

EXHIBIT J

Susan Haag

From: Miller, Matthew (SHB)
Sent: Wednesday, December 14, 2005 4:11 PM
To: 'Ray Beckerman'; Losasso, Ian C. (SHB)
Cc: M. Ty Rogers; CowanLiebowitzPenneyMaryann (E-mail)
Subject: RE: Lindor

Ray,

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

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

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

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

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

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

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

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

From: Ray Beckerman [mailto:RBeckerman@BLHNY.com]
Sent: Tuesday, December 13, 2005 4:28 PM
To: Losasso, Ian C. (SHB)
Cc: M. Ty Rogers; Miller, Matthew (SHB); CowanLiebowitzPenneyMaryann (E-mail)
Subject: RE: Lindor

Dear Ian,

You can call me Ray.

I've spoken to Matt about resolving this matter informally and was trying not to incur any legal fees. I think we're pretty much all agreed that Marie Lindor, who has never owned and wouldn't even know how to turn on a computer, isn't your culprit. We've been trying to figure out who jrlindor is.

There was no working computer at all at the house in August 2004, so whoever it was either brought a laptop or otherwise went in over the wireless router that was still there after the computer which had been there had been removed. There is a Lindor relative named "Junior" who might have been at the house but who didn't have a laptop computer.

Of course it would be a good idea to postpone discovery, but I think it would be a better idea to discontinue without prejudice since it is clear that Marie Lindor didn't do it.

Woody Raymond is a responsible guy and will be available to answer your questions, formally under oath, or informally, so you don't need to keep the case open as a discovery device, and I don't think it's really appropriate to pursue a case just for that purpose.

Best regards,

Ray

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

From: Losasso, Ian C. (SHB) [mailto:ILOSASSO@shb.com]

Sent: Tuesday, December 13, 2005 2:56 PM

To: Ray Beckerman

Subject: Lindor

Mr. Beckerman,

We served Ms. Lindor with discovery requests back in June. We received her responses which were deficient in many respects. We wrote her a letter on 9/28 requesting her to supplement her responses. To date, we have not received anything from her. Please let me know when we can expect to see something.

In addition, we should consider lengthening discovery by 2 months to make this matter a little less deadline-driven.

Finally, we'd like to depose Ms. Lindor, Mr. Raymond, and Junior Lindor as soon as possible. Please let us know when they will be available.

We look forward to hearing from you.

Thank you,

Ian Losasso

"MMS <shb.com>" made the following annotations on 12/13/05 13:55:57

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if any, is intended for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.

EXHIBIT K

1

2 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

3 -----x

4 UMG RECORDINGS, INC, a Delaware
5 corporation; WARNER BROS. RECORDS INC.,
6 a Delaware corporation; ARISTA RECORDS
7 LLC, a Delaware limited liability company;
8 INTERSCOPE RECORDS, a California general
9 partnership; MOTOWN RECORD COMPANY, L.P,
10 a California limited partnership; and SONY
11 BMG MUSIC ENTERTAINMENT, a Delaware general
12 partnership,

8

9 Plaintiffs,

10 vs.

11 MARIE C. LINDOR,

12 Defendant.

-----x

13

14 July 7, 2006

15

16 Deposition of MARIE C. LINDOR,
17 held at the offices of Vandenberg & Feliu,
18 LLP, 110 East 42nd Street New York, New York,
19 before LESLIE FAGIN, a Notary Public of the
20 State of New York.

21

22

23 Reported by:

LESLIE FAGIN

24 JOB NO. 185615B

25

COPY

1 Lindor

2 they got the last name.

3 Q. I'm looking for people who go by
4 Junior Lindor. I think your son told me
5 there is at least one or maybe more Gene
6 Lindors who go by Junior, is that true?

7 A. Yeah.

8 Q. Do you know, there are two in Haiti
9 who your son wasn't sure if they were
10 children of a cousin or children of his uncle
11 Justav, your brother.

12 Does your brother have children who
13 go by Junior Lindor?

14 A. Yes.

15 Q. Is it just one child?

16 A. Yeah. One boy, one girl.

17 Q. The boy goes by Junior Lindor, is
18 the boy's name Justav?

19 A. Yes, they have the same name.

20 Q. There are juniors who are named
21 Gene, who are they? There are a couple of
22 Gene Lindors who, if I understood correctly,
23 go by Junior?

24 A. One is my brother, so his son.

25 Q. Your brother's name is Gene?

1 Lindor

2 A. Yes.

3 Q. He has a son named Gene?

4 A. Junior.

5 Q. Gene Junior?

6 A. Yeah.

7 Q. Your brother's full name is Gene or
8 is it Eugene?

9 A. No, my brother name Gene Lindor.

10 Q. Is that spelled G-E-N-E?

11 A. G-E-N-E, he lives in Connecticut,
12 his son lives in Connecticut, but he has
13 nothing to do with the kids. They live in
14 Connecticut maybe more than 15 years.

15 Q. So there -- you have a brother
16 named Gene and he has a son named Gene that
17 goes by Junior, is that right?

18 A. Yes.

19 Q. And then there is -- your brother
20 is Justav?

21 A. But they don't --

22 Q. You have a brother Gene who is in
23 Connecticut, and he has a son named Gene who
24 goes by Junior, correct?

25 A. Yes.

1 Lindor

2 Q. Then you have a different brother
3 named Justav, who has a son named Justav who
4 goes by Junior?

5 A. Yes.

6 Q. Where does your brother Justav
7 live?

8 A. I can't tell you where he live.

9 Q. Do you know what state he lives in?

10 A. I know where I'm living, but I
11 can't tell you where my brother live.

12 Q. Does he live in the United States?

13 A. Yes.

14 Q. You don't know where he lives?

15 A. No.

16 Q. Do you know where his son Justav
17 Junior lives?

18 A. I don't know.

19 Q. Are there any other Junior Lindors,
20 that you know of?

21 A. No.

22 Q. You have described for me all of
23 the Junior Lindors that you know?

24 A. Yes, I do.

25 Q. Thank you.

1 Lindor

2 Ma'am, what is your birthday,
3 please?

4 A. August 22.

5 Q. August 22?

6 A. Yeah.

7 Q. What year, please?

8 A. '49.

9 Q. Ma'am, have you always used the
10 name Marie Lindor?

11 A. Yes.

12 Q. Have you ever used the name Marie
13 Raymond?

14 A. No.

15 Q. Have you been known by any other
16 names?

17 A. No.

18 Q. Have you gone by any nicknames?

19 A. Listen, what year I got the name,
20 you want to -- I used no other name -- before
21 August or after, what year?

22 Q. At any other time.

23 A. Before I used Marie Denis.

24 Q. Were you married to someone named
25 Denis?

1 Lindor

2 A. Yes.

3 Q. When was that?

4 A. It's a long time, maybe in '79,
5 something like that. That's why I say let's
6 go by 2004 and not before.

7 Q. When was the last time you went by
8 Marie Denis?

9 A. It was a long time, maybe '80, '82,
10 something like that.

11 Q. Was that when you married Mr.
12 Raymond?

13 A. Yes.

14 Q. You did not change your name to
15 Raymond?

16 A. No.

17 Q. You kept --

18 A. My birth name.

19 Q. Lindor?

20 A. Uh-huh.

21 Q. What year did you marry Mr.
22 Raymond?

23 A. Listen, I'm Lindor, just keep
24 talking about Marie Lindor, the case is about
25 Marie Lindor, don't put me in the past, you

1 Lindor

2 make me confused.

3 Q. So the record is clear, Mr. Raymond
4 indicated it's difficult for Ms. Lindor to
5 talk about her husband who passed away.

6 A. It's better just Lindor, don't
7 mention it, please.

8 Q. Ma'am, do you speak other languages
9 besides English?

10 A. Yes, I do.

11 Q. What other languages?

12 A. I speak Padua and English.

13 Q. Your son gave me -- strike that.

14 I asked about people who have lived
15 with you in your home, I asked Mr. Raymond
16 about that, and he indicated to me that in
17 2004 and 2003 your daughter Kathy lived in
18 the home, although she lived with him
19 sometimes when she was going to school, is
20 that right?

21 A. Correct.

22 Q. Did anybody else live in your home
23 in 2004?

24 A. No.

25 Q. So it was just --

1 Lindor

2 A. By myself.

3 Q. And is your daughter's name Kathy,
4 I thought I saw Kathleen somewhere?

5 A. Yeah, Kathleen Raymond, Kathy
6 Raymond.

7 Q. Her birth name was Kathleen, yes?

8 A. Yes.

9 Q. My daughter is named Kathleen, too.
10 Did anyone live in the house with
11 you who was not related to you for --

12 A. No, no, no, I live by myself. I
13 always at home, 12 hours a day, I leave about
14 6:30, I come home at 10:30, sometimes seven
15 days.

16 Q. Ma'am, to your knowledge, has
17 anyone besides your family access to your
18 home, keys --

19 A. No, no, my son have a key and my
20 daughter have a key, nobody outside, it's my
21 private.

22 Q. Your son is Mr. Raymond?

23 A. Yes.

24 Q. You said your son, you have two
25 sons?

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STATE OF NEW YORK)
:
COUNTY OF NEW YORK)

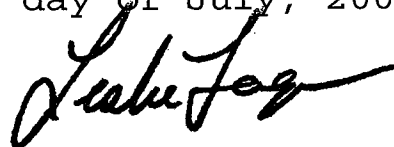
: ss.

I, LESLIE FAGIN, a Notary Public
within and for the State of New York, do
hereby certify:

That MARIE LINDOR, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that
such deposition is a true record of the
testimony given by the witness.

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

IN WITNESS WHEREOF, I have hereunto
set my hand this 25th day of July, 2006.



LESLIE FAGIN

EXHIBIT L

COPY

1

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 UMG RECORDINGS, INC., a Delaware corporation;
5 WARNER BROS. RECORDS INC., a Delaware
6 corporation; ARISTA RECORDS LLC, a Delaware
7 limited liability company; INTERSCOPE RECORDS, a
8 California general partnership; MOTOWN RECORD
9 COMPANY, L.P., a California limited partnership;
10 and SONY BMG MUSIC ENTERTAINMENT, a Delaware
11 general partnership,

12 Plaintiffs,

13 -against-

14 MARIE C. LINDOR,

15 Defendant.

16 -----x
17 110 East 42nd Street
18 New York, New York

19 August 25, 2006
20 10:50 a.m.

21 DEPOSITION of KATHLEEN RAYMOND, the
22 Nonparty Witness herein, taken by Plaintiff,
23 pursuant to Notice, held at the above-noted time
24 and place before a Notary Public of the State of
25 New York.

26 ELLEN GRAUER COURT REPORTING CO. LLC
27 126 East 56th Street, Fifth Floor
28 New York, New York 10022
29 212-750-6434
30 REF: 81706

1 RAYMOND

2 home that you can recall?

3 A. I'm not sure.

4 Q. All right. Now, let me ask you, was
5 that computer in the home at all --

6 MR. GABRIEL: Strike that.

7 Q. Was the computer in the house at all
8 times when you lived there, except for when maybe
9 it was being repaired?

10 A. Yes.

11 Q. All right. At the time you lived in
12 that home with your mom, has anyone else lived
13 there?

14 A. No.

15 Q. Your brothers were all gone already?

16 A. Yes.

17 Q. Yanick is a sister, right?

18 A. Yes.

19 Q. She was gone as well?

20 A. Yes.

21 Q. Other than your family, did any
22 relatives come and stay for any periods of time,
23 more than just a couple of days?

24 A. Not that I'm aware of.

25 Q. All right. Basically, the times you

1 RAYMOND

2 lived in the house, the people who lived there
3 were you and your mom and I take it your dad up
4 until the time he passed away?

5 A. Yes.

6 Q. That's true?

7 A. Yes.

8 Q. Who used the computer in that house
9 that you're aware of?

10 A. In my mother's house?

11 Q. Yes.

12 A. My father.

13 Q. And you as well?

14 A. Yes.

15 Q. I don't want you to guess at any
16 question I ask you. Okay. So if you don't know,
17 you just tell me you don't know.

18 A. Okay.

19 Q. Do you know what your dad used the
20 computer for?

21 A. No.

22 Q. Did you ever see your dad using the
23 computer?

24 A. Yes.

25 Q. Again, without guessing, did you ever

1 RAYMOND

2 A. No.

3 Q. Did you ever see any of your siblings
4 use that computer?

5 A. Yes.

6 Q. Who?

7 A. My sister.

8 Q. That's Yanick?

9 A. Yes.

10 Q. Okay. What did Yanick use that
11 computer for, if you know?

12 A. Type her papers.

13 Q. Anything else?

14 A. Not that I'm aware of.

15 Q. Did you ever see any of your brothers
16 use that computer?

17 A. No.

18 Q. Now, you've told me you've seen your
19 dad use the computer when he was with us, and
20 you've used it, and your sister Yanick has used
21 it.

22 Have you ever seen anyone else use
23 that computer?

24 A. No.

25 Q. I asked you a specific question

1 RAYMOND

2 whether you knew of relatives that go by the name
3 JR Lindor or Jr. Lindor. Do you know anyone who
4 goes by the name JR Lindor?

5 A. No.

6 Q. Do you know anyone who goes by the
7 name Jr. Lindor?

8 A. No.

9 Q. Do you know anyone who has used as an
10 e-mail address or screen name or user name --

11 A. No.

12 Q. -- JR Lindor?

13 A. No.

14 Q. How about Jr. Lindor, same?

15 A. No.

16 Q. Tell me about how frequently did you
17 use the computer in your mom's home; were you on
18 there every day, was it once a day, once a month?

19 A. Whenever the printer at my brother's
20 house wasn't working. I just go there to print
21 out my paper. That's it.

22 Q. Would you put a disc and take it on
23 over?

24 A. Yeah.

25 Q. How often would that happen?

C E R T I F I C A T E

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS:

I, ELLEN KATZ, a Shorthand Reporter and
Notary Public in and for the State of New York,
do hereby certify:

That the testimony of KATHLEEN RAYMOND was
held before me at the aforesaid time and place.

That said witness was duly sworn before the
commencement of the testimony and that the
testimony was taken stenographically by me and is
a true and accurate transcription of my
stenographic notes.

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

IN WITNESS WHEREOF, I have hereunto set my
hand this 31st day of August, 2006.

Ellen Katz

ELLEN KATZ, RPR, CRR

Kathleen Raymond

October 12, 2006

Holme Roberts & Owen LLP
1700 Lincoln Street, Suite 4100
Denver, CO 80203
Attn: Richard L. Gabriel, Esq.

Re: UNG Recordings, Inc. v. Lindor

Dear Mr. Gabriel:

Enclosed please the transcript, with the following changes:

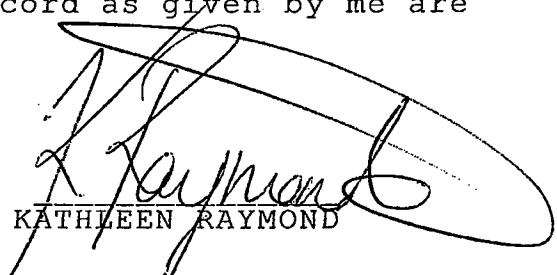
- a- page 66, line 7 to "protect my interest. I'm going to object to."
- b- page 58, line 8 to "A mouse, verizon modem/router, speaker, printer, and a box similar to the verizon modem/router with antenna (wireless router)."
- c- page 58, line 12 to "yes, not exactly, my knowledge is limited to my experience at Radioshack."
- d- page 58, line 14, to "yes - Because my knowledge is based on my experience from working at Radioshack and the products they carried, I associated a router to a device made by Linksys, Netgear, D-Link routers and thought that they are the only three companies that made router. After I got home that day, I realized Belkin also made wireless router. Therefore, a wireless router was present at that time."

ACKNOWLEDGMENT

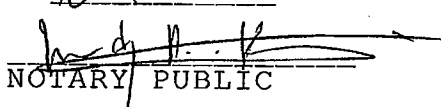
STATE OF NEW YORK)
COUNTY OF NEW YORK)

ss:

I, KATHLEEN RAYMOND, hereby
certify that I have read the transcript of
my testimony taken under oath in my
deposition of August 25, 2006; that the
transcript is a true, complete and correct
record of what was asked, answered and said
during this deposition, and that the
answers on the record as given by me are
true and correct.


