as a singular item, but encompasses a potentially unknown number of devices (as a result of Plaintiffs' complicated definitions). The interrogatory is potentially confusing because a defined term that is specifically defined as a plurality of items is used apparently in the singular form.

Defendant Lanzoni objects to this interrogatory on grounds that it counts as more than one interrogatory, because it asks Defendant to "IDENTIFY" more than one person for more than one item. *Larson v. Correct Craft, Inc*., No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS 78028, at *12 (Oct. 25, 2006); *Kendall v. GES Exposition Services, Inc*., 174 F.R.D. 684, 686 (D. Nev. 1997); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004).

Defendant Lanzoni objects to this interrogatory on grounds that the interrogatory assumes a singular owner, *i.e*., "***the*** owner" of "the COMPUTER," and excludes the possibility of joint ownership, or community property.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds as follows:

Item 1 – was probably community property.

Item 2 – was probably community property.

Item 3 – was given or loaned to Fred Garcia after Item 2 became inoperative, and ownership depends upon the circumstances of the gift or loan, which cannot be ascertained with certainty at this time, and would require further information concerning the intent of the donor.

INTERROGATORY NO. 4:

IDENTIFY any and all PERSONS who resided with YOU during the three years prior to the date the Complaint in this action was filed.

RESPONSE: Defendant Lanzoni objects to this interrogatory, which could have been asked in simple terms, on grounds that the complicated definitions used by Plaintiffs renders the interrogatory vague, indefinite and unduly burdensome. The term "resided with YOU" is indefinite based on the definition given to the term "YOU" by Plaintiffs. The term "YOU" includes "anyone acting under her direction." The definition of the term "YOU" is not limited in time or place, and includes within the definition of "anyone acting under her direction" apparently at any time or place. The definition given to the term "YOU" by Plaintiffs would literally include employees and students who might be acting under Defendant Lanzoni's direction at one time or another. Given that meaning, the term "resided with YOU" apparently includes within its scope PERSONS who resided with "anyone" who may have acted under Defendant Lanzoni's direction at any

time. The net effect is that the complicated definitions provided by Plaintiffs make it difficult for Defendant Lanzoni to understand clearly what meaning Plaintiffs intend for these terms to have, and she objects to being forced to speculate concerning exactly what she is being asked.

Defendant Lanzoni objects to this interrogatory on grounds that it counts as more than one interrogatory, because it asks Defendant to "IDENTIFY" more than one person. *Larson v. Correct Craft, Inc.*, No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS 78028, at *12 (Oct. 25, 2006); *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684, 686 (D. Nev. 1997); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004).

In addition, Defendant Lanzoni objects to this interrogatory on grounds that this interrogatory seeks information that is considered to be confidential. For example, the names of Defendant's minor children are considered confidential under Rule 5.2(a) of the Federal Rules of Civil Procedure. If required to disclose the information in this civil action, Defendant Lanzoni would request that it be done so only under the terms of a protective order for confidential information and limiting the use of the information only to purposes of this action.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds that Defendant Janne Lanzoni and her husband Fred Garcia resided together, with their two minor children.

INTERROGATORY NO. 5:

IDENTIFY any and all PERSONS who utilized the COMPUTER during the three years prior to the date the Complaint in this action was filed.

RESPONSE: Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "***the*** COMPUTER." Plaintiffs have defined the term "COMPUTER" to mean "all computers and computer components located within YOUR place of residence or otherwise within YOUR possession, custody, or control that had access to the Internet at any time during the preceding three years through YOUR account with SERVICE PROVIDER." Thus, the term "COMPUTER" is not defined as a singular item, but encompasses a potentially unknown number of devices (as a result of Plaintiffs' complicated definitions). The interrogatory is potentially confusing because a defined term that is specifically defined as a plurality of items is used apparently in the singular form.