KATHLEEN RAYMOND

Subscribed and sworn to
before me this 12th day
of October 2006.


NOTARY PUBLIC

WOODY A. RAYMOND
Notary Public, State of New York
No. 01RA6024275
Qualified in Kings County
Commission Expires May 3, 20 07

ERRATA

ELLEN GRAUER COURT REPORTING CO. LLC
 126 East 56th Street, Fifth Floor
 New York, New York 10022
 212-750-6434

NAME OF CASE: UMG RECORDINGS VS. LINDOR
 DATE OF DEPOSITION: August 25, 2006
 NAME OF WITNESS: KATHLEEN RAYMOND

PAGE LINE FROM TO REASON

| | | | | |
|----|----|------------|-----------|----------------|
| 66 | 7 | See pages | | |
| 66 | 7 | Take | objection | classification |
| 58 | 8 | see letter | | classification |
| 58 | 13 | see letter | | classification |
| 58 | 14 | see letter | | classification |
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Subscribed and sworn before me

this 25 day of September, 2006.

Kathleen Raymond

Woody A. Raymond

WOODY A. RAYMOND
 Notary Public, State of New York
 No. 01RA6024275
 Qualified in Kings County
 Commission Expires May 3, 20

EXHIBIT M

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 9th 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
(515)-292-7239 dougj@iastate.edu

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 7th 2006 I have the following additional conclusions based on the additional information from the hard drive image.

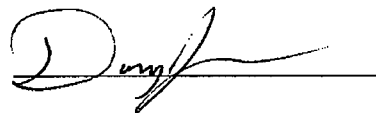
- 15) I will testify to the procedures used and results obtained by MediaSentry coupled with the information supplied by Defendant's ISP, to demonstrate the Defendant's Internet account and computer were used to download and upload copyrighted music from the Internet using the KaZaA peer-to-peer network.
- 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 9:00am

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

Dr. Doug Jacobson

EXHIBIT N

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 - - - - -x
5 UMG RECORDINGS, INC., a Delaware
6 Corporation; WARNER BROS. RECORDS, INC.,
7 a Delaware Corporation; ARISTA RECORDS
8 LLC, a Delaware Limited Liability
9 Company; INTERSCOPE RECORDS, a California
10 general partnership; MOTOWN RECORD
11 COMPANY, L.P., a California limited
12 partnership; and SONY BMG MUSIC
13 ENTERTAINMENT, a Delaware general
14 partnership,

15 Plaintiffs,

16 -against-

17 MARIE C. LINDOR,

18 Defendant.

19 - - - - -x
20 885 Third Avenue
21 New York, New York

22 October 22, 2007
23 10:20 a.m.

24 EXAMINATION BEFORE TRIAL of GUSTAVE
25 LINDOR, a Non-Party Witness in the
above-entitled action, held at the above
time and place, taken before Jennifer

1 G. Lindor

2 A Yes, sir.

3 Q Did your family get together at
4 Christmas time?

5 A Yes.

6 Q You saw Woody at Christmas
7 time?

8 A Yes.

9 Q Does your family usually get
10 together at Christmas time?

11 A Yes.

12 Q So pretty much every year you
13 all get together?

14 A Yes.

15 Q When you get together, where do
16 you get together?

17 A At Woody's house.

18 Q And you're talking about
19 Woody's house, separate from his mother's
20 house?

21 A Yeah.

22 Q Not your Aunt Marie's house,
23 Woody's house?

24 A Yeah.

25 Q As best you can remember, so

1 G. Lindor

2 Q You said that you had lived in
3 this house on East 108th Street in
4 Brooklyn since 2003?

5 A Yes.

6 Q Did your cousin Woody know
7 where your lived?

8 A No.

9 MR. ROGERS: Can you put a time
10 frame?

11 MR. GABRIEL: Sure, I'll do
12 that.

13 Q Since you lived at the East
14 108th Street address, had your cousin
15 Woody known where you lived?

16 A No, sir.

17 Q How did he know how to invite
18 you to the Christmas party?

19 A He told Yannick.

20 Q I thought you said Woody
21 invited you?

22 A Woody invited me, so he has to
23 tell Yannick.

24 Q To your knowledge, did Woody
25 know you lived in Brooklyn?

1 G. Lindor

2 A Yes.

3 Q When is the last time that you
4 saw your Aunt Marie?

5 A I already answered that
6 question.

7 Q I'm not sure that you did, but
8 could you try again?

9 You said you saw her once every
10 five years or so?

11 A Yeah.

12 Q Has it been five years since
13 you have seen her? I'm asking a bit of a
14 different question.

15 When is the last time you saw
16 her?

17 A Since 2001.

18 Q Was there some reason you saw
19 her in 2001?

20 A She was sick. She had a
21 sickness, so I came by to visit.

22 Q And did you go by her home?

23 A Yes.

24 Q And she was in Brooklyn at the
25 time?

1 G. Lindor

2 A Yes.

3 Q To your knowledge, did your
4 Aunt Marie know you lived in Brooklyn,
5 even though you don't see her?

6 A Yeah.

7 Q Mr. Lindor, do you live with
8 anybody?

9 A Yes, sir.

10 Q Who do you live with?

11 A My mother and my sister and my
12 stepfather.

13 Q What is your mother's name?

14 A Jacqueline Lindor.

15 Q Can you spell Jacqueline?

16 A J-A-C-Q-U-E-L-I-N-E.

17 Q And her last name is Lindor?

18 A Yes, sir.

19 Q What is your sister's name?

20 A Shirley Lindor.

21 Q Would you spell Shirley?

22 A S-H-I-R-L-E-Y.

23 Q And what is your stepfather's
24 name?

25 A Al.

1 G. Lindor

2 remember things that you didn't.

3 Do you think you saw her in

4 2005, 2006?

5 A No.

6 Q So she wasn't in her house

7 then?

8 A No.

9 Q So let me be clear. You do

10 remember being in your Aunt Marie's house

11 New Year's Eve 2005?

12 A Yeah.

13 Q And you are now thinking she

14 was not there; is that right?

15 A Yes.

16 Q Do you remember who was there?

17 A Yannick and Kathleen Raymond.

18 Q Woody was not there?

19 A No.

20 Q Anybody else there?

21 A No.

22 Q Did Yannick invite you over?

23 A Yes.

24 Q And before that, do you

25 remember the last time when you were in

1 G. Lindor

2 please.

3 [The photograph was hereby
4 marked as Exhibit 5, for
5 identification, as of this date.]

6 Q Mr. Lindor, I'm showing you
7 what we marked as Exhibit 5 to your
8 deposition.

9 Is that you?

10 A Yes, sir.

11 Q I'll tell you this is a
12 photograph that your aunt provided to us
13 in this case.

14 Do you know when this picture
15 was taken?

16 A I don't remember.

17 Q Do you know how old you were in
18 that picture?

19 A I don't remember.

20 Q It looks like you're on an
21 airplane, does that help you any?

22 A I'm not sure.

23 Q Mr. Lindor, do you have any
24 nicknames; are you known by any other
25 names?

1 G. Lindor

2 A Junior.

3 Q Who calls you Junior?

4 A Everybody.

5 Q Do you have any other nicknames
6 besides Junior?

7 A No, sir.

8 Q Do you ever use a computer?

9 A Yes.

10 Q And have you used e-mail?

11 A E-mail, once.

12 Q Or instant messages, do you
13 know what instant message is?

14 A No, sir.

15 Q When you said you used e-mail,
16 did you have an e-mail address?

17 A Yes.

18 Q What was your e-mail address?

19 A G dot Lindor.

20 Q G dot Lindor?

21 A Yeah.

22 Q Any other e-mail addresses that
23 you've used?

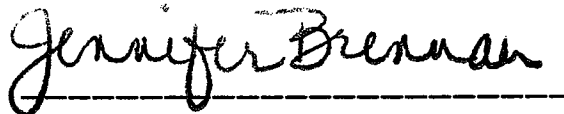
24 A No, sir.

25 Q Forgive me, a personal

C E R T I F I C A T I O N

I, JENNIFER BRENNAN, a Shorthand Reporter and a Notary Public, do hereby certify that the foregoing witness, was duly sworn on the date indicated, and that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

A handwritten signature in cursive script that reads "Jennifer Brennan". The signature is written in dark ink and is positioned above a solid horizontal line.

JENNIFER BRENNAN

EXHIBIT O

COURT UNITED STATES DISTRICT COURT
COUNTY OF EASTERN DISTRICT OF NEW YORK
UMG RECORDINGS, ET AL.

Index No. 05CV1095-DGT-RML

MARIE C. LINDOR

against

Plaintiff(s)

Defendant(s)

**AFFIDAVIT OF
SERVICE OF SUBPOENA
IN A CIVIL CASE**

STATE OF NEW YORK, COUNTY OF NEW YORK

SS: The undersigned, being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at NORTH BRUNSWICK, NEW JERSEY

That on 5/31/07

at 1:10 P.M., at 1443 EAST 108TH STREET, BROOKLYN, NEW YORK #6E

deponent served the within subpoena on
IN A CIVIL CASE

GUSTAVE LINDOR, JR.

witness therein named,

INDIVIDUAL

1. ☐

by delivering a true copy to said witness personally; deponent knew the person so served to be the witness described in said subpoena.

CORPORATION

2. ☐

a corporation, by delivering thereat a true copy to

personally, deponent knew said corporation so served to be the corporation witness and knew said individual to be thereof.

SUITABLE AGE PERSON

3. ☐

by delivering thereat a true copy to

a person of suitable age

and discretion. Said premises is witness'—actual place of business—dwelling place—usual place of abode—within the state.

AFFIXING TO DOOR, ETC.

4. ☒

by affixing a true copy to the door of said premises, which is witness'—actual place of business—dwelling place—usual place

of abode—within the state. Deponent was unable, with due diligence to find witness or a person of suitable age and discretion

thereat, having called there ALSO LEFT A COPY UNDER THE APARTMENT DOOR

ATTEMPTS: 4-20-07 AT 8:30 A.M.

4-24-07 AT 6:15 A.M. UNTIL 9:15 A.M.

5-21-07 AT 5:15 P.M. AT 9:30 P.M.

4-25-07 AT 5:50 A.M. UNTIL 9:00 A.M.

5-24-07 AT 5:20 A.M. AT 9:30 A.M.

4-28-07 AT 7:00 A.M. UNTIL 9:00 A.M.

5-25-07 AT 11:15 P.M. AT 5:30 A.M.

5-18-07 AT 5:30 A.M. UNTIL 9:30 A.M.

5-19-07 AT 6:00 P.M. UNTIL 10:30 P.M.

MAILING TO
RESIDENCE
USE WITH 3 OR 4

5A. ☒

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to witness at witness' last known residence, at 1443 EAST 108TH STREET, BROOKLYN, NEW YORK 11236 #6E and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.

MAILING TO
BUSINESS
USE WITH 3 OR 4

5B. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class postpaid envelope properly addressed to witness at witness' actual place of business, at in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the witness. MAILED ON: 5/31/07 AT 6:00 P.M.

DESCRIPTION
USE WITH
1, 2, OR 3

☐ Male
☐ Female

☐ White Skin
☐ Black Skin
☐ Yellow Skin
☐ Brown Skin
☐ Red Skin

☐ Black Hair
☐ Brown Hair
☐ Blonde Hair
☐ Gray Hair
☐ Red Hair

☐ White Hair
☐ Balding
☐ Mustache
☐ Beard
☐ Glasses

☐ 14-20 Yrs.
☐ 21-35 Yrs.
☐ 36-50 Yrs.
☐ 51-65 Yrs.
☐ Over 65 Yrs.

☐ Under 5'
☐ 5'0"-5'3"
☐ 5'4"-5'8"
☐ 5'9"-6'0"
☐ Over 6'

☐ Under 100 Lbs.
☐ 100-130 Lbs.
☐ 131-160 Lbs.
☐ 161-200 Lbs.
☐ Over 200 Lbs.

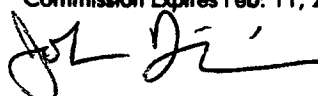
Other identifying features:

At the time of said service, deponent paid (tendered) in advance \$ 46.89

the authorized traveling expenses and one day's witness fee.

Sworn to before me on
6/4/07

JOHN DICANIO
Notary Public, State of New York
No. 01D1497768
Qualified in Westchester County
Commission Expires Feb. 11, 2011



PRINT NAME BENEATH SIGNATURE
ADRIANO GINES

License No. 845419

COURT UNITED STATES DISTRICT COURT
COUNTY OF EASTERN DISTRICT OF NEW YORK
UMG RECORDINGS, ET AL.

Index No. 05CV1095-DGT-RML

MARIE C. LINDOR

against

Plaintiff(s)

Defendant(s)

**AFFIDAVIT OF
SERVICE OF SUBPOENA
IN A CIVIL CASE**

STATE OF NEW YORK, COUNTY OF NEW YORK

SS: The undersigned, being duly sworn, deposes and says; deponent is not a

party herein, is over 18 years of age and resides at NORTH BRUNSWICK, NEW JERSEY

That on 5/31/07

at 1:45 P.M., at 1262 HANCOCK STREET, BROOKLYN, NEW YORK #3

deponent served the within subpoena on
IN A CIVIL CASE

GUSTAVE LINDOR, JR.

witness therein named,

INDIVIDUAL

1. ☐

by delivering a true copy to said witness personally; deponent knew the person so served to be the witness described in said subpoena.

CORPORATION

2. ☐

a corporation, by delivering thereat a true copy to personally, deponent knew said corporation so served to be the corporation witness and knew said individual to be thereof.

SUITABLE AGE PERSON

3. ☐

by delivering thereat a true copy to a person of suitable age and discretion. Said premises is witness'—actual place of business—dwelling place—usual place of abode—within the state.

AFFIXING TO DOOR, ETC.

4. ☒

by affixing a true copy to the door of said premises, which is witness'—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find witness or a person of suitable age and discretion thereat, having called there ALSO LEFT A COPY UNDER THE APARTMENT DOOR

ATTEMPTS: 5-21-07 AT 7:40 A.M.

5-24-07 AT 10:00 A.M. UNTIL 11:45 A.M.

5-25-07 AT 4:30 P.M. UNTIL 7:00 P.M.

MAILING TO
RESIDENCE
USE WITH 3 OR 4

5A. ☒

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to witness at witness' last known residence, at 1262 HANCOCK STREET, BROOKLYN, NEW YORK 11221 #3 and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.

MAILING TO
BUSINESS
USE WITH 3 OR 4

5B. ☐

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class postpaid envelope properly addressed to witness at witness' actual place of business, at in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the witness. MAILED ON: 5/31/07 AT 6:00 P.M.

DESCRIPTION
USE WITH
1, 2, OR 3

☐

| | | | | | | |
|---------------------------------|--------------------------------------|--------------------------------------|-------------------------------------|---------------------------------------|------------------------------------|---|
| <input type="checkbox"/> Male | <input type="checkbox"/> White Skin | <input type="checkbox"/> Black Hair | <input type="checkbox"/> White Hair | <input type="checkbox"/> 14-20 Yrs. | <input type="checkbox"/> Under 5' | <input type="checkbox"/> Under 100 Lbs. |
| <input type="checkbox"/> Female | <input type="checkbox"/> Black Skin | <input type="checkbox"/> Brown Hair | <input type="checkbox"/> Balding | <input type="checkbox"/> 21-35 Yrs. | <input type="checkbox"/> 5'0"-5'3" | <input type="checkbox"/> 100-130 Lbs. |
| | <input type="checkbox"/> Yellow Skin | <input type="checkbox"/> Blonde Hair | <input type="checkbox"/> Mustache | <input type="checkbox"/> 36-50 Yrs. | <input type="checkbox"/> 5'4"-5'8" | <input type="checkbox"/> 131-160 Lbs. |
| | <input type="checkbox"/> Brown Skin | <input type="checkbox"/> Gray Hair | <input type="checkbox"/> Beard | <input type="checkbox"/> 51-65 Yrs. | <input type="checkbox"/> 5'9"-6'0" | <input type="checkbox"/> 161-200 Lbs. |
| | <input type="checkbox"/> Red Skin | <input type="checkbox"/> Red Hair | <input type="checkbox"/> Glasses | <input type="checkbox"/> Over 65 Yrs. | <input type="checkbox"/> Over 6' | <input type="checkbox"/> Over 200 Lbs. |

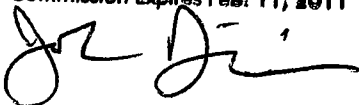
Other identifying features:

At the time of said service, deponent paid (tendered) in advance \$ 46.89

the authorized traveling expenses and one day's witness fee.

Sworn to before me on
6/4/07

JOHN DICANIO
Notary Public, State of New York
No. 01D1497768
Qualified in Westchester County
Commission Expires Feb. 11, 2011



PRINT NAME BENEATH SIGNATURE
ADRIANO GINES

License No. 845419

EXHIBIT P

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 Case No. 05 CV 1095 (DGT) (RML)

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

7
8 Plaintiffs,

9
10 - against -

11
12 MARIE LINDOR,

13
14 Defendant.

15 -----x
16 July 3, 2007

17 10:35 a.m.
18
19

20 Default deposition of GUSTAVE
21 LINDOR, JR., taken by Plaintiffs, pursuant
22 to Subpoena, held at the offices of
23 Robinson & Cole, LLP, 885 Third Avenue,
24 New York, New York, before Jineen Pavesi,
25 a Registered Professional Reporter,
Registered Merit Reporter, Certified
Realtime Reporter and Notary Public of the
State of New York.

| | |
|---|--|
| <p>2</p> <p>1 2 A P P E A R A N C E S : 3 4 HOLME ROBERTS & OWEN LLP 5 1700 Lincoln Street, Suite 4100 6 Denver, Colorado 80203-4541 7 Attorneys for Plaintiff 8 9 BY: RICHARD L. GABRIEL, ESQ. 10 11 12 VANDENBERG & FELIU, LLP 13 110 East 42nd Street 14 New York, New York 10017 15 Attorneys for Defendant 16 17 BY: RAY BECKERMAN, ESQ. 18 19 20 21 22 23 24 25</p> | <p>4</p> <p>1 2 that the subpoena was mailed to Mr. Lindor 3 at two separate addresses, it was Federal 4 Expressed to him at two separate 5 addresses, it was posted on the door at 6 two separate addresses, and also copies 7 were left under the door. 8 We do have a letter from 9 Mr. Lindor Jr. that was received yesterday 10 by Robinson & Cole, my co-counsel in this 11 case, that I will also put in the record 12 indicating that Mr. Lindor Jr., has 13 received the papers. 14 We waited until, it is now 15 10:36 by my watch, Mr. Lindor has not 16 appeared and we note on the record that he 17 has not appeared. 18 So if I may, I will just mark 19 as Exhibit 1 first the subpoena that was 20 served on Mr. Lindor. 21 (Exhibit 1, subpoena, was 22 marked for identification, as of this 23 date.) 24 MR. GABRIEL: I am handing to 25 the reporter what we will mark as Exhibit</p> |
| <p>3</p> <p>1 2 MR. GABRIEL: We're on the 3 record in the case of UMG Recordings 4 versus Marie C. Lindor, my name is Richard 5 Gabriel, counsel for the plaintiffs, and 6 we're here for the deposition of Gustave 7 Lindor, Jr.. 8 Mr. Ray Beckerman, counsel for 9 the defendant, is also present. 10 I will mark some documents here 11 in a moment, but I will note on the record 12 that Mr. Lindor was served by alternative 13 service for the deposition today, which 14 was scheduled for July 3, 2007. 15 The subpoena not only requested 16 his presence but also asked him to bring 17 with him any and all computers and/or 18 music listening devices, including Ipods 19 and MP3 players in his possession, 20 custody, or control. 21 By order of the court this 22 subpoena was served by alternative 23 service, I will submit in a moment the 24 returns of service that I had previously 25 provided to Mr. Beckerman, those will show</p> | <p>5</p> <p>1 2 2, which are the three returns of service. 3 (Exhibit 2, three returns of 4 service, was marked for identification, as 5 of this date.) 6 MR. GABRIEL: Lastly, we will 7 mark as Exhibit 3 the letter that 8 Mr. Lindor sent, the letter will show, 9 dated June 18th, it is addressed to "Dear 10 State Court," there is a stamp on the 11 front indicating that it was received 12 yesterday by Robinson & Cole at 1:45 p.m. 13 We have also attached the 14 envelope that we got with the letter that 15 indicates a postmark of June 29th, so 16 although the letter is dated June 18th, it 17 was postmarked June 29, and so that will 18 be Exhibit 3. 19 (Exhibit 3, letter that 20 Mr. Lindor sent, was marked for 21 identification, as of this date.) 22 MR. GABRIEL: Lastly, on behalf 23 of the plaintiffs, we believe Mr. Lindor 24 was properly served for a subpoena to 25 appear on this date at 10 a.m., he</p> |

| | |
|---|---|
| 6 | 8 |
| <p>1 2 recognized that he received the subpoena 3 and he has not appeared. 4 One more thing I did forget to 5 note on the record as well. 6 The subpoena did indicate that, 7 as I said, Mr. Lindor was to bring any 8 computers, et cetera, with him. We do 9 have two technicians here who are prepared 10 to do a mirror image of the inspection so 11 the plaintiffs have incurred costs for 12 that, they have incurred the costs for the 13 court reporter and they have of course 14 incurred my cost to fly here from Denver 15 for this deposition. 16 With that I have nothing 17 further. 18 (Time noted: 10:41 a.m.) 19 20 21 22 23 24 25</p> | <p>1 2 E X H I B I T S 3 4 5 EXHIBIT DESCRIPTION PAGE 6 7 1 subpoena 4 8 2 three returns of service 5 9 3 letter that Mr. Lindor 5 10 sent 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> |
| 7 | 9 |
| <p>1 2 C E R T I F I C A T I O N 3 4 5 6 I, Jineen Pavesi, a Registered 7 Professional Reporter, Registered Merit 8 Reporter, Certified Realtime Reporter and 9 a Notary Public, do hereby certify that 10 the foregoing transcript is a true and 11 accurate transcription of my stenographic 12 notes. 13 I further certify that I am not employed 14 by nor related to any party to this 15 action. 16 17 18 19 20 21 22 JINEEN PAVESI, RPR, RMR, CRR 23 24 25</p> | <p>1 2 L I T I G A T I O N S U P P O R T I N D E X 3 4 5 D I R E C T I O N T O W I T N E S S N O T T O A N S W E R 6 Page/Line 7 NONE 8 9 R E Q U E S T F O R P R O D U C T I O N O F D O C U M E N T S 10 Page/Line 11 NONE 12 13 I N F O R M A T I O N T O B E F U R N I S H E D 14 Page/Line 15 NONE 16 17 A t t o r n e y M r . G a b r i e l f r o m H o l m e R o b e r t s & 18 O w e n s L L P h a s r e t a i n e d a l l e x h i b i t s . 19 20 21 22 23 24 25</p> |

EXHIBIT Q

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -x
UMG RECORDING, INC., a Delaware
corporation; WARNER BROS. RECORDS INC., a
Delaware corporation; ARISTA RECORDS LLC,
a Delaware limited liability company;
INTERSCOPE RECORDS, a California general
partnership; MOTOWN RECORD COMPANY, L.P.,
a California limited partnership; and SONY
BMG MUSIC ENTERTAINMENT, a Delaware
general partnership,

Plaintiffs,

-against-

MARIE C. LINDOR,

Defendant.

Civil Case No. 05 CV1095-DGT-RML

- - - - -x
885 Third Avenue
New York, New York

April 22, 2008
2:10 p.m.

DEPOSITION of WOODY RAYMOND, a
Non-Party Witness in the above-entitled
action, held at the above time and place,
taken before Brian Brenner, a Shorthand
Reporter and Notary Public of the State of
New York, pursuant to the Federal Rules of
Civil Procedure, Court Order and
stipulations between Counsel.

* * *

| | |
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| <p>2</p> <p>1 2 APPEARANCES: 3 4 HOLME, ROBERTS & OWEN, LLP Attorneys for Plaintiffs 1700 Lincoln Street 5 Denver, Colorado 08023 BY: RICHARD L. GABRIEL, ESQ. 6 7 8 VANDENBERG & FELIU, LLP Attorneys for Defendant 110 East 42nd Street 9 New York, New York 10017 BY: RAY BECKERMAN, ESQ. 10 11 12 ALSO PRESENT Matthew Oppenheim 13 Richard Altman, Esq. 14 * * * 15 16 17 18 19 20 21 22 23 24 25</p> | <p>4</p> <p>1 2 WOODY RAYMOND, called as a 3 witness herein, having first been duly 4 sworn by the Notary Public, was examined 5 and testified as follows: 6 EXAMINATION BY 7 MR. GABRIEL: 8 Q Good afternoon, Mr. Raymond. 9 A Good afternoon. 10 Q Please state and spell your name 11 for the record. 12 A Woody Raymond. 13 Q Tell us your home address, 14 please? 15 A 817 East 21st Street, Brooklyn, 16 New York. 17 Q What is your business address? 18 A I don't own a business. 19 Q Are you employed? 20 A Yes. 21 Q Tell us the address where you 22 work. 23 A 250 East 57th Street, New York, 24 New York. 25 Q I know you've been through the</p> |
| <p>3</p> <p>1 2 STIPULATIONS 3 IT IS HEREBY STIPULATED AND AGREED, by 4 and among counsel for the respective 5 parties hereto, that the filing, sealing 6 and certification of the within deposition 7 shall be and the same are hereby waived; 8 IT IS FURTHER STIPULATED AND AGREED 9 that all objections, except as to form of 10 the question, shall be reserved to the 11 time of the trial; 12 IT IS FURTHER STIPULATED AND AGREED 13 that the within deposition may be signed 14 before any Notary Public with the same 15 force and effect as if signed and sworn to 16 before the Court. 17 * * * 18 19 20 21 22 23 24 25</p> | <p>5</p> <p>1 W. RAYMOND 2 process before. Do you still work for 3 Lissner & Lissner? 4 A Yes. 5 Q Now, I know that you understand 6 some of the deposition process from being 7 in the legal industry. It's very 8 important that you hear and understand the 9 questions that are asked of you. If for 10 any reason you don't hear a question I ask 11 you, please just tell me that. 12 A All right. 13 Q That includes if you just get 14 distracted at all. Please don't be 15 embarrassed. Tell me if you don't hear a 16 question. 17 Similarly, if you don't 18 understand a question, you'll tell me 19 that? 20 A Yes. 21 Q Based on that, if you answer a 22 question that I asked you, I'll presume 23 that you understood it and heard it. Is 24 that fair to you? 25 A Yes.</p> |

2 (Pages 2 to 5)

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| <p>6</p> <p>1 W. RAYMOND</p> <p>2 Q As you see, there's a court</p> <p>3 reporter on my right and your left taking</p> <p>4 down everything being said in the room.</p> <p>5 It's important that you answer verbally so</p> <p>6 the court reporter can get down what you</p> <p>7 say. If you slip and say "um-hmm" which</p> <p>8 is something that people do, I'll ask if</p> <p>9 it's a yes or no just to make sure we have</p> <p>10 a good record.</p> <p>11 It's human nature to know where</p> <p>12 I'm going before I get the question out of</p> <p>13 my mouth, but resist temptation before we</p> <p>14 get going, it will help the court reporter</p> <p>15 a lot. I'll promise to give you the same</p> <p>16 courtesy, or I'll attempt to.</p> <p>17 If I interrupt you for any</p> <p>18 reason, I'll promise to let you finish</p> <p>19 your answer.</p> <p>20 A Yes.</p> <p>21 Q You understand that although</p> <p>22 we're in a conference room here, you're</p> <p>23 testifying under oath and subject to the</p> <p>24 same penalties of perjury as if you were</p> <p>25 in a courtroom, correct?</p> | <p>8</p> <p>1 W. RAYMOND</p> <p>2 Q Was it on the telephone, in</p> <p>3 person?</p> <p>4 A In person.</p> <p>5 Q When was that?</p> <p>6 A A few minutes ago.</p> <p>7 Q Just a couple of minutes, that</p> <p>8 conversation?</p> <p>9 A Yes, about that.</p> <p>10 Q Was anyone else present when you</p> <p>11 had this conversation?</p> <p>12 A No.</p> <p>13 Q Mr. Raymond, did you do anything</p> <p>14 else to prepare for your deposition, such</p> <p>15 as looking at any documents?</p> <p>16 MR. ALTMAN: Objection. He</p> <p>17 said he didn't prepare for the</p> <p>18 deposition.</p> <p>19 Q You could answer.</p> <p>20 A You want me to answer the</p> <p>21 question?</p> <p>22 Q You have not looked at any</p> <p>23 documents in preparation for your</p> <p>24 deposition; is that correct?</p> <p>25 A I did not prepare.</p> |
| <p>7</p> <p>1 W. RAYMOND</p> <p>2 A Yes.</p> <p>3 Q The purpose of this is fairly</p> <p>4 limited, if you need to take a break at</p> <p>5 any time, let me know. I'll take the</p> <p>6 break. However, if there is a question</p> <p>7 that is pending, I'll ask you to answer</p> <p>8 the question unless there's an issue of</p> <p>9 attorney-client privilege or anything like</p> <p>10 that, and we'll deal with that when we</p> <p>11 come here. You and I have not had an</p> <p>12 issue like that before.</p> <p>13 You're represented by Mr. Altman</p> <p>14 today?</p> <p>15 A Yes.</p> <p>16 Q Did you do anything to prepare</p> <p>17 for your deposition today, Mr. Raymond,</p> <p>18 such as look at any documents, speak with</p> <p>19 anybody, anything at all to prepare for</p> <p>20 your deposition today?</p> <p>21 A No.</p> <p>22 Q Just answer me yes or no,</p> <p>23 please, but did you speak with your</p> <p>24 counsel?</p> <p>25 A Yes.</p> | <p>9</p> <p>1 W. RAYMOND</p> <p>2 Q My question was different. Did</p> <p>3 you look at any document?</p> <p>4 A What do you mean by "document"?</p> <p>5 Q Any piece of paper, hard drive,</p> <p>6 computer?</p> <p>7 MR. ALTMAN: I object to the</p> <p>8 form of the question.</p> <p>9 A Documents, but hard drive,</p> <p>10 computers are not considered documents.</p> <p>11 Q I'll take one at a time. Did</p> <p>12 you look at any documents in advance of</p> <p>13 your deposition today?</p> <p>14 MR. ALTMAN: Objection to the</p> <p>15 form of the question. What do you</p> <p>16 mean?</p> <p>17 Q Before your deposition today,</p> <p>18 did you review any documents?</p> <p>19 A You had several questions. Can</p> <p>20 you define it?</p> <p>21 Q Did you look any documents,</p> <p>22 pieces of paper in the last week regarding</p> <p>23 this case, before your deposition?</p> <p>24 A Last week, no.</p> <p>25 Q You've looked at documents in</p> |

3 (Pages 6 to 9)