Defendant Lanzoni objects to this interrogatory as unduly burdensome to the extent it seeks to force her to IDENTIFY any and all PERSONS who may have used computers before the computers were given to, loaned to, or acquired by Fred Garcia. In every instance, Defendant Lanzoni and her husband were too poor to afford new computers, and at all relevant times, obtained used computers that had been utilized by others before being given to or loaned to Ms. Lanzoni or Mr. Garcia.

Defendant Lanzoni objects to this interrogatory on grounds that it counts as more than one interrogatory, because it asks Defendant to "IDENTIFY" more than one person. *Larson v. Correct Craft, Inc.*, No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS

78028, at *12 (Oct. 25, 2006); *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684, 686 (D. Nev. 1997); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004).

In addition, Defendant Lanzoni objects to this interrogatory on grounds that this interrogatory seeks information that is considered to be confidential. For example, the names of Defendant's minor children are considered confidential under Rule 5.2(a) of the Federal Rules of Civil Procedure. If required to disclose the information in this civil action, Defendant Lanzoni would request that it be done so only under the terms of a protective order for confidential information and limiting the use of the information only to purposes of this action.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds as follows: Defendant Janne Lanzoni and her husband Fred Garcia.

INTERROGATORY NO. 6:

State any and all e-mail or instant messaging addresses ever used by you and/or by any person that you IDENTIFIED in response to Interrogatory No. 5.

RESPONSE: Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "IDENTIFIED," which because it is in all capital letters presumably has a special meaning, yet it is not defined in Plaintiffs' definitions. Defendant Lanzoni objects to being forced to speculate as to what special meaning Plaintiffs intend to ascribe to the term "IDENTIFIED" as it is used in this interrogatory.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds as follows: fgjel@aol.com.

INTERROGATORY NO. 7:

IDENTIFY any and all PERSONS who downloaded an ONLINE MEDIA DISTRIBUTION SYSTEM on the COMPUTER.

RESPONSE: Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "***the*** COMPUTER." Plaintiffs have defined the term "COMPUTER" to mean "all computers and computer components located within YOUR place of residence or otherwise within YOUR possession, custody, or control that had access to the Internet at any time during the preceding three years through YOUR account with SERVICE PROVIDER." Thus, the term "COMPUTER" is not defined as a singular item, but encompasses a potentially unknown number of devices (as a result of Plaintiffs' complicated definitions). The interrogatory is potentially confusing because a defined term that is specifically defined as a plurality of items is used apparently in the singular form.

Defendant Lanzoni objects to this interrogatory because it assumes that someone downloaded "an ONLINE MEDIA DISTRIBUTION SYSTEM" on "the COMPUTER."

Defendant Lanzoni objects to this interrogatory as unduly burdensome to the extent it seeks information concerning who may have downloaded "an ONLINE MEDIA DISTRIBUTION SYSTEM" on a used computer before the computer was loaned or given to Ms. Lanzoni or Mr. Garcia.

Defendant Lanzoni objects to this interrogatory on grounds that it counts as more than one interrogatory, because it asks Defendant to "IDENTIFY" more than one person and with respect to more than one computer. *Larson v. Correct Craft, Inc.*, No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS 78028, at *12 (Oct. 25, 2006); *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684, 686 (D. Nev. 1997); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004).

Defendant Lanzoni assumes that the term "ONLINE MEDIA DISTRIBUTION SYSTEM" does not include iTunes. Otherwise, Defendant objects to the definition as vague and indefinite, and further objects to this interrogatory as unduly burdensome to the extent it seeks information concerning iTunes, because such information could not be relevant to the claims alleged in the complaint, and would not be reasonably calculated to lead to the discovery of admissible evidence.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds as follows: Defendant Lanzoni is unable to identify any such person.

<u>INTERROGATORY NO. 8:</u>

IDENTIFY any and all PERSONS who utilized an ONLINE MEDIA DISTRIBUTION SYSTEM on the COMPUTER, including but not limited to any PERSON who downloaded music to the COMPUTER.