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| <p style="text-align: right;">10</p> <p>1 W. RAYMOND</p> <p>2 this case, correct?</p> <p>3 A I looked at the subpoena and the</p> <p>4 order from the Court.</p> <p>5 Q Did you look at any pieces of</p> <p>6 paper to help you refresh your memory as</p> <p>7 you got ready to come to your deposition</p> <p>8 today?</p> <p>9 A Did I look at any piece of paper</p> <p>10 to help me refresh my memory?</p> <p>11 Q Yes.</p> <p>12 A Refresh my memory about what?</p> <p>13 Q About this case, any of the</p> <p>14 facts in this case?</p> <p>15 A I did not look at any documents</p> <p>16 that would refresh my memory about this</p> <p>17 case.</p> <p>18 Q Let me ask you about any</p> <p>19 computers. Did you look at any computer</p> <p>20 or hard drive, on screens of any computer,</p> <p>21 in advance of this deposition today to</p> <p>22 help you get ready for your deposition</p> <p>23 today?</p> <p>24 A Have I looked at any computers?</p> <p>25 Q Computers, computer screens,</p> | <p style="text-align: right;">12</p> <p>1 W. RAYMOND</p> <p>2 looking at the system preference, and I</p> <p>3 did notice on the network that it did note</p> <p>4 there was a wireless network card</p> <p>5 installed on it which was the same</p> <p>6 information that was given to me by</p> <p>7 Richard Gabriel.</p> <p>8 Q What did you see that told you</p> <p>9 there was a wireless network?</p> <p>10 A Wireless network card on the</p> <p>11 network.</p> <p>12 Q What did you see that told you</p> <p>13 that?</p> <p>14 A I saw the stuff you sent, it</p> <p>15 came from you. I can't remember his name.</p> <p>16 First -- Jacobson -- I can't remember his</p> <p>17 name.</p> <p>18 Q You're referring to screen shots</p> <p>19 that we produced? That's what you're</p> <p>20 referring to?</p> <p>21 A Yes.</p> <p>22 Q You confirmed that what was in</p> <p>23 the screen shots was what was in your</p> <p>24 mother's computer?</p> <p>25 A I didn't confirm. The screen</p> |
| <p style="text-align: right;">11</p> <p>1 W. RAYMOND</p> <p>2 hard drives, anything?</p> <p>3 A Yes.</p> <p>4 Q What did you do?</p> <p>5 A I looked at the computer at my</p> <p>6 mother house (sic), and that's all.</p> <p>7 Q When was that?</p> <p>8 A That had to be three to four</p> <p>9 weeks ago.</p> <p>10 Q Could you explain what you did</p> <p>11 when you looked at the computer at your</p> <p>12 mother's house?</p> <p>13 A I looked at the system</p> <p>14 preferences under my computer, the option</p> <p>15 under my computer, and it will tell you</p> <p>16 the comportment of the computer.</p> <p>17 Q I am not sure I heard the last</p> <p>18 part. It tells you what?</p> <p>19 A The comportment of the computer.</p> <p>20 Q Comportment? What does that</p> <p>21 mean?</p> <p>22 A Tells you what's in the</p> <p>23 computer.</p> <p>24 Q What did you see?</p> <p>25 A I noted, looking at the system,</p> | <p style="text-align: right;">13</p> <p>1 W. RAYMOND</p> <p>2 shot was not complete. It was hiding</p> <p>3 information.</p> <p>4 Q With respect to --</p> <p>5 MR. GABRIEL: Strike that.</p> <p>6 Q Mr. Raymond we produced about</p> <p>7 eight pages. Did you see those eight</p> <p>8 pages with that information there?</p> <p>9 A If you have a copy of the page,</p> <p>10 maybe I could...</p> <p>11 Q Was there anything else you</p> <p>12 noticed when you were looking in your</p> <p>13 mother's computer?</p> <p>14 MR. BECKERMAN: Objection to</p> <p>15 the form.</p> <p>16 Q I think you used the term "at"</p> <p>17 your mother's computer. You told me one</p> <p>18 thing you noticed. Was there anything</p> <p>19 else you noticed?</p> <p>20 A I looked at a computer that was</p> <p>21 at my mother house (sic). Not my mother</p> <p>22 commuter (sic). She doesn't have a</p> <p>23 computer.</p> <p>24 Q What did you notice?</p> <p>25 A I don't recall.</p> |

4 (Pages 10 to 13)

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| <p style="text-align: right;">14</p> <p>1 W. RAYMOND</p> <p>2 Q Was there some reason that you</p> <p>3 decided to look at the computer at your</p> <p>4 mother's house?</p> <p>5 A In order to respond to the Court</p> <p>6 Order.</p> <p>7 Q You provided a declaration?</p> <p>8 A That's correct.</p> <p>9 Q So you looked at the computer in</p> <p>10 your mother's house before you provided</p> <p>11 that declaration?</p> <p>12 A Yes.</p> <p>13 Q Was there anything --</p> <p>14 MR. GABRIEL: Strike that.</p> <p>15 Q Mr. Raymond, did you look for</p> <p>16 any drives that were in that computer,</p> <p>17 other than the hard drive that you had</p> <p>18 produced? In other words, for example,</p> <p>19 did you look at the registries to see if</p> <p>20 they were in any way attached or used with</p> <p>21 that computer?</p> <p>22 A No.</p> <p>23 Q This is before you provided your</p> <p>24 declaration, correct?</p> <p>25 A Yes.</p> | <p style="text-align: right;">16</p> <p>1 W. RAYMOND</p> <p>2 A I am answering your question.</p> <p>3 Q Thank you for telling me that.</p> <p>4 Do you believe you had the screen shots</p> <p>5 from Dr. Jacobson before you had looked at</p> <p>6 the computer in your mother's house, as</p> <p>7 you just described?</p> <p>8 A You showed several screen shots.</p> <p>9 I am not 100 percent sure which screen</p> <p>10 shot you're referring to.</p> <p>11 Q You yourself referred to some</p> <p>12 screen shots that --</p> <p>13 A Yes.</p> <p>14 Q That is the one we're talking</p> <p>15 about.</p> <p>16 A Professor -- I don't know his</p> <p>17 name -- Jacobson.</p> <p>18 Q Dr. Jacobson is our expert, and</p> <p>19 Dr. Pouweless?</p> <p>20 A Dr. Jacobson.</p> <p>21 Q So you've seen those, right?</p> <p>22 A Yes. I've seen the declaration.</p> <p>23 Q You've seen some screen shots</p> <p>24 that you indicated I provided, correct? I</p> <p>25 gave screen shots to Mr. Beckerman that</p> |
| <p style="text-align: right;">15</p> <p>1 W. RAYMOND</p> <p>2 Q Had you looked at the computer</p> <p>3 in your mother's house after you provided</p> <p>4 your declaration?</p> <p>5 A No.</p> <p>6 Q I don't know if this will jog</p> <p>7 your recollection, Mr. Raymond, but I'm</p> <p>8 fairly certain we produced those screen</p> <p>9 shots after your declaration. Do you</p> <p>10 remember it the same way? In other words,</p> <p>11 producing screen shots that Dr. Jacobson</p> <p>12 found, I think it was after you produced</p> <p>13 your declaration --</p> <p>14 MR. BECKERMAN: Objection to</p> <p>15 form. If you have these documents, I</p> <p>16 think it would be better to show them</p> <p>17 to the witness.</p> <p>18 MR. GABRIEL: I'll show it to</p> <p>19 him later.</p> <p>20 MR. BECKERMAN: Rather than</p> <p>21 asking about his memory --</p> <p>22 A I don't recall.</p> <p>23 Q Well, so you're clear on my</p> <p>24 question, I'm just trying to get a time</p> <p>25 frame here.</p> | <p style="text-align: right;">17</p> <p>1 W. RAYMOND</p> <p>2 you've seen?</p> <p>3 A I don't recall having seen it.</p> <p>4 Q You referred to without seeing</p> <p>5 anything five minutes ago that you had</p> <p>6 seen some screen shots.</p> <p>7 A I do recall what I'm talking</p> <p>8 about. As I told you before, Professor</p> <p>9 Jacobson's affidavit verifies the</p> <p>10 information.</p> <p>11 Q Well, could you describe for me</p> <p>12 just so you and I are on the same page</p> <p>13 what information you were trying to</p> <p>14 verify?</p> <p>15 A I was just verifying all the</p> <p>16 allegation and misinformation.</p> <p>17 MR. BECKERMAN: Could you</p> <p>18 repeat that, please?</p> <p>19 [Whereupon, the requested</p> <p>20 portion of the record was read back by</p> <p>21 the Court Reporter.]</p> <p>22 Q What allegations or information</p> <p>23 or misinformation were you verifying?</p> <p>24 A If I have a copy of it, maybe I</p> <p>25 could recollect.</p> |

5 (Pages 14 to 17)

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| <p style="text-align: right;">18</p> <p>1 W. RAYMOND</p> <p>2 Q You can't recall sitting here</p> <p>3 right now?</p> <p>4 A I can't recall all of them.</p> <p>5 There's too many of them.</p> <p>6 Q Do you recall any of them?</p> <p>7 A Let me try my best. He did make</p> <p>8 a statement that there was no Kazaa</p> <p>9 program installed on the computer. He</p> <p>10 made a statement he's not -- that the</p> <p>11 computer did have -- the computer did or</p> <p>12 did not have an e-mail account that some</p> <p>13 people use for some e-mail account, that</p> <p>14 the computer had no e-mail saver name.</p> <p>15 That's the extent I recall.</p> <p>16 Q Mr. Raymond, have you looked at</p> <p>17 any other computers or hard drives, other</p> <p>18 than the computer that was in your</p> <p>19 mother's house, in the last month as you</p> <p>20 were getting ready for this deposition in</p> <p>21 this case?</p> <p>22 A No.</p> <p>23 Q You are appearing today,</p> <p>24 Mr. Raymond, pursuant to a subpoena,</p> <p>25 correct?</p> | <p style="text-align: right;">20</p> <p>1 W. RAYMOND</p> <p>2 Q Is that the subpoena that you've</p> <p>3 seen?</p> <p>4 A It looks similar.</p> <p>5 MR. GABRIEL: I'll state on the</p> <p>6 record that Mr. Altman agreed to</p> <p>7 accept service on that, and I</p> <p>8 appreciate the courtesy of Mr. Altman.</p> <p>9 Q Have you in the course --</p> <p>10 MR. GABRIEL: Strike that.</p> <p>11 Q Have you ever installed an</p> <p>12 external hard drive on a computer?</p> <p>13 A Have I ever installed external</p> <p>14 hard drive?</p> <p>15 MR. BECKERMAN: I object to the</p> <p>16 form of the question.</p> <p>17 MR. ALTMAN: I object to it,</p> <p>18 too.</p> <p>19 MR. BECKERMAN: Installing an</p> <p>20 external hard drive?</p> <p>21 A The question doesn't make sense.</p> <p>22 Q Why doesn't it make sense?</p> <p>23 A You tell me. You can't install</p> <p>24 an external hard drive on a computer.</p> <p>25 Q Have you ever attached an</p> |
| <p style="text-align: right;">19</p> <p>1 W. RAYMOND</p> <p>2 A Yes.</p> <p>3 MR. ALTMAN: I thought he was</p> <p>4 here voluntarily, because you</p> <p>5 certainly didn't serve a subpoena.</p> <p>6 MR. GABRIEL: Mr. Altman was</p> <p>7 courteous enough to provide him for</p> <p>8 us, and I'll certainly put it on the</p> <p>9 record.</p> <p>10 Mark this as Woody Raymond's</p> <p>11 Exhibit 15.</p> <p>12 [Whereupon, the above mentioned</p> <p>13 document was marked W. Raymond's</p> <p>14 Exhibit 15 for identification.]</p> <p>15 Q Mr. Raymond, I'm showing you</p> <p>16 what we marked as Exhibit 15. Is that the</p> <p>17 subpoena that you've seen -- have you seen</p> <p>18 the subpoena that was served on you or</p> <p>19 that your attorney accepted for you</p> <p>20 (handing)?</p> <p>21 [Witness peruses the document.]</p> <p>22 A I did not receive -- I saw the</p> <p>23 subpoena that was -- that you sent, not</p> <p>24 the one that was served on me. I was</p> <p>25 never served with one.</p> | <p style="text-align: right;">21</p> <p>1 W. RAYMOND</p> <p>2 external hard drive to a computer?</p> <p>3 A Two separate questions, so it</p> <p>4 should be two separate...</p> <p>5 Q Go ahead.</p> <p>6 A It should be two separate</p> <p>7 questions.</p> <p>8 Q Fine. Mr. Raymond, have you</p> <p>9 ever attached an external hard drive to</p> <p>10 any computer?</p> <p>11 A To any computer?</p> <p>12 Q Yes.</p> <p>13 A I don't recall.</p> <p>14 Q Have you ever installed an</p> <p>15 internal hard drive on any computer?</p> <p>16 A Yes.</p> <p>17 Q How many times? Can you</p> <p>18 estimate?</p> <p>19 A I don't recall.</p> <p>20 Q Have you ever removed a hard</p> <p>21 drive from a computer?</p> <p>22 A No.</p> <p>23 Q You are familiar with what an</p> <p>24 external hard drive is, correct?</p> <p>25 A Yes.</p> |

6 (Pages 18 to 21)

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| <p style="text-align: right;">22</p> <p>1 W. RAYMOND</p> <p>2 Q And you're familiar that it</p> <p>3 needs to have software installed for it to</p> <p>4 function, correct?</p> <p>5 A No.</p> <p>6 Q It does not?</p> <p>7 A No.</p> <p>8 Q When you have -- I think you</p> <p>9 indicated that you have, if I remember,</p> <p>10 and I'm sorry that I lost my own train</p> <p>11 here, you said you have attached an</p> <p>12 external hard drive to a computer before,</p> <p>13 or did you say you don't remember?</p> <p>14 A I said I don't recall.</p> <p>15 Q You said you've installed an</p> <p>16 internal hard drive to a computer,</p> <p>17 correct?</p> <p>18 A Yes.</p> <p>19 Q Was that in connection with work</p> <p>20 or personal?</p> <p>21 A In connection with work.</p> <p>22 Q Mr. Raymond, with respect to the</p> <p>23 computer that is in your mother's home,</p> <p>24 are you aware of any hard drive, other</p> <p>25 than the one that you produced, that was</p> | <p style="text-align: right;">24</p> <p>1 W. RAYMOND</p> <p>2 A You're asking a question that</p> <p>3 doesn't make sense.</p> <p>4 Q Please tell me why the question</p> <p>5 doesn't make sense to you, and I'll try to</p> <p>6 help.</p> <p>7 MR. ALTMAN: I don't believe</p> <p>8 it's the witness' obligation to tell</p> <p>9 you why the question does not make</p> <p>10 sense. I think you have to proceed to</p> <p>11 ask a question that he does</p> <p>12 understand.</p> <p>13 MR. GABRIEL: I'm trying to</p> <p>14 figure out why he doesn't understand</p> <p>15 it, and it's a perfectly clear</p> <p>16 question.</p> <p>17 Q Can you help me, Mr. Raymond?</p> <p>18 What part of my question don't you</p> <p>19 understand?</p> <p>20 A The question is misleading.</p> <p>21 Q And why is the question</p> <p>22 misleading?</p> <p>23 A You're asking me if the computer</p> <p>24 I produced? I didn't produce a computer.</p> <p>25 That's the part that is --</p> |
| <p style="text-align: right;">23</p> <p>1 W. RAYMOND</p> <p>2 either attached to or in any way used in</p> <p>3 connection with that computer?</p> <p>4 MR. BECKERMAN: Objection to</p> <p>5 the form of the question.</p> <p>6 A I don't understand the question.</p> <p>7 MR. GABRIEL: Read it back,</p> <p>8 please.</p> <p>9 [Whereupon, the requested</p> <p>10 portion of the record was read back by</p> <p>11 the Court Reporter.]</p> <p>12 A I don't understand your</p> <p>13 question.</p> <p>14 Q I want to help you, and I</p> <p>15 appreciate your telling me that. Is there</p> <p>16 something that you don't understand about</p> <p>17 the question?</p> <p>18 A It's ambiguous.</p> <p>19 Q In what way is my question</p> <p>20 ambiguous?</p> <p>21 A I'm not an attorney. It's</p> <p>22 ambiguous.</p> <p>23 Q When you're having trouble with</p> <p>24 any question, I would like to fix it for</p> <p>25 you.</p> | <p style="text-align: right;">25</p> <p>1 W. RAYMOND</p> <p>2 Q I'll fix that part. You're</p> <p>3 aware that Mr. Beckerman provided a CPU to</p> <p>4 the Plaintiffs in the case against your</p> <p>5 mother, correct?</p> <p>6 A Mr. Beckerman didn't provide</p> <p>7 CPU.</p> <p>8 Q He provided a tower to us, did</p> <p>9 he not?</p> <p>10 A That is correct.</p> <p>11 Q And you're aware we took a</p> <p>12 mirror image of the hard drive that was</p> <p>13 produced, correct?</p> <p>14 A That's correct.</p> <p>15 Q And it's my understanding you're</p> <p>16 the one who provided the tower to</p> <p>17 Mr. Beckerman to give to my side, correct?</p> <p>18 You physically brought it to his office?</p> <p>19 A No.</p> <p>20 Q Somebody else did?</p> <p>21 A Yes.</p> <p>22 Q Who?</p> <p>23 A A messenger service.</p> <p>24 Q Were you the one who got the</p> <p>25 messenger service to bring it over?</p> |

7 (Pages 22 to 25)

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| <p style="text-align: right;">26</p> <p>1 W. RAYMOND</p> <p>2 A Yes.</p> <p>3 Q So that's the unit we're talking</p> <p>4 about?</p> <p>5 A Correct.</p> <p>6 Q That unit or tower, that's the</p> <p>7 one that was in your mother's house,</p> <p>8 correct?</p> <p>9 A Yes.</p> <p>10 Q Hopefully, we've cleared up that</p> <p>11 piece of it. That's the tower I'll talk</p> <p>12 about in my question.</p> <p>13 Are you aware of any other hard</p> <p>14 drive, other than the one that was in that</p> <p>15 tower, that was attached to or in any way</p> <p>16 used with the computer that was in your</p> <p>17 mother's house?</p> <p>18 A No.</p> <p>19 Q Mr. Raymond, with respect to</p> <p>20 that tower, you had told us previously</p> <p>21 that you had done some upgrades to that</p> <p>22 computer, correct?</p> <p>23 A Yes.</p> <p>24 Q Well, the transcripts will speak</p> <p>25 for themselves, but just to get us in the</p> | <p style="text-align: right;">28</p> <p>1 W. RAYMOND</p> <p>2 A Hard drives of other computers?</p> <p>3 Q Mr. Raymond, we asked that you</p> <p>4 produce, and we subpoenaed you to produce</p> <p>5 hard drives that you had in your custody</p> <p>6 and control?</p> <p>7 A Yes.</p> <p>8 Q You opposed that, and the Court</p> <p>9 ruled in your favor on that. Do you</p> <p>10 remember that?</p> <p>11 A Yes.</p> <p>12 Q In the course of that</p> <p>13 conversation, Judge Levy asked questions</p> <p>14 about why you would carry a tower across</p> <p>15 town to your mother's house. Do you</p> <p>16 remember that?</p> <p>17 A The judge did not ask me a</p> <p>18 question.</p> <p>19 Q He asked me the question. Do</p> <p>20 you remember --</p> <p>21 MR. BECKERMAN: I object to</p> <p>22 your asking questions about that. He</p> <p>23 wasn't at the proceeding. Read his</p> <p>24 protective order, but don't ask him</p> <p>25 questions about what the judge said.</p> |
| <p style="text-align: right;">27</p> <p>1 W. RAYMOND</p> <p>2 same place, I think you said you believe</p> <p>3 that it was in late June or early July</p> <p>4 2004. Does that sound to you about right</p> <p>5 now?</p> <p>6 A I said it in my prior</p> <p>7 deposition.</p> <p>8 Q June or July 2004, is that time</p> <p>9 frame correct?</p> <p>10 A I said it from my prior</p> <p>11 deposition.</p> <p>12 Q You're aware, Mr. Raymond, and I</p> <p>13 think you referred to it, that with</p> <p>14 respect to the tower that was produced,</p> <p>15 and we did a mirror image, we didn't find</p> <p>16 evidence of Kazaa in the hard drive.</p> <p>17 You're aware of that?</p> <p>18 A As I stated to you before, your</p> <p>19 expert witness already declared there was</p> <p>20 no Kazaa program, but it was the one at my</p> <p>21 mother's house, but there was no Kazaa</p> <p>22 program.</p> <p>23 Q You're aware we sought discovery</p> <p>24 of other hard drives and other computers,</p> <p>25 correct?</p> | <p style="text-align: right;">29</p> <p>1 W. RAYMOND</p> <p>2 It's not appropriate.</p> <p>3 Q You recall that Judge Levy --</p> <p>4 MR. GABRIEL: Strike that.</p> <p>5 Q Did you know that Judge Levy</p> <p>6 asked questions about why Woody Raymond</p> <p>7 would carry a tower around town?</p> <p>8 MR. BECKERMAN: Objection. Why</p> <p>9 are you asking a fact question?</p> <p>10 A Do you have a copy of his order?</p> <p>11 Q Sir, I'm not going to fight with</p> <p>12 you.</p> <p>13 You are now aware that we have</p> <p>14 produced evidence to you that there was</p> <p>15 reference to a 100-gigabyte hard drive on</p> <p>16 the hard drive that was produced to us?</p> <p>17 MR. BECKERMAN: Objection to</p> <p>18 the form.</p> <p>19 A You have not produced any</p> <p>20 evidence whatsoever. You have produced --</p> <p>21 the only thing you have produced was</p> <p>22 saying there was a USB Western Digital</p> <p>23 external hard drive.</p> <p>24 Q And you've seen that evidence?</p> <p>25 MR. ALTMAN: That's not</p> |

8 (Pages 26 to 29)

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| <p>30</p> <p>1 W. RAYMOND</p> <p>2 evidence.</p> <p>3 MR. BECKERMAN: Objection.</p> <p>4 A I see no evidence of such thing.</p> <p>5 Have I ever seen evidence?</p> <p>6 MR. ALTMAN: You've made an</p> <p>7 allegation, but there's no evidence.</p> <p>8 Q That was in a registry --</p> <p>9 A The question is ambiguous.</p> <p>10 Q Did you not see a document that</p> <p>11 was a screen shot from the hard drive that</p> <p>12 was produced to us represented as the</p> <p>13 computer at your mother's house that</p> <p>14 showed a 100-gigabyte Western Digital hard</p> <p>15 drive?</p> <p>16 A Your question is ambiguous.</p> <p>17 Q How is it ambiguous?</p> <p>18 A Do you have a copy of the</p> <p>19 Jacobson report?</p> <p>20 MR. GABRIEL: Mark this,</p> <p>21 please.</p> <p>22 [Whereupon, the above mentioned</p> <p>23 document was marked W. Raymond's</p> <p>24 Exhibit 16 for identification.]</p> <p>25 Q Mr. Raymond, I'm showing you</p> | <p>32</p> <p>1 W. RAYMOND</p> <p>2 is, but it doesn't seem familiar to</p> <p>3 me.</p> <p>4 Q The question is how it's</p> <p>5 different.</p> <p>6 MR. BECKERMAN: Richard, when</p> <p>7 was that provided to me, in connection</p> <p>8 with what?</p> <p>9 MR. GABRIEL: It may have been</p> <p>10 when we sent a letter -- I don't have</p> <p>11 the record of when we produced it.</p> <p>12 MR. BECKERMAN: Do you remember</p> <p>13 what context you produced it in?</p> <p>14 MR. GABRIEL: No. I'm thinking</p> <p>15 it was probably around the time we</p> <p>16 produced the supplemental expert</p> <p>17 report. I know that we did attach in</p> <p>18 my letter of Mr. Altman on March 21</p> <p>19 one page of the document, but I would</p> <p>20 have records of when we produced this.</p> <p>21 I don't have them with me.</p> <p>22 MR. BECKERMAN: The only time I</p> <p>23 remember your ever producing screen</p> <p>24 shots to me, other than those original</p> <p>25 ones from the Media Century, was when</p> |
| <p>31</p> <p>1 W. RAYMOND</p> <p>2 what we marked as Exhibit 16 at your</p> <p>3 deposition (handing).</p> <p>4 Have you seen these documents</p> <p>5 before?</p> <p>6 [Witness peruses the document.]</p> <p>7 A This document is different from</p> <p>8 what I've seen.</p> <p>9 Q In what respect?</p> <p>10 A There's more.</p> <p>11 Q I'll represent to you this is</p> <p>12 precisely what we produced to</p> <p>13 Mr. Beckerman. I don't know why you</p> <p>14 haven't seen all of it. That's all I</p> <p>15 could tell you.</p> <p>16 Have you seen the first page of</p> <p>17 this document?</p> <p>18 A I don't recall. This document</p> <p>19 is different.</p> <p>20 Q Can you tell me how it's</p> <p>21 different?</p> <p>22 MR. BECKERMAN: I just want to</p> <p>23 say that I'm not 100 percent sure this</p> <p>24 is what I have. It doesn't seem</p> <p>25 familiar to me. I am not saying it</p> | <p>33</p> <p>1 W. RAYMOND</p> <p>2 you were doing an interrogatory</p> <p>3 response.</p> <p>4 MR. GABRIEL: Oh, that's right.</p> <p>5 Thank you.</p> <p>6 MR. BECKERMAN: I remember,</p> <p>7 like, about five or six pages.</p> <p>8 MR. GABRIEL: This would have</p> <p>9 been attached there. It's Bate</p> <p>10 labelled the way we provided it.</p> <p>11 MR. BECKERMAN: This might be</p> <p>12 different than what we provided.</p> <p>13 MR. ALTMAN: I'll state for the</p> <p>14 record that I've never seen this</p> <p>15 document before.</p> <p>16 MR. GABRIEL: Again,</p> <p>17 Mr. Altman, I have no reason to doubt</p> <p>18 you. We wouldn't have produced it to</p> <p>19 you if it was in response to a</p> <p>20 discovery request to Mr. Beckerman.</p> <p>21 We'll check, Ray, but I'm</p> <p>22 certain that these were produced to</p> <p>23 you.</p> <p>24 Q Have you seen the first page</p> <p>25 before?</p> |

9 (Pages 30 to 33)

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| <p style="text-align: right;">34</p> <p>1 W. RAYMOND</p> <p>2 A As I told you before, this</p> <p>3 document is different.</p> <p>4 Q My question is: Have you seen</p> <p>5 the first page of Exhibit 16 before?</p> <p>6 A This whole document is totally</p> <p>7 different.</p> <p>8 Q So the answer is no, you have</p> <p>9 not seen the first page?</p> <p>10 A For the record, I cannot answer</p> <p>11 this question.</p> <p>12 Q Do you know how to read the</p> <p>13 first page of Exhibit 16?</p> <p>14 A I am not an expert, so you tell</p> <p>15 me.</p> <p>16 Q Where it says device hierarchy,</p> <p>17 you see a reference that says disc drive</p> <p>18 and some letters and numbers?</p> <p>19 A Some letters -- I see letters</p> <p>20 and numbers. What is it, device?</p> <p>21 Q Based on your experience as an</p> <p>22 IT person, do you understand what those</p> <p>23 mean?</p> <p>24 A I don't have the information to</p> <p>25 answer that question properly.</p> | <p style="text-align: right;">36</p> <p>1 W. RAYMOND</p> <p>2 1000BB, that existed as of July 2004?</p> <p>3 A If you recall, you haven't</p> <p>4 produced those yet. As I told you before,</p> <p>5 I can't recall that information without</p> <p>6 you producing that document.</p> <p>7 MR. GABRIEL: Mark this as the</p> <p>8 next exhibit.</p> <p>9 [Whereupon, the above mentioned</p> <p>10 document was marked W. Raymond's</p> <p>11 Exhibit 17 for identification.]</p> <p>12 Q I'm showing you Exhibit 17 from</p> <p>13 your deposition. Flip through this. Have</p> <p>14 you seen this letter to your lawyer</p> <p>15 (handing)?</p> <p>16 [Witness peruses the document.]</p> <p>17 A I don't recall.</p> <p>18 Q There's some attachments here.</p> <p>19 The third page in is a copy of what was</p> <p>20 the first page of Exhibit 16 with some</p> <p>21 notes. Did you notice that? Do you see</p> <p>22 arrows on it, the third page of Exhibit</p> <p>23 17?</p> <p>24 A Um-hmm.</p> <p>25 Q Yes?</p> |
| <p style="text-align: right;">35</p> <p>1 W. RAYMOND</p> <p>2 Q So then the answer is you don't</p> <p>3 know?</p> <p>4 A I don't have the information to</p> <p>5 answer that question properly.</p> <p>6 Q Mr. Raymond, what information</p> <p>7 would you need to answer the question</p> <p>8 properly?</p> <p>9 A As an IT person, you search for</p> <p>10 information. You don't base your</p> <p>11 information -- if you don't know</p> <p>12 something, you look it up.</p> <p>13 Q You did some research into a</p> <p>14 Western Digital hard drive, correct?</p> <p>15 A Did I do some research? Yes.</p> <p>16 Q You produced some documents to</p> <p>17 show there was no Western Digital external</p> <p>18 hard drive in existence as of a certain</p> <p>19 date. Do you remember that?</p> <p>20 A My research consisted of, there</p> <p>21 was no Western Digital external hard drive</p> <p>22 produced prior to July 2004.</p> <p>23 Q Did you see documentation from</p> <p>24 our side back that showed there was a</p> <p>25 Western Digital hard drive, model number</p> | <p style="text-align: right;">37</p> <p>1 W. RAYMOND</p> <p>2 A Yes.</p> <p>3 Q There's some arrows. Had you</p> <p>4 seen that document before? Does that</p> <p>5 refresh your memory that you've seen it</p> <p>6 before?</p> <p>7 A I don't recall.</p> <p>8 Q Then I indicated to you a moment</p> <p>9 ago whether you recall that we produced</p> <p>10 documents showing that a Western Digital</p> <p>11 external hard drive model number 1000BB</p> <p>12 existed before July of 2004. Looking at</p> <p>13 the page you're on, the fourth page of</p> <p>14 Exhibit 17, do you now remember that we</p> <p>15 produced such documents?</p> <p>16 A You haven't produced such</p> <p>17 documents pursuant to the Court order.</p> <p>18 Q We produced documents showing</p> <p>19 model 1000BB. It's a yes or no question?</p> <p>20 A The document you produced is</p> <p>21 redacted, so I can't answer that question.</p> <p>22 Q There's no redactions on that</p> <p>23 document, sir.</p> <p>24 A Something's blacked out.</p> <p>25 Q We didn't do that. Do you see</p> |

10 (Pages 34 to 37)

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| <p style="text-align: right;">38</p> <p>1 W. RAYMOND</p> <p>2 where the arrow is where there's a Western</p> <p>3 Digital hard drive release date July of</p> <p>4 2001?</p> <p>5 A The document you produced is not</p> <p>6 complete.</p> <p>7 Q Could you please answer my</p> <p>8 question, Mr. Raymond? Do you see WD</p> <p>9 released July 2001 in the document?</p> <p>10 A The document states WD 100 Q</p> <p>11 100BB storage July 1.</p> <p>12 Q Under release date, it says July</p> <p>13 2001.</p> <p>14 A It just says July 1. I have no</p> <p>15 idea what the reference is to.</p> <p>16 Q You see the column that says</p> <p>17 release date, correct?</p> <p>18 A I have no idea what that</p> <p>19 reference is, because the other</p> <p>20 information are blank.</p> <p>21 Q Look at two more pages down.</p> <p>22 There's an article from PC World. This</p> <p>23 article, I've underlined it for you. It's</p> <p>24 a Western Digital 100-gigabyte 1000BB</p> <p>25 drive referenced. Do you see that? It's</p> | <p style="text-align: right;">40</p> <p>1 W. RAYMOND</p> <p>2 A The information is not complete.</p> <p>3 Q For the third time, the article</p> <p>4 was dated November 27, 2001?</p> <p>5 A The article is dated Tuesday,</p> <p>6 November 27, 2. That's it. I can't read</p> <p>7 the rest. I can't make it out what is the</p> <p>8 date or what it's saying. I can't make</p> <p>9 out the information to answer that</p> <p>10 question properly.</p> <p>11 Q Based on the information that</p> <p>12 we've provided that you're looking at,</p> <p>13 Mr. Raymond, do you now believe that</p> <p>14 Western Digital released a 100-gigabyte</p> <p>15 hard drive prior to June of 2004?</p> <p>16 MR. BECKERMAN: Objection. Are</p> <p>17 you not going to specify whether it's</p> <p>18 internal or not?</p> <p>19 MR. GABRIEL: No, and thank you</p> <p>20 for coaching the witness.</p> <p>21 Q Based on information we provided</p> <p>22 to you, do you now believe that Western</p> <p>23 Digital released a 100-gigabyte hard drive</p> <p>24 prior to July of 2004?</p> <p>25 A The information is not by</p> |
| <p style="text-align: right;">39</p> <p>1 W. RAYMOND</p> <p>2 underlined on the page.</p> <p>3 A The reference referred to</p> <p>4 internal drive.</p> <p>5 Q Well, do you deny that's</p> <p>6 100-gigabyte?</p> <p>7 A Internal drive Western Digital</p> <p>8 internal drive.</p> <p>9 Q You just said 1 00 GB.</p> <p>10 A The information you provided</p> <p>11 says 1 00 GB.</p> <p>12 Q Do you read that --</p> <p>13 A It does not say 100. It says 1</p> <p>14 00 internal drive.</p> <p>15 Q This article was from November</p> <p>16 27, 2001, correct?</p> <p>17 A Which referred to an internal</p> <p>18 drive.</p> <p>19 Q My question was: This article</p> <p>20 was November 27, 2001, correct?</p> <p>21 A The article is not complete.</p> <p>22 It's redacted.</p> <p>23 Q Again, Mr. Raymond, I'll tell</p> <p>24 you, there's nothing redacted from the</p> <p>25 article.</p> | <p style="text-align: right;">41</p> <p>1 W. RAYMOND</p> <p>2 Western Digital. I don't have sufficient</p> <p>3 information or knowledge to answer that</p> <p>4 question.</p> <p>5 Q Do you have information that</p> <p>6 would enable you to answer a question that</p> <p>7 there was a Western Digital 100-gigabyte</p> <p>8 hard drive that was model number 1000BB at</p> <p>9 any time?</p> <p>10 MR. ALTMAN: Objection. He</p> <p>11 testified previously that there</p> <p>12 wasn't.</p> <p>13 MR. GABRIEL: We showed him ten</p> <p>14 documents that there were, but that's</p> <p>15 okay.</p> <p>16 A Based on information you</p> <p>17 provided, and based on the Court order,</p> <p>18 you have not provided me information to</p> <p>19 support the Court order.</p> <p>20 Q Mr. Raymond, I'm not asking</p> <p>21 about any Court order. I've shown you</p> <p>22 three documents that show a Western</p> <p>23 Digital 100-gigabyte hard drive, model</p> <p>24 number 1000 BB. Are you not able to tell</p> <p>25 me today, or do you deny that there was no</p> |