RESPONSE: Defendant Lanzoni objects to this interrogatory as unduly burdensome in its use of the term assumes that the term "who downloaded music to the COMPUTER" if it is intended to include iTunes, because such information could not be

relevant to the claims alleged in the complaint, and would not be reasonably calculated to lead to the discovery of admissible evidence. In addition, Plaintiffs' definition of an "ONLINE MEDIA DISTRIBUTION SYSTEM" would appear to exclude iTunes.

Defendant Lanzoni objects to this interrogatory because it assumes that someone utilized "an ONLINE MEDIA DISTRIBUTION SYSTEM" on "the COMPUTER."

Defendant Lanzoni objects to this interrogatory as vague and indefinite in its use of the term "***the*** COMPUTER." Plaintiffs have defined the term "COMPUTER" to mean "all computers and computer components located within YOUR place of residence or otherwise within YOUR possession, custody, or control that had access to the Internet at any time during the preceding three years through YOUR account with SERVICE PROVIDER." Thus, the term "COMPUTER" is not defined as a singular item, but encompasses a potentially unknown number of devices (as a result of Plaintiffs' complicated definitions). The interrogatory is potentially confusing because a defined term that is specifically defined as a plurality of items is used apparently in the singular form.

Subject to Defendant Lanzoni's general objections and specific objections, Defendant Lanzoni responds as follows: Defendant Lanzoni is unable to identify any such person.

INTERROGATORY NO. 9:

IDENTIFY any and all PERSONS who YOU asked if they utilized an ONLINE MEDIA DISTRIBUTION SYSTEM on the COMPUTER, including but not limited to any PERSON who YOU asked if they downloaded music to the COMPUTER.

RESPONSE: Defendant Janne Lanzoni objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege, attorney work product doctrine, and/or husband-wife spousal privilege.

Defendant Lanzoni objects to this interrogatory because it assumes that she has some obligation to conduct an investigation on behalf of Plaintiffs with respect to third parties. Plaintiffs sued Defendant Janne Lanzoni in this lawsuit and certified under Rule 11 of the Federal Rules of Civil Procedure that Plaintiffs identified Defendant Janne Lanzoni as the individual who used Ares on a P2P network on February 21, 2007 to distribute 389 audio files over the Internet. If Plaintiffs are willing to admit that they falsely alleged that they could identify the individual who allegedly committed the acts alleged in the complaint, then Defendant Lanzoni will consider making further inquiries.

INTERROGATORY NO. 10:

State whether YOU contend that any PERSON(S) other than YOU is/are responsible for any or all of the acts of infringement alleged in the Complaint, and, if so, IDENTIFY all such PERSONS, and STATE THE BASIS for YOUR contention.

RESPONSE: Defendant Lanzoni objects to this interrogatory because it assumes that the allegations alleged in the complaint are true, and that "acts of infringement" have occurred as alleged.

Defendant Lanzoni objects to this interrogatory because it assumes that she has some obligation to conduct an investigation on behalf of Plaintiffs with respect to who, if anyone, may have been "responsible" for the acts alleged in the complaint, assuming that the acts alleged in the complaint are actually true. Plaintiffs sued Defendant Janne

Lanzoni in this lawsuit and certified under Rule 11 of the Federal Rules of Civil Procedure that Plaintiffs identified Defendant Janne Lanzoni as the individual who used Ares on a P2P network on February 21, 2007 to distribute 389 audio files over the Internet. The only issue in this lawsuit is whether Defendant Janne Lanzoni committed the acts alleged in the complaint. She did not. No further contentions are relevant to this case.

Defendant Janne Lanzoni has unequivocally placed Plaintiffs on notice that she did not commit the acts alleged in the complaint, and that she was at work at Carver High School on February 21, 2007, at the time alleged in the complaint. The Declaration of Janne Lanzoni, dated March 4, 2009, is incorporated herein by reference.

INTERROGATORY NO. 11:

If YOUR response to INTERROGATORY NO. 10 is anything other than an unqualified no, then state whether YOU have a belief as to who is responsible for any or all of the acts of infringement alleged in the Complaint, IDENTIFY such PERSON(S), and STATE THE BASIS for YOUR belief that such PERSON(S) is/are responsible for any or all of the acts of infringement alleged in the Complaint.

RESPONSE: Defendant Lanzoni objects to this interrogatory because it assumes that the allegations alleged in the complaint are true, and that “acts of infringement” have occurred as alleged.

Defendant Lanzoni objects to this interrogatory because it assumes that she has some obligation to conduct an investigation on behalf of Plaintiffs with respect to who, if anyone, may have been “responsible” for the acts alleged in the complaint, assuming that

the acts alleged in the complaint are actually true. Plaintiffs sued Defendant Janne Lanzoni in this lawsuit and certified under Rule 11 of the Federal Rules of Civil Procedure that Plaintiffs identified Defendant Janne Lanzoni as the individual who used Ares on a P2P network on February 21, 2007 to distribute 389 audio files over the Internet. The only issue in this lawsuit is whether Defendant Janne Lanzoni committed the acts alleged in the complaint. She did not.

Defendant Janne Lanzoni has unequivocally placed Plaintiffs on notice that she did not commit the acts alleged in the complaint, and that she was at work at Carver High School on February 21, 2007, at the time alleged in the complaint. The Declaration of Janne Lanzoni, dated March 4, 2009, is incorporated herein by reference.

INTERROGATORY NO. 12:

If you have copied or downloaded any SOUND RECORDINGS onto the COMPUTER using an ONLINE MEDIA DISTRIBUTION SYSTEM, then IDENTIFY, by title of recording and recording artist, all such SOUND RECORDINGS.

RESPONSE: Subject to Defendant Lanzoni's general objections and specific objections, including specific objections to the term "***the*** COMPUTER," specific objections to the term "ONLINE MEDIA DISTRIBUTION SYSTEM," and specific objections to the term "IDENTIFY" as applied to a SOUND RECORDING, which are set forth in various places above, Defendant Lanzoni responds as follows: None.

INTERROGATORY NO. 13:

If YOU have uploaded any SOUND RECORDINGS to the COMPUTER using an ONLINE MEDIA DISTRIBUTION SYSTEM, then IDENTIFY, by title of recording and recording artist, all such SOUND RECORDINGS.

RESPONSE: Subject to Defendant Lanzoni's general objections and specific objections, including specific objections to the term "***the*** COMPUTER," specific objections to the term "ONLINE MEDIA DISTRIBUTION SYSTEM," and specific objections to the term "IDENTIFY" as applied to a SOUND RECORDING, which are set forth in various places above, Defendant Lanzoni responds as follows: None.

INTERROGATORY NO. 14:

For each of the SOUND RECORDINGS identified in YOUR response to Interrogatory Nos. 12 or 13, IDENTIFY the ONLINE MEDIA DISTRIBUTION SYSTEM used and the dates YOU used them.

RESPONSE: No response required.

INTERROGATORY NO. 15:

If YOU or anyone known to you has ever used a user name or screen name in connection with the COMPUTER, state any and all such user names or screen names known to you and IDENTIFY who used such user names or screen names.

RESPONSE: See response to Interrogatory No. 6.

INTERROGATORY NO. 16:

IDENTIFY all PERSONS known to you, including but not limited to yourself, who have used the user screen name “Diverse_Entertainmen” while connected to an ONLINE MEDIA DISTRIBUTION SYSTEM.

RESPONSE: Defendant Lanzoni objects to this interrogatory because it assumes that someone used the user screen name “Diverse_Entertainmen.” Defendant Lanzoni objects to this interrogatory to the extent that it assumes or implies that she used the user screen name “Diverse_Entertainmen” while connected to an ONLINE MEDIA DISTRIBUTION SYSTEM. Defendant Lanzoni objects to this interrogatory to the extent that it seeks information beyond her knowledge for the reasons stated above in the general objections. Defendant Lanzoni objects to this interrogatory to the extent it attempts to impose upon her some obligation to conduct an investigation on behalf of Plaintiffs with respect to persons not limited to herself. Plaintiffs sued Defendant Janne Lanzoni in this lawsuit and certified under Rule 11 of the Federal Rules of Civil Procedure that Plaintiffs identified Defendant Janne Lanzoni as the individual who used Ares on a P2P network on February 21, 2007 to distribute 389 audio files over the Internet. Unless Plaintiffs are willing to admit that they falsely alleged that they could identify the individual who allegedly committed the acts alleged in the complaint, there is no reason to suggest that Defendant Lanzoni must make investigations of persons other than herself.