11 (Pages 38 to 41)

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| <p style="text-align: right;">42</p> <p>1 W. RAYMOND 2 such drive in existence before July of 3 2004? 4 MR. BECKERMAN: Objection to 5 the form. 6 MR. ALTMAN: Objection to the 7 form of the question. You have his 8 testimony, and you have your 9 documents. I think it's improper for 10 you to try to get him to change his 11 documents because you showed him some 12 documents. 13 MR. GABRIEL: What evidence 14 rule would that be? 15 MR. BECKERMAN: There's no rule 16 that requires a witness to adopt 17 documents. He has no idea where you 18 got them from. You could testify 19 about whatever you want. 20 MR. GABRIEL: I am not 21 testifying about anything. 22 Q It's actually part of a 23 document, Mr. Raymond, that you produced, 24 is it not? You produced a listing of 25 Western Digital drives, at least pages</p> | <p style="text-align: right;">44</p> <p>1 W. RAYMOND 2 A I produced -- 3 Q Mr. Raymond, my question is: 4 There were other pages in the document 5 that you produced that you didn't give me 6 relating to other Western Digital drives, 7 correct? 8 MR. BECKERMAN: Objection to 9 form of the question. 10 A I produced documents pursuant to 11 the Court order of the USB external hard 12 drive by Western Digital. 13 Q That wasn't the question, 14 Mr. Raymond. I understand the Court 15 order. 16 A The question is misleading. 17 Q It's not misleading at all, 18 Mr. Raymond. In the same document you're 19 looking at, there were lists of drives 20 that were not external hard drives; isn't 21 that right? 22 A There were lists of -- 23 Q Other Western Digital drives, 24 correct? 25 A That is correct.</p> |
| <p style="text-align: right;">43</p> <p>1 W. RAYMOND 2 regarding external drives, correct? You 3 gave them to me. 4 A That is correct, but this 5 document -- 6 Q The answer is yes. You did not 7 produce other pages of that same document 8 that showed other Western Digital drives, 9 correct? 10 A I produced documents to show all 11 the external hard drive produced by 12 Western Digital. The information you 13 provided was misleading. 14 Q Mr. Raymond, we're going to be 15 here all day if you don't answer the 16 questions I ask you. 17 You produced several pages from 18 the Western Digital website showing 19 external hard drives, correct? 20 A I produced pages showing USB 21 external hard drives by Western Digital. 22 Q In the same document, there were 23 pages that you didn't produce regarding 24 other drives made by Western Digital, 25 correct?</p> | <p style="text-align: right;">45</p> <p>1 W. RAYMOND 2 Q The page you're looking at now, 3 the last page of Exhibit 17, it's one of 4 those pages, true? 5 A I have no information where you 6 get this data from. I can't confirm that. 7 I don't have that information in front of 8 me. 9 MR. GABRIEL: Mark this as the 10 next exhibit. 11 [Whereupon, the above mentioned 12 document was marked W. Raymond's 13 Exhibit 18 for identification.] 14 Q I will show you what was marked 15 as Exhibit 18 (handing). 16 Do you recognize this as a 17 declaration that you prepared in this case 18 and filed with the Court? 19 [Witness peruses the document.] 20 A Yes. 21 Q In paragraph -- 22 MR. GABRIEL: Strike that. 23 Q Mr. Raymond, look at paragraph 24 three of Exhibit 18, please, your 25 declaration.</p> |

12 (Pages 42 to 45)

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| <p style="text-align: right;">46</p> <p>1 W. RAYMOND</p> <p>2 Paragraph three?</p> <p>3 Q You said, "Furthermore, based on</p> <p>4 public information, Western Digital did</p> <p>5 not manufacture any external hard drive on</p> <p>6 or before July 8, 2004," and then you</p> <p>7 attached document to that, correct?</p> <p>8 A That's correct.</p> <p>9 Q If you look at the document that</p> <p>10 you provided, attached, it starts at page</p> <p>11 five of ten, does it not?</p> <p>12 A That is correct.</p> <p>13 Q Look back at Exhibit 17. The</p> <p>14 last page of Exhibit 17, can you now</p> <p>15 confirm that this is from the same exact</p> <p>16 document you were looking at?</p> <p>17 A I could confirm the page does</p> <p>18 not refer to any USB external hard drive.</p> <p>19 Q What about internal hard drive?</p> <p>20 A The Court order --</p> <p>21 Q Please, Mr. Raymond. I didn't</p> <p>22 ask you anything about a Court order.</p> <p>23 Does it refer to internal hard drives</p> <p>24 manufactured by Western Digital?</p> <p>25 A As per the witness -- the</p> | <p style="text-align: right;">48</p> <p>1 W. RAYMOND</p> <p>2 drive that existed before July 2004?</p> <p>3 MR. ALTMAN: Objection to form.</p> <p>4 Your document says what it says. The</p> <p>5 witness testifies as he testifies.</p> <p>6 You're trying to get him to adopt your</p> <p>7 document.</p> <p>8 MR. GABRIEL: No. I want an</p> <p>9 answer to my question.</p> <p>10 A I don't have sufficient</p> <p>11 information or knowledge to answer your</p> <p>12 question.</p> <p>13 Q So you also have no facts that</p> <p>14 would allow you to deny Western Digital</p> <p>15 hard drive, model number 1000BB, before</p> <p>16 July of 2004?</p> <p>17 MR. BECKERMAN: Objection to</p> <p>18 the form of the question.</p> <p>19 A I don't understand your</p> <p>20 question.</p> <p>21 MR. BECKERMAN: In view of the</p> <p>22 tone of the questioning, you could</p> <p>23 specify whether it was external or</p> <p>24 internal. He researched external.</p> <p>25 MR. GABRIEL: You're clearly</p> |
| <p style="text-align: right;">47</p> <p>1 W. RAYMOND</p> <p>2 declaration that there was -- as</p> <p>3 Plaintiff's expert witness testified in</p> <p>4 the declaration, the hard drive is the USB</p> <p>5 external hard drive.</p> <p>6 MR. ALTMAN: I am having a</p> <p>7 problem with the documents.</p> <p>8 MR. BECKERMAN: Are you saying</p> <p>9 that this page is a copy of a page</p> <p>10 from his declaration?</p> <p>11 MR. GABRIEL: No, not at all.</p> <p>12 I'm saying I looked up the very same</p> <p>13 document, the product support. The</p> <p>14 address is there. It's the same</p> <p>15 website.</p> <p>16 Q Mr. Raymond, are you now aware</p> <p>17 that Western Digital produced an internal</p> <p>18 hard drive, 100-gigabyte hard drive, that</p> <p>19 was now model number 1000BB?</p> <p>20 A Based on your expert witness,</p> <p>21 I've answered the question.</p> <p>22 Q My question has nothing to with</p> <p>23 the Court order, and soon, we're going to</p> <p>24 call the judge. Are you now aware there</p> <p>25 was a Western Digital 100-gigabyte hard</p> | <p style="text-align: right;">49</p> <p>1 W. RAYMOND</p> <p>2 intending to coach the witness.</p> <p>3 MR. BECKERMAN: I object to the</p> <p>4 misleading questions that are meant to</p> <p>5 create a false record.</p> <p>6 MR. GABRIEL: Fine, Ray. You</p> <p>7 made your speech. I heard it.</p> <p>8 Q Mr. Raymond, are you not able to</p> <p>9 answer the question one way or another</p> <p>10 whether Western Digital manufactured a</p> <p>11 100-gigabyte hard drive, model number</p> <p>12 1000BB before July 2004?</p> <p>13 MR. ALTMAN: Objection to the</p> <p>14 form of the question.</p> <p>15 A Your question is misleading.</p> <p>16 Your question goes against what your</p> <p>17 certificate witness testified. Your</p> <p>18 question goes against the Court order.</p> <p>19 MR. GABRIEL: Read back the</p> <p>20 question.</p> <p>21 [Whereupon, the requested</p> <p>22 portion of the record was read back by</p> <p>23 the Court Reporter.]</p> <p>24 MR. BECKERMAN: This is outside</p> <p>25 the scope of the Court-ordered</p> |

13 (Pages 46 to 49)

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| <p style="text-align: right;">50</p> <p>1 W. RAYMOND</p> <p>2 deposition. This was ordered to take</p> <p>3 place on the issue of external hard</p> <p>4 drives, and you're opening some other</p> <p>5 area, trying to cover up for the fact</p> <p>6 that your witness made a -- your</p> <p>7 expert witness made a mistake of some</p> <p>8 kind, and you're trying to pin it on</p> <p>9 somebody else, other than him.</p> <p>10 MR. GABRIEL: The order says no</p> <p>11 such thing. I've asked twice now, or</p> <p>12 three or four times --</p> <p>13 MR. ALTMAN: The order --</p> <p>14 MR. GABRIEL: Guys, we're going</p> <p>15 to call the judge right now.</p> <p>16 [A recess was taken.]</p> <p>17 MR. GABRIEL: Back on the</p> <p>18 Record.</p> <p>19 Is it your position that I am</p> <p>20 not permitted to ask any questions</p> <p>21 about external hard drive today? That</p> <p>22 may be directed to Mr. Altman or</p> <p>23 Mr. Beckerman.</p> <p>24 MR. BECKERMAN: Well, my</p> <p>25 position is if you asked a couple of</p> | <p style="text-align: right;">52</p> <p>1 W. RAYMOND</p> <p>2 the apparent discrepancy between what</p> <p>3 you said and what Mr. Raymond said,</p> <p>4 and that's why we're here. We're here</p> <p>5 to talk about the external hard drives</p> <p>6 and nothing else.</p> <p>7 MR. GABRIEL: So you are</p> <p>8 objecting to me asking him about</p> <p>9 anything, other than an external hard</p> <p>10 drive?</p> <p>11 MR. ALTMAN: I see there's no</p> <p>12 relevance to it. If it's going to</p> <p>13 turn into a deposition about internal</p> <p>14 hard drives, then yes. If you want to</p> <p>15 ask a couple of questions, fine.</p> <p>16 There's no relevance to any issue</p> <p>17 concerning internal hard drive.</p> <p>18 MR. GABRIEL: Well, first of</p> <p>19 all, I think we're splitting hairs on</p> <p>20 external and internal. I am not clear</p> <p>21 on your position, Richard. I believe</p> <p>22 I am entitled to ask about hard</p> <p>23 drives. I don't believe the judge</p> <p>24 intended to limit it to external. The</p> <p>25 question again is whether you object</p> |
| <p style="text-align: right;">51</p> <p>1 W. RAYMOND</p> <p>2 very targeted precise questions not</p> <p>3 meant to blur the distinction between</p> <p>4 external and internal, then I wouldn't</p> <p>5 object to it as long as you don't</p> <p>6 spend all day on it. Don't try to</p> <p>7 make it that he misspoke when he was</p> <p>8 talking about external hard drives and</p> <p>9 you're talking about internal hard</p> <p>10 drives.</p> <p>11 MR. GABRIEL: Well, Richard</p> <p>12 already told me --</p> <p>13 MR. BECKERMAN: It's easier to</p> <p>14 have the questions on the record.</p> <p>15 MR. ALTMAN: I agree, but this</p> <p>16 is not going to turn into --</p> <p>17 MR. BECKERMAN: I am not going</p> <p>18 to tell what you to do.</p> <p>19 MR. ALTMAN: This is not going</p> <p>20 to turn into an attempt to deny his</p> <p>21 prior testimony. The judge said this</p> <p>22 was about an external hard drive.</p> <p>23 That's what he was ordered to produce.</p> <p>24 He said he didn't have one. The judge</p> <p>25 said that you could question him about</p> | <p style="text-align: right;">53</p> <p>1 W. RAYMOND</p> <p>2 to my asking about external hard</p> <p>3 drives.</p> <p>4 MR. ALTMAN: Your assertion --</p> <p>5 that is the sole basis for his</p> <p>6 appearance for the deposition. He's</p> <p>7 told you in a declaration that he</p> <p>8 doesn't have one, that he never had</p> <p>9 one, that he didn't install one, and</p> <p>10 moreover, it doesn't exist. That's</p> <p>11 the scope of this deposition.</p> <p>12 MR. GABRIEL: So you're</p> <p>13 objecting. Let's call the judge.</p> <p>14 MR. ALTMAN: What do you want</p> <p>15 to ask about external hard drives?</p> <p>16 MR. GABRIEL: I've been trying</p> <p>17 to ask the same question for an hour.</p> <p>18 MR. ALTMAN: You're</p> <p>19 exaggerating. It has certainly not</p> <p>20 been an hour.</p> <p>21 MR. GABRIEL: From the hard</p> <p>22 drive produced to us, 100-gigabyte</p> <p>23 Western Digital hard drive, model</p> <p>24 number 1000BB, I've been trying to ask</p> <p>25 repeatedly for a while at least to</p> |

14 (Pages 50 to 53)