Subject to Defendant Lanzoni’s general objections and specific objections, including specific objections to the term “ONLINE MEDIA DISTRIBUTION

SYSTEM," and specific objections to the term "IDENTIFY", which are set forth in various places above, Defendant Lanzoni responds that she has not used the user screen name "Diverse_Entertainmen" while connected to an ONLINE MEDIA DISTRIBUTION SYSTEM.

INTERROGATORY NO. 17:

If YOU have recorded or burned onto CDs any SOUND RECORDINGS, IDENTIFY by title of recording and recording artist, each such sound recording, grouping the SOUND RECORDINGS by the CD onto which they were burned.

RESPONSE: Subject to Defendant Lanzoni's general objections and specific objections, including specific objections to the term "YOU," and specific objections to the term "IDENTIFY" as applied to SOUND RECORDINGS, which are set forth in various places above, Defendant Lanzoni responds as follows: None.

INTERROGATORY NO. 18:

State whether YOU or anyone known to YOU downloaded any of the files listed on Exhibit 1, attached hereto, and, if so, IDENTIFY who downloaded each such file.

RESPONSE: Defendant Lanzoni objects to this interrogatory as unduly burdensome. Since she was not home on February 21, 2007, but was instead at work and could not have downloaded the files listed on Exhibit 1 at the time they were allegedly downloaded, it is unduly burdensome to ask her to provide answers for 400 files. The Declaration of Janne Lanzoni, dated March 4, 2009, is incorporated herein by reference.

Defendant Lanzoni objects to this interrogatory as unduly burdensome because it asks about video files as to which Plaintiffs' have no copyrights to assert, and asks about 379 audio files for which Plaintiffs have no claim of copyright.

Defendant Lanzoni objects to this interrogatory as offensive, and apparently undertaken for the purpose of causing embarrassment and/or annoyance. The files listed on Exhibit 1 that are in this interrogatory include obscene and profane terms such as:

"(a) asian – 3 black dudes drug and fuck two girls.wmv"

"lesbians – charmane & miko lee – asian girls, fuck in black latex, leather & tattoos105.mpg"

"asian girl fucking in bedroom.mpg"

"college girls – mia smiles – asian filipina squeezes white dick in her pussy.mpg"

"anna ohura – girls – big naturals – girls – angela asian big tits large nipples.mpg"

Defendant Lanzoni objects to this interrogatory on grounds that it violates Rule 26(g)(2) of the Federal Rules of Civil Procedure. Given that the burden, expense, embarrassment, and offensiveness of this interrogatory clearly outweighs its likely benefit, considering the needs of the case, the amount in controversy (ten alleged copyright songs worth an approximate total of $10), the parties' resources (Plaintiffs knew that Defendant Lanzoni was indigent and unable to afford legal representation at the time the discovery requests were served), the importance of the issues at stake in the action (ten alleged copyright songs downloaded worth an approximate total of $10), and the importance of discovery in resolving the issues (Plaintiffs are well aware that this discovery is needless, because Defendant Lanzoni was working on February 21, 2007

when the 400 files list on Exhibit 1 were allegedly downloaded using an IP address allegedly assigned to her home. Moreover, not only are the obscene and profane files not anything that Plaintiffs claim as copyrighted, but the files are not even sound recordings – instead these profane and obscene files are all movie files. Including them in an interrogatory that Plaintiffs force Defendant Lanzoni to answer is completely unnecessary and abusive of the discovery process.

Defendant Lanzoni objects to this interrogatory on grounds that it exceeds the maximum number of interrogatories permitted under Rule 33(a) of the Federal Rules of Civil Procedure and Local Rule LR33.1. This interrogatory is in effect 400 separate interrogatories.

Subject to Defendant Lanzoni's general objections and specific objections, including specific objections to the term "YOU," and specific objections to the term "IDENTIFY", which are set forth in various places above, Defendant Lanzoni responds as follows: No.

INTERROGATORY NO. 19:

State whether YOU or anyone known to YOU deleted from the COMPUTER any ONLINE MEDIA DISTRIBUTION or any of the SOUND RECORDINGS listed on Exhibit 1, attached hereto, and, if so, IDENTIFY who deleted such ONLINE MEDIA DISTRIBUTION SYSTEM or SOUND RECORDINGS, and state what precisely was deleted, including but not limited to the names of any software and the titles of any recordings and the names of any recording artists, when the deletion was completed, and the means by which any such deletions were made.

RESPONSE: Defendant Lanzoni objects to this interrogatory as unduly burdensome. Since she was not home on February 21, 2007, but was instead at work and could not have downloaded the files listed on Exhibit 1 at the time they were allegedly downloaded, it is unduly burdensome to ask her to provide answers for 400 files. The Declaration of Janne Lanzoni, dated March 4, 2009, is incorporated herein by reference.

Defendant Lanzoni objects to this interrogatory as unduly burdensome because it asks about video files as to which Plaintiffs' have no copyrights to assert, and asks about 379 audio files for which Plaintiffs have no claim of copyright.

Defendant Lanzoni objects to this interrogatory as offensive, and apparently undertaken for the purpose of causing embarrassment and/or annoyance. The files listed on Exhibit 1 that are in this interrogatory include obscene and profane terms such as:

"(a) asian – 3 black dudes drug and fuck two girls.wmv"

"lesbians – charmane & miko lee – asian girls, fuck in black latex, leather & tattoos105.mpg"

"asian girl fucking in bedroom.mpg"

"college girls – mia smiles – asian filipina squeezes white dick in her pussy.mpg"

"anna ohura – girls – big naturals – girls – angela asian big tits large nipples.mpg"

Defendant Lanzoni objects to this interrogatory on grounds that it violates Rule 26(g)(2) of the Federal Rules of Civil Procedure. Given that the burden, expense, embarrassment, and offensiveness of this interrogatory clearly outweighs its likely benefit, considering the needs of the case, the amount in controversy (ten alleged copyright songs worth an approximate total of $10), the parties' resources (Plaintiffs

knew that Defendant Lanzoni was indigent and unable to afford legal representation at the time the discovery requests were served), the importance of the issues at stake in the action (ten alleged copyright songs downloaded worth an approximate total of $10), and the importance of discovery in resolving the issues (Plaintiffs are well aware that this discovery is needless, because Defendant Lanzoni was working on February 21, 2007 when the 400 files list on Exhibit 1 were allegedly downloaded using an IP address allegedly assigned to her home). Moreover, not only are the obscene and profane files not anything that Plaintiffs claim as copyrighted, but the files are not even sound recordings – instead these profane and obscene files are all movie files. Including them in an interrogatory that Plaintiffs force Defendant Lanzoni to answer is completely unnecessary and abusive of the discovery process.

Defendant Lanzoni objects to this interrogatory on grounds that it exceeds the maximum number of interrogatories permitted under Rule 33(a) of the Federal Rules of Civil Procedure and Local Rule LR33.1. This interrogatory is in effect 400 separate interrogatories.

Subject to Defendant Lanzoni's general objections and specific objections, including specific objections to the term "YOU," and specific objections to the term "IDENTIFY", which are set forth in various places above, Defendant Lanzoni responds as follows: No.

INTERROGATORY NO. 20:

STATE THE BASIS for any Affirmative Defenses alleged in YOUR Answer to Plaintiffs' Complaint.