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| <p>54</p> <p>1 W. RAYMOND</p> <p>2 confirm whether it existed or</p> <p>3 Mr. Raymond cannot tell me whether it</p> <p>4 existed, and he keeps talking about</p> <p>5 external hard drives, so I'll ask that</p> <p>6 question. That's one question I'm</p> <p>7 trying to get an answer to.</p> <p>8 MR. ALTMAN: You're arguing</p> <p>9 with him.</p> <p>10 MR. GABRIEL: Because he is not</p> <p>11 answering the question.</p> <p>12 A I answered your question several</p> <p>13 times.</p> <p>14 MR. GABRIEL: We're off the</p> <p>15 record.</p> <p>16 [A recess was taken.]</p> <p>17 MR. GABRIEL: Back on the</p> <p>18 record.</p> <p>19 Q Mr. Raymond, are you ready to</p> <p>20 proceed?</p> <p>21 A May I get my papers ready?</p> <p>22 Q Yes.</p> <p>23 A Yes.</p> <p>24 Q Look at Exhibit 16 again. On</p> <p>25 the first page of Exhibit --</p> | <p>56</p> <p>1 W. RAYMOND</p> <p>2 Q Do you have any factual basis,</p> <p>3 Mr. Raymond, to doubt or deny that there</p> <p>4 was such a hard drive that was in use with</p> <p>5 the computer in your mother's house at</p> <p>6 some point in time?</p> <p>7 MR. BECKERMAN: Objection.</p> <p>8 Argumentative.</p> <p>9 MR. ALTMAN: Objection to the</p> <p>10 form.</p> <p>11 Do you understand the question?</p> <p>12 THE WITNESS: No.</p> <p>13 A I don't understand your</p> <p>14 question.</p> <p>15 Q I'll try again. I could only</p> <p>16 ask you about facts you know. I want to</p> <p>17 know, and I've asked -- I'll start over</p> <p>18 and try again.</p> <p>19 Do you have facts that would</p> <p>20 suggest to you today, facts, that there</p> <p>21 was --</p> <p>22 MR. GABRIEL: Strike that.</p> <p>23 Q Do you have a factual basis</p> <p>24 today, some facts in your mind that you</p> <p>25 know, that lead you to conclude that there</p> |
| <p>55</p> <p>1 W. RAYMOND</p> <p>2 MR. GABRIEL: Strike that.</p> <p>3 Q Are you able to tell me one way</p> <p>4 or the other whether there was a Western</p> <p>5 Digital hard drive 100-gigabyte that</p> <p>6 existed before July 2004?</p> <p>7 MR. BECKERMAN: Objection.</p> <p>8 MR. GABRIEL: I will rephrase</p> <p>9 it.</p> <p>10 Q Are you able to tell me one way</p> <p>11 or the other whether Western Digital</p> <p>12 manufactured a 100-gigabyte hard drive</p> <p>13 model number 1000BB before July of 2004?</p> <p>14 A No.</p> <p>15 Q You have no information either</p> <p>16 way at this point in time, correct?</p> <p>17 MR. ALTMAN: Objection.</p> <p>18 MR. BECKERMAN: Objection.</p> <p>19 A I have no information to answer</p> <p>20 your question properly.</p> <p>21 Q That's sitting here today?</p> <p>22 MR. BECKERMAN: He said he</p> <p>23 didn't know the answer.</p> <p>24 MR. GABRIEL: He just answered</p> <p>25 the question.</p> | <p>57</p> <p>1 W. RAYMOND</p> <p>2 was no Western Digital 100-gigabyte hard</p> <p>3 drive connected to this computer before</p> <p>4 July of 2004?</p> <p>5 MR. BECKERMAN: Objection to</p> <p>6 form.</p> <p>7 MR. ALTMAN: Objection to the</p> <p>8 form.</p> <p>9 MR. BECKERMAN: Can you break</p> <p>10 it down?</p> <p>11 Q I am not talking about the exact</p> <p>12 word of the computer or the hard drive.</p> <p>13 It's called a Western Digital 100-gigabyte</p> <p>14 hard drive, model number 1000BB.</p> <p>15 A Your question is not complete.</p> <p>16 Read the rest.</p> <p>17 Q First of all, Mr. Raymond, do</p> <p>18 you have in mind the hard drive I am</p> <p>19 asking you about, the Western Digital</p> <p>20 100-gigabyte hard drive, 1000BB? Do you</p> <p>21 have that in mind?</p> <p>22 MR. BECKERMAN: Objection to</p> <p>23 form.</p> <p>24 A I don't understand your</p> <p>25 question.</p> |

15 (Pages 54 to 57)

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| <p style="text-align: right;">58</p> <p>1 W. RAYMOND</p> <p>2 Q The hard drive I'm about to ask</p> <p>3 you about is Western Digital 100-gigabyte</p> <p>4 hard drive, model 1000BB. With respect to</p> <p>5 that hard drive, do you have facts that</p> <p>6 lead you to conclude today that no such</p> <p>7 hard drive was ever in use with the</p> <p>8 computer in your mother's house?</p> <p>9 MR. ALTMAN: I object to the</p> <p>10 form.</p> <p>11 A I don't understand your</p> <p>12 question.</p> <p>13 MR. ALTMAN: He previously</p> <p>14 testified --</p> <p>15 MR. GABRIEL: He said he didn't</p> <p>16 understand the question.</p> <p>17 Q Do you have reason to believe</p> <p>18 that there was no Western Digital</p> <p>19 100-gigabyte hard drive connected to the</p> <p>20 computer in your mother's home prior to</p> <p>21 July of 2004?</p> <p>22 MR. ALTMAN: Could you read</p> <p>23 that back?</p> <p>24 [Whereupon, the requested</p> <p>25 portion of the record was read back by</p> | <p style="text-align: right;">60</p> <p>1 W. RAYMOND</p> <p>2 provided by Plaintiff's expert witness,</p> <p>3 based on information found on Western</p> <p>4 Digital's website, based on the evidence</p> <p>5 of any USB external hard drive available</p> <p>6 on the market, there's no such hard drive</p> <p>7 existed in the market. There's no</p> <p>8 external USB hard drive available on the</p> <p>9 market.</p> <p>10 Q You changed your own question.</p> <p>11 The question you answered was the one I</p> <p>12 asked you. You started talking about an</p> <p>13 external hard drive.</p> <p>14 A I added the words USB. USB is</p> <p>15 not be connected to -- the term was USB.</p> <p>16 Q You have answered my question,</p> <p>17 and I appreciate it.</p> <p>18 Is that the sole basis for your</p> <p>19 belief? Have you told me the entire basis</p> <p>20 for your belief?</p> <p>21 A The sole basis of my belief is</p> <p>22 based on information from the Plaintiff's</p> <p>23 expert, based on the information they</p> <p>24 provided that the information they are</p> <p>25 showing to me and the information the</p> |
| <p style="text-align: right;">59</p> <p>1 W. RAYMOND</p> <p>2 the Court Reporter.]</p> <p>3 Q Do you have reason to believe</p> <p>4 sitting here right now that there was no</p> <p>5 Western Digital 100-gigabyte hard drive</p> <p>6 connected to the computers in your</p> <p>7 mother's home prior to July 2004?</p> <p>8 A Let me get this straight. Do I</p> <p>9 have any reason to believe that there was</p> <p>10 no 1000BB USB device on my mother computer</p> <p>11 (sic) prior to July of 2004?</p> <p>12 Q Prior to July of 2004?</p> <p>13 A Prior to -- do I have any belief</p> <p>14 that there was no USB device connected to</p> <p>15 my mother computer (sic) prior to July of</p> <p>16 2004?</p> <p>17 Q Right.</p> <p>18 A Do I have reason to believe?</p> <p>19 Yes, I have reason to believe that there</p> <p>20 was no 100BB USB (sic) hard drive</p> <p>21 installed connected to my mother computer</p> <p>22 (sic) prior to July of 2004.</p> <p>23 Q What's the basis for your</p> <p>24 belief?</p> <p>25 A Based on the information</p> | <p style="text-align: right;">61</p> <p>1 W. RAYMOND</p> <p>2 expert provided is not consistent.</p> <p>3 Q You've explained to me the basis</p> <p>4 for your belief that no such hard drive</p> <p>5 was attached, and I just want to make sure</p> <p>6 you've explained to me the entire basis</p> <p>7 for your belief. Your testimony is what</p> <p>8 it is. I am not arguing with you. I just</p> <p>9 want to make sure you've told me the</p> <p>10 entire basis for your belief.</p> <p>11 A I answered your question with</p> <p>12 reference to the USB Western Digital hard</p> <p>13 drive manufactured by Western Digital.</p> <p>14 Q You've told me the full basis</p> <p>15 for your belief, right?</p> <p>16 A I answered the question already.</p> <p>17 Q It's a simpler question, I</p> <p>18 think. You've told me the entire basis</p> <p>19 for your belief sitting here today,</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q I now have a slightly different</p> <p>23 question: We have provided a number of</p> <p>24 documents to you, and I am not asking you</p> <p>25 to confirm them or not, but nothing in the</p> |

16 (Pages 58 to 61)

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| <p style="text-align: right;">62</p> <p>1 W. RAYMOND</p> <p>2 documents you've seen has caused you to</p> <p>3 change your belief, correct? You haven't</p> <p>4 seen anything today that causes you to</p> <p>5 change your belief, right?</p> <p>6 A Anything that caused me to</p> <p>7 change my belief?</p> <p>8 Q Yes. I showed you, for example,</p> <p>9 some documents from the Western Digital</p> <p>10 website, some articles, and none of that</p> <p>11 has caused you to change your belief?</p> <p>12 MR. BECKERMAN: I object to you</p> <p>13 questioning him about his belief. I</p> <p>14 believe we should hear the facts.</p> <p>15 Q You could answer the question.</p> <p>16 A I believe the information we</p> <p>17 provided confirmed that there was no</p> <p>18 Western Digital hard drive manufactured</p> <p>19 prior to July 2004.</p> <p>20 Q Mr. Raymond, do you have an</p> <p>21 understanding that an internal drive can</p> <p>22 be packaged into a casing and attached to</p> <p>23 a USB cable and make it into an external</p> <p>24 hard drive?</p> <p>25 MR. BECKERMAN: I object to</p> | <p style="text-align: right;">64</p> <p>1 W. RAYMOND</p> <p>2 Mr. Beckerman produced to my side?</p> <p>3 A No.</p> <p>4 Q On your declaration, in</p> <p>5 paragraph one, you have kind of -- it</p> <p>6 relates to the discussion we had. You</p> <p>7 were talking about external hard drives,</p> <p>8 and we talked about the judge's order and</p> <p>9 the expert report, correct?</p> <p>10 A As set forth in my declaration.</p> <p>11 Q As set forth in your</p> <p>12 declaration? That's what you said?</p> <p>13 A Yes.</p> <p>14 Q Paragraph two, I just want to</p> <p>15 make sure I'm understanding. You say a</p> <p>16 few times, and it speaks for itself, "I</p> <p>17 did not install at any time a Western</p> <p>18 Digital 100-gigabyte USB external hard</p> <p>19 drive."</p> <p>20 It says, "I didn't," but do you</p> <p>21 know if anybody else did?</p> <p>22 A No.</p> <p>23 Q You don't know one way or the</p> <p>24 other, or are you saying no one did?</p> <p>25 A No one did.</p> |
| <p style="text-align: right;">63</p> <p>1 W. RAYMOND</p> <p>2 questions about opinions.</p> <p>3 MR. ALTMAN: I object, too. He</p> <p>4 is a fact witness.</p> <p>5 Q You can answer.</p> <p>6 A What was the question?</p> <p>7 Q Do you understand that you can</p> <p>8 take an internal hard drive, package it</p> <p>9 into a casing, and attach it to a USB</p> <p>10 cable and make it into an external hard</p> <p>11 drive? Are you aware of that?</p> <p>12 MR. BECKERMAN: Objection.</p> <p>13 Calls for opinion.</p> <p>14 Q You look confused. Do you not</p> <p>15 understand?</p> <p>16 A I don't have any knowledge or</p> <p>17 basis to form an opinion to answer that</p> <p>18 question.</p> <p>19 Q Mr. Raymond, let me ask you to</p> <p>20 look at your declaration again, Exhibit</p> <p>21 18. I have just a couple of questions</p> <p>22 about your declaration, Mr. Raymond.</p> <p>23 Was there ever, ever a hard</p> <p>24 drive in or connected to your mother's</p> <p>25 computer, other than the one that</p> | <p style="text-align: right;">65</p> <p>1 W. RAYMOND</p> <p>2 Q Then in the next sentence, you</p> <p>3 say, "I do not own and have never owned</p> <p>4 any Western Digital external hard drive."</p> <p>5 Do you know whether anybody in</p> <p>6 your family did?</p> <p>7 A To the best of my abilities, no.</p> <p>8 Q The third sentence says, "I</p> <p>9 never purchased any Western Digital</p> <p>10 100-gigabyte USB external hard drive."</p> <p>11 Do you know whether anyone did</p> <p>12 for any computer that anyone in your</p> <p>13 family owned?</p> <p>14 A What was the question?</p> <p>15 Q You say, "I never purchased any</p> <p>16 Western Digital 100-gigabyte USB external</p> <p>17 drive."</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q Do you know whether anybody else</p> <p>21 in your family did?</p> <p>22 A To the best of my knowledge and</p> <p>23 information, no.</p> <p>24 Q What's the basis when you say</p> <p>25 the best of your knowledge and</p> |

17 (Pages 62 to 65)

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| <p style="text-align: right;">66</p> <p>1 W. RAYMOND</p> <p>2 information? What's the basis for that?</p> <p>3 Do people tell you?</p> <p>4 A Based on -- you just want to</p> <p>5 know -- I don't understand the question.</p> <p>6 Q It's probably not a very good</p> <p>7 question, and I apologize.</p> <p>8 How would you know if somebody</p> <p>9 else purchased such a hard drive? Was</p> <p>10 there some reason you would know that?</p> <p>11 MR. ALTMAN: Objection to the</p> <p>12 form.</p> <p>13 A How would I know somebody else</p> <p>14 purchased?</p> <p>15 Q In your family?</p> <p>16 A Because I would notice it.</p> <p>17 Q Let me ask you: You said, to</p> <p>18 your knowledge, nobody else installed a</p> <p>19 Western Digital 100-gigabyte USB external</p> <p>20 hard drive.</p> <p>21 If I asked you how you would</p> <p>22 know that, would your answer be the same,</p> <p>23 you never noticed it? The way you know</p> <p>24 nobody else did it is because you never</p> <p>25 saw it?</p> | <p style="text-align: right;">68</p> <p>1 W. RAYMOND</p> <p>2 getting stuck on this issue.</p> <p>3 Did you, Mr. Raymond, ever</p> <p>4 install any hard drive on the computer at</p> <p>5 your mother's home?</p> <p>6 A I don't understand the question.</p> <p>7 It's too ambiguous.</p> <p>8 Q I'll try it again, and I am</p> <p>9 taking the words "Western Digital" out of</p> <p>10 the question.</p> <p>11 Did you ever install an internal</p> <p>12 hard drive or connect an external hard</p> <p>13 drive to the computer in your mother's</p> <p>14 home?</p> <p>15 A No.</p> <p>16 Q Do you know whether anybody else</p> <p>17 did?</p> <p>18 A No.</p> <p>19 Q I asked you before, and you said</p> <p>20 you never purchased any Western Digital</p> <p>21 100-gigabyte hard drive. Did you ever</p> <p>22 purchase any hard drive to be used on the</p> <p>23 computer in your mother's home?</p> <p>24 A No.</p> <p>25 Q Do you know whether anybody else</p> |
| <p style="text-align: right;">67</p> <p>1 W. RAYMOND</p> <p>2 A I would know based on personal</p> <p>3 information and based on information and</p> <p>4 facts. I know they never did.</p> <p>5 Q What facts are you talking</p> <p>6 about?</p> <p>7 A The fact that the computer</p> <p>8 itself has -- it was purchased from Dell</p> <p>9 with a 20-gigabyte hard drive, and there</p> <p>10 would no reason to install another</p> <p>11 100-gigabyte hard drive on the computer.</p> <p>12 Q I want to make sure we are not</p> <p>13 having a terminology question. Are you</p> <p>14 aware that sometimes Western Digital</p> <p>15 manufactures drives that are produced</p> <p>16 under another brand, another company might</p> <p>17 sell drives manufactured by Western</p> <p>18 Digital? Are you aware of that? In other</p> <p>19 words, it may have another brand name on</p> <p>20 it, even though Western Digital</p> <p>21 manufactured that?</p> <p>22 A I don't have sufficient</p> <p>23 information to answer that question.</p> <p>24 Q Let me ask you a more general</p> <p>25 question just to make sure we're not</p> | <p style="text-align: right;">69</p> <p>1 W. RAYMOND</p> <p>2 did?</p> <p>3 A To the best of my information</p> <p>4 and knowledge, no.</p> <p>5 Q In paragraph four of your</p> <p>6 declaration, Exhibit 18, you indicate that</p> <p>7 -- you say, "Because the computer in</p> <p>8 Defendant's home was purchased from Dell</p> <p>9 as a refurbished or used computer, I have</p> <p>10 no knowledge what software or hardware the</p> <p>11 previous owner installed on it."</p> <p>12 The computer was purchased in</p> <p>13 2001. Do you remember?</p> <p>14 A I don't --</p> <p>15 Q If it helps you, I think you</p> <p>16 told me before that you were with your</p> <p>17 father when the computer was purchased.</p> <p>18 Am I right about that?</p> <p>19 A My father died in 2001. Prior</p> <p>20 to him dying, he was very sick in the</p> <p>21 hospital, so -- it's possible for me to be</p> <p>22 with him at that point. He was constantly</p> <p>23 in the hospital.</p> <p>24 Q I believe you testified you were</p> <p>25 with your father when you bought the</p> |

18 (Pages 66 to 69)

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| <p style="text-align: right;">70</p> <p>1 W. RAYMOND</p> <p>2 computer. Correct me if it's wrong.</p> <p>3 A It's correct.</p> <p>4 Q So it's correct that you were</p> <p>5 with your father when he bought the</p> <p>6 computer?</p> <p>7 A Yes.</p> <p>8 Q So we know he bought the</p> <p>9 computer before August of 2001?</p> <p>10 A Prior to 2001.</p> <p>11 Q If that helps you place a date,</p> <p>12 do you remember when you were with your</p> <p>13 father when he bought the computer?</p> <p>14 A No.</p> <p>15 Q Have you purchased Dell products</p> <p>16 yourself --</p> <p>17 MR. GABRIEL: Withdrawn.</p> <p>18 Q Have you purchased refurbished</p> <p>19 products from Dell yourself?</p> <p>20 MR. ALTMAN: Him personally?</p> <p>21 Q Have you purchased refurbished</p> <p>22 computer products?</p> <p>23 A Yes.</p> <p>24 Q When you have done that, did you</p> <p>25 have any discussions with Dell as to</p> | <p style="text-align: right;">72</p> <p>1 W. RAYMOND</p> <p>2 A I'll say it different. When I</p> <p>3 purchased computer from Dell, refurbished,</p> <p>4 I call them to ask them if I have a</p> <p>5 technical problem, and I'll speak to them.</p> <p>6 When I buy stuff refurbished, I'll tell</p> <p>7 the guy online --</p> <p>8 Q Oh, so not losing any files?</p> <p>9 That's what you were just talking about?</p> <p>10 When you get Dell to fix a computer, they</p> <p>11 try to get it back to you in the same</p> <p>12 state you gave it --</p> <p>13 A All depends on the problem.</p> <p>14 Sometimes they send a technician over.</p> <p>15 Q When you first bought the</p> <p>16 computer refurbished, you've done that</p> <p>17 before?</p> <p>18 A Yes.</p> <p>19 Q When you've done that, at that</p> <p>20 time when you're just buying it, did you</p> <p>21 have any discussions with Dell about</p> <p>22 whether they wiped the hard drives?</p> <p>23 A No.</p> <p>24 Q Do you have an understanding</p> <p>25 that they do wipe the hard drive before</p> |
| <p style="text-align: right;">71</p> <p>1 W. RAYMOND</p> <p>2 whether they wiped the hard drives on the</p> <p>3 refurbished computers?</p> <p>4 A Do I have any discussion with</p> <p>5 Dell?</p> <p>6 Q When you purchase the computer,</p> <p>7 you said you purchased refurbished</p> <p>8 computers. Did you discuss with them</p> <p>9 whether they wiped the hard drives before</p> <p>10 they sell it to you?</p> <p>11 A Yes.</p> <p>12 Q What did they tell you?</p> <p>13 A I can't remember exactly, but I</p> <p>14 remember a phone call exactly where they</p> <p>15 mentioned that when they bring the</p> <p>16 computer back, they try to put it back so</p> <p>17 the user will have it exactly the way they</p> <p>18 were charged.</p> <p>19 Q Maybe I am not understanding.</p> <p>20 When you were buying a refurbished</p> <p>21 computer from Dell, that's what you're</p> <p>22 talking about?</p> <p>23 A Yes.</p> <p>24 Q When you say "put it back," I am</p> <p>25 not sure I understand what you mean.</p> | <p style="text-align: right;">73</p> <p>1 W. RAYMOND</p> <p>2 they sell a refurbished computer?</p> <p>3 A I have no information to answer</p> <p>4 that question.</p> <p>5 Q Mr. Raymond, if I can ask you,</p> <p>6 look at Exhibit 17, the letter to</p> <p>7 Mr. Altman. I think when I showed it to</p> <p>8 you before, and your counsel may object to</p> <p>9 the exhibit, but have you seen the letter</p> <p>10 before today?</p> <p>11 A I don't recall.</p> <p>12 Q Take a minute to read through it</p> <p>13 a little bit to see if it jogs your</p> <p>14 recollection as to whether you've read it</p> <p>15 or seen it before.</p> <p>16 A I don't recall.</p> <p>17 Q You've read through it?</p> <p>18 A I'm reading through it right</p> <p>19 now.</p> <p>20 Q I know you've read through it</p> <p>21 relatively quickly, but does it jog your</p> <p>22 recollection as to whether you've seen it</p> <p>23 before today, Exhibit 17?</p> <p>24 A I don't recall.</p> <p>25 MR. BECKERMAN: Mark this as</p> |

19 (Pages 70 to 73)

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| <p style="text-align: right;">74</p> <p>1 W. RAYMOND</p> <p>2 the next exhibit.</p> <p>3 [Whereupon, the above mentioned</p> <p>4 document was marked W. Raymond's</p> <p>5 Exhibit 19 for identification.]</p> <p>6 Q Mr. Raymond, I'm showing you</p> <p>7 what we've marked as Exhibit 19 to your</p> <p>8 deposition. I really only have one</p> <p>9 question to you. It's an e-mail that I</p> <p>10 sent to Mr. Altman, and I want to know</p> <p>11 whether you've ever seen this before</p> <p>12 (handing).</p> <p>13 [Witness peruses the document.]</p> <p>14 A I don't recall.</p> <p>15 MR. BECKERMAN: Next exhibit,</p> <p>16 20.</p> <p>17 [Whereupon, the above mentioned</p> <p>18 document was marked W. Raymond's</p> <p>19 Exhibit 20 for identification.]</p> <p>20 Q I'm showing you what we marked</p> <p>21 as Exhibit 20 to your deposition. I know</p> <p>22 you don't know well how to read e-mails,</p> <p>23 but just so we're good, you see Mr. Altman</p> <p>24 at the bottom sent me an e-mail on March 9</p> <p>25 at 10:08 and it says it's Mr. Raymond's</p> | <p style="text-align: right;">76</p> <p>1 W. RAYMOND</p> <p>2 from my February 21 letter, and Exhibit 17</p> <p>3 is a February 21 letter. Does that help</p> <p>4 you tie things together at all?</p> <p>5 A No, I don't recall.</p> <p>6 Q Again, if it jogs in your</p> <p>7 recollection, was the data that you were</p> <p>8 referring to in your e-mail, Exhibit 20,</p> <p>9 the data that was attached to Exhibit 17?</p> <p>10 MR. ALTMAN: What is your</p> <p>11 question?</p> <p>12 Q My question is whether it jogs</p> <p>13 any recollection as to the data you're</p> <p>14 referring to in Exhibit 20, the document</p> <p>15 that were attached to Exhibit 17.</p> <p>16 A Does the data refer to this?</p> <p>17 Q My question is whether it helps</p> <p>18 you jog your recollection that the data</p> <p>19 you were referring to in your e-mail</p> <p>20 that's in Exhibit 20 was the documents</p> <p>21 that were attached to Exhibit 17.</p> <p>22 A I don't recall.</p> <p>23 Q Again, I don't want you to</p> <p>24 guess, but was there any other data that</p> <p>25 you looked at that would have shown</p> |
| <p style="text-align: right;">75</p> <p>1 W. RAYMOND</p> <p>2 response to your letter, and then there's</p> <p>3 a response from me to him. Do you see</p> <p>4 that (handing)?</p> <p>5 [Witness peruses the document.]</p> <p>6 A Yes.</p> <p>7 Q That's an e-mail that you sent</p> <p>8 to Mr. Altman, correct?</p> <p>9 A It would appear to be an e-mail</p> <p>10 coming from me.</p> <p>11 Q Do you remember writing that</p> <p>12 e-mail to Mr. Altman?</p> <p>13 A I'm not 100 percent sure, but it</p> <p>14 does appear I did respond to him.</p> <p>15 Q You referred in your e-mail to</p> <p>16 the data from Western Digital for an</p> <p>17 internal hard drive, capitalized. Do you</p> <p>18 see that?</p> <p>19 A Can I see it?</p> <p>20 Q Yes. What data were you</p> <p>21 referring to?</p> <p>22 A I don't recall.</p> <p>23 Q If it helps, just to remind you,</p> <p>24 if you want to look at the prior Exhibit</p> <p>25 19, it says I have received a response</p> | <p style="text-align: right;">77</p> <p>1 W. RAYMOND</p> <p>2 Western Digital data being for an internal</p> <p>3 hard drive.</p> <p>4 A What was the question?</p> <p>5 Q You referred to the data for</p> <p>6 Western Digital for an internal hard</p> <p>7 drive. Was there any other data that you</p> <p>8 were looking at relating to a Western</p> <p>9 Digital internal hard drive?</p> <p>10 A I don't recall.</p> <p>11 Q Right above your e-mail to</p> <p>12 Mr. Altman and his forwarding an e-mail to</p> <p>13 me, and I responded to Mr. Altman. Do you</p> <p>14 see that?</p> <p>15 A What was the question?</p> <p>16 Q I asked if you saw it. My</p> <p>17 question is: Have you seen my e-mail to</p> <p>18 Mr. Altman of March 10?</p> <p>19 A I don't recall.</p> <p>20 Q Mr. Raymond, I'm almost</p> <p>21 finished. Look at Exhibit 16, these</p> <p>22 pages. It should be in your pile</p> <p>23 somewhere. I'll make a representation to</p> <p>24 you, Mr. Raymond, that I believe these to</p> <p>25 be screen shots from the hard drive that</p> |

20 (Pages 74 to 77)

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78

1 W. RAYMOND
2 was produced to us.
3 With that representation, let me
4 ask you: Do you have any reason to believe
5 that these are not from that hard drive
6 that you produced?
7 A What?
8 Q Sorry?
9 A Do I have any reason?
10 Q Do you have any reason to
11 believe that these are not screen shots
12 from the hard drive that you produced? Do
13 you have any reason to believe that these
14 are not from the hard drive that
15 Mr. Beckerman produced to us?
16 A I don't have any information to
17 deny or accept.
18 Q A separate question,
19 Mr. Raymond: We looked under the device
20 hierarchy on the first page here where it
21 has the initials. Do you have any reason
22 to believe that this device hierarchy is
23 inaccurate?
24 MR. ALTMAN: Asked and
25 answered.

79

1 W. RAYMOND
2 A I don't have any information to
3 answer that question.
4 Q If I can ask you, Mr. Raymond,
5 to look at the left side of the first
6 page, you see there's a disc drive and a
7 drop down from there, WD 200 BB, 75, and
8 there's some letters after that. Do you
9 see where I am?
10 A Disc drive 75?
11 Q That's the hard drive that you
12 produced, correct, or that Mr. Beckerman
13 produced?
14 A I don't have any information to
15 answer that question.
16 Q Two or three lines above that,
17 Mr. Raymond, there's a reference to a Sony
18 PSP USB device. Do you have such a
19 device?
20 A No.
21 Q Well, have you ever had such a
22 device?
23 A No.
24 Q Then there's a device right
25 below it. Do you know if any Sony PSP USB

80

1 W. RAYMOND
2 device was ever connected to the computer
3 in your mother's home at any time?
4 A Do I?
5 Q Mr. Raymond, my question is: Do
6 you know if any Sony PSP USB device was
7 ever connected to the computer in your
8 mother's home?
9 A I don't have any information to
10 form a basis to answer that question.
11 Q Do you happen to know whether --
12 MR. GABRIEL: Strike that.
13 Q You're familiar with your cousin
14 Gustave Lindor, Junior?
15 A Yes.
16 Q Do you know whether he owned any
17 Sony PSP USB device?
18 A To my knowledge, no.
19 Q Mr. Raymond, just give me a
20 moment to confer with my client. I think
21 we are almost finished.
22 [A recess was taken.]
23 MR. GABRIEL: Back on the
24 record.
25 Q Mr. Raymond, I have no further

81

1 W. RAYMOND
2 questions of you at this point. On behalf
3 of myself and my client, I want to say
4 thank you for your patience today. I told
5 you this at your last deposition, but I
6 know it bears repeating, that your
7 testimony will be prepared in a booklet, a
8 transcript that you can make corrections
9 into, a book, as you think are
10 appropriate.
11 I just want you to know, if you
12 change something in an answer or correct
13 something, depending on what it is, I
14 potentially could have the opportunity to
15 comment on that if there's ever a trial.
16 For instance, if you say the answer to a
17 question is yes and you change it to no, I
18 have the right to point out that change.
19 You'll do what you and your counsel think
20 is appropriate, but I think it's fair that
21 witnesses know that.
22 I don't know if either attorney
23 has any questions for you before we close
24 the record.
25 A Okay.

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|--|---|----------------|------|---------|-------------|---|------------|-------------|------|----|----------|----|----|-----------|----|----|--------|----|----|-------------|----|----|--------|----|----|--------|----|--|
| <div style="text-align: right; font-weight: bold;">82</div> <div style="margin-top: 10px;"> <p>1 W. RAYMOND</p> <p>2 MR. BECKERMAN: I don't.</p> <p>3 MR. GABRIEL: Mr. Altman, should</p> <p>4 I get the transcript to you?</p> <p>5 MR. ALTMAN: Yes.</p> <p>6 MR. BECKERMAN: I have no</p> <p>7 questions.</p> <p>8 MR. ALTMAN: I have no</p> <p>9 questions.</p> <p>10 [TIME NOTED: 4:00 p.m.]</p> <p>11</p> <hr style="width: 20%; margin-left: 0;"/> <p>12 WOODY RAYMOND</p> <p>13</p> <hr style="width: 20%; margin-left: 0;"/> <p>14 Subscribed and sworn to</p> <p>15 before me this _____</p> <p>16 day of _____,</p> <p>17 2008.</p> <p>18</p> <hr style="width: 20%; margin-left: 0;"/> <p>19 Notary Public</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> | <div style="text-align: right; font-weight: bold;">84</div> <div style="margin-top: 10px;"> <p>1</p> <p>2 LITIGATION SUPPORT INDEX</p> <p>3</p> <p>4 DIRECTION TO WITNESS NOT TO ANSWER</p> <p>5 Page Line Page Line</p> <p>6 (None)</p> <p>7</p> <p>8 REQUEST FOR PRODUCTION OF DOCUMENTS</p> <p>9 Page Line Page Line</p> <p>10 (None)</p> <p>11</p> <p>12 INFORMATION TO BE PROVIDED</p> <p>13 Page Line Page Line</p> <p>14 (None)</p> <p>15</p> <p>16 QUESTIONS MARKED FOR A RULING</p> <p>17 Page Line Page Line</p> <p>18 (None)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <div style="text-align: right; font-weight: bold;">83</div> <div style="margin-top: 10px;"> <p>1</p> <p>2 I N D E X</p> <p>3</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">WITNESS</td> <td style="width: 40%;">EXAMINATION BY</td> <td style="width: 30%;">PAGE</td> </tr> <tr> <td>RAYMOND</td> <td>MR. GABRIEL</td> <td>4</td> </tr> </table> <p>6</p> <p>7 E X H I B I T S</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">W. RAYMOND</td> <td style="width: 40%;">DESCRIPTION</td> <td style="width: 30%;">PAGE</td> </tr> <tr> <td>15</td> <td>Subpoena</td> <td>19</td> </tr> <tr> <td>16</td> <td>Documents</td> <td>30</td> </tr> <tr> <td>17</td> <td>Letter</td> <td>36</td> </tr> <tr> <td>18</td> <td>Declaration</td> <td>45</td> </tr> <tr> <td>19</td> <td>E-Mail</td> <td>74</td> </tr> <tr> <td>20</td> <td>E-Mail</td> <td>74</td> </tr> </table> <p>17 (All exhibits retained by counsel.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> </div> | WITNESS | EXAMINATION BY | PAGE | RAYMOND | MR. GABRIEL | 4 | W. RAYMOND | DESCRIPTION | PAGE | 15 | Subpoena | 19 | 16 | Documents | 30 | 17 | Letter | 36 | 18 | Declaration