RESPONSE: Defendant Lanzoni objects to the definition and instruction "STATE THE BASIS" as unduly burdensome. According to that "definition," STATE THE BASIS means to "IDENTIFY each and every document" which forms "any part the source of YOUR information" and to "IDENTIFY each and every communication" which forms "any part the source of YOUR information" and to state separately the acts of any person which form "any part the source of YOUR information" and to further state separately any other fact which "forms the basis of YOUR information." Moreover, the definition of "STATE THE BASIS" incorporates the definition of the term "IDENTIFY," which is further defined in a way that requires a further multiplication of the number of answers. "[T]he courts have long held that an interrogatory asking a party to identify every fact, document or witness in support of a denial or allegation of fact creates an unreasonable burden on the responding party." *Larson v. Correct Craft, Inc.*, No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS 78028, at *14 (Oct. 25, 2006); *Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 447 (C.D. Cal. 1998); *Lawrence v. First Kansas Bank & Trust Co.*, 169 F.R.D. 657, 663 (D. Kan. 1996). As aptly explained by several courts:

> To state "all" facts in support of a negative proposition, of course, includes an inventory of evidence which defendant itself would offer at trial to refute the claims of plaintiff. Beyond that, however, it would further require defendant to provide essentially a review of facts and commentary to support its evaluation, if any, that the anticipated evidence of plaintiff as to each disputed paragraph of the complaint simply lacks weight or credibility. The request for "all" facts, based not only upon knowledge, but also upon simply information and belief, adds a significant and reasonable burden to the task of the answering party.

Larson v. Correct Craft, Inc., *supra*, at *14-15; *Safeco of Am. v. Rawstron*, 181 F.R.D. at 447; *Lawrence v. First Kansas Bank & Trust Co.*, 169 F.R.D. at 663.

Defendant Lanzoni objects to this interrogatory on grounds that it exceeds the maximum number of interrogatories permitted under Rule 33(a) of the Federal Rules of Civil Procedure and Local Rule LR33.1. Courts have found that an interrogatory that combines a request for identification of information with a request for identification of documents constitutes two separate interrogatories. *Larson v. Correct Craft, Inc.*, *supra*, at *12; *Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684, 686 (D. Nev. 1997); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004). In the *Larson v. Correct Craft, Inc.*, case, the court found that an interrogatory similar to this one counted as twenty interrogatories. The number of interrogatories in this set of interrogatories prior to this interrogatory number 20 amounts to a total over 800 subparts because of the 400 file names included in interrogatories Nos. 18 and 19.

<u>INTERROGATORY NO. 21:</u>

If any of your responses to any requests for admissions served by plaintiffs is other than an unqualified admission, STATE THE BASIS for your failure or refusal to provide an unqualified admission.

RESPONSE: Defendant Lanzoni objects to this interrogatory on grounds that it exceeds the maximum number of interrogatories permitted under Rule 33(a) of the Federal Rules of Civil Procedure and Local Rule LR33.1. Courts have held that when a party propounded interrogatories asking the responding party to state every fact, identify every document and identify every witness that supported the responding party's denial of requests for admission, the interrogatory would be viewed as containing a subpart for each request for admission, and each subpart counted as a separate interrogatory. *Larson*

v. Correct Craft, Inc., No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS 78028, at *11 (Oct. 25, 2006); *Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 442 & 446 (C.D. Cal. 1998).

Defendant Lanzoni objects to the definition and instruction “STATE THE BASIS” as unduly burdensome. According to that “definition,” STATE THE BASIS means to “IDENTIFY each and every document” which forms “any part the source of YOUR information” and to “IDENTIFY each and every communication” which forms “any part the source of YOUR information” and to state separately the acts of any person which form “any part the source of YOUR information” and to further state separately any other fact which “forms the basis of YOUR information.” Courts have found that an interrogatory that combines a request for identification of information with a request for identification of documents constitutes two separate interrogatories. *Larson v. Correct Craft, Inc*., *supra*, at *12; *Kendall v. GES Exposition Services, Inc*., 174 F.R.D. 684, 686 (D. Nev. 1997); *Banks v. Office of the Senate Sergeant-at-Arms*, 222 F.R.D. 7, 10-11 (D.D.C. 2004). This interrogatory takes a similar approach because of the definition of “STATE THE BASIS,” which effectively doubles the number of interrogatories that this interrogatory would count in excess of the maximum number allowed.

Moreover, the definition of “STATE THE BASIS” incorporates the definition of the term “IDENTIFY,” which is further defined in a way that requires a further multiplication of the number of answers. “[T]he courts have long held that an interrogatory asking a party to identify every fact, document or witness in support of a denial or allegation of fact creates an unreasonable burden on the responding party.” *Larson v. Correct Craft, Inc*., No. 6:05-cv-686-Orl-31JGG, 2006 U.S. Dist. LEXIS

78028, at *14 (Oct. 25, 2006); *Safeco of Am. v. Rawstron*, 181 F.R.D. 441, 447 (C.D. Cal. 1998); *Lawrence v. First Kansas Bank & Trust Co*., 169 F.R.D. 657, 663 (D. Kan. 1996). As aptly explained by several courts:

> To state "all" facts in support of a negative proposition, of course, includes an inventory of evidence which defendant itself would offer at trial to refute the claims of plaintiff. Beyond that, however, it would further require defendant to provide essentially a review of facts and commentary to support its evaluation, if any, that the anticipated evidence of plaintiff as to each disputed paragraph of the complaint simply lacks weight or credibility. The request for "all" facts, based not only upon knowledge, but also upon simply information and belief, adds a significant and reasonable burden to the task of the answering party.

Larson v. Correct Craft, Inc., supra, at *14-15; *Safeco of Am. v. Rawstron*, 181 F.R.D. at 447; *Lawrence v. First Kansas Bank & Trust Co*., 169 F.R.D. at 663.

The number of interrogatories in this set of interrogatories prior to this interrogatory number 21 amounts to a total over 800 subparts because of the 400 file names included in interrogatories Nos. 18 and 19.

INTERROGATORY NO. 22:

State your complete date of birth.

RESPONSE: Defendant Lanzoni objects to this interrogatory on grounds that it exceeds the maximum number of interrogatories permitted under Rule 33(a) of the Federal Rules of Civil Procedure. In addition, this information is considered to be confidential. For example, this information is considered confidential under Rule 5.2(a) of the Federal Rules of Civil Procedure. If required to disclose the information in this civil action, Defendant Lanzoni would request that it be done so only under the terms of a

protective order for confidential information and limiting the use of the information only to purposes of this action.

The undersigned counsel makes the above-stated objections.

DATED this 9th day of March, 2009.

SNELL & WILMER L.L.P.

By

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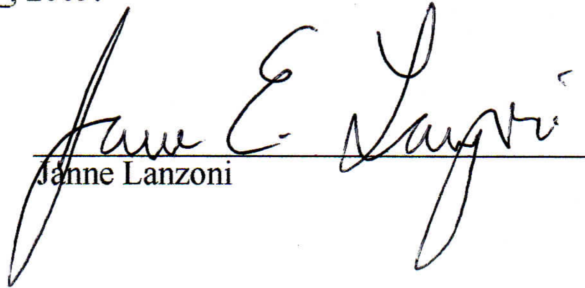
VERIFICATION

These interrogatory answers were prepared with the assistance of counsel, based in part upon information gathered by others, and are true and correct to the best of my knowledge, information and belief. I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 10, 2009.



Janne Lanzoni

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 10, 2009, I served a copy of the foregoing Defendant's Responses To Plaintiffs' First Set Of Interrogatories and Verification upon Plaintiffs by mailing a copy via First Class Mail in a sealed envelope, postage prepaid, addressed to the last know address of Plaintiffs' counsel of record as follows:

Stacy R Obenhaus
Daniel Charles Scott
Gardere Wynne Sewell LLP
3000 Thanksgiving Tower
1601 Elm Street
Dallas, TX 75201-4761
Attorneys for Plaintiffs

By: ______________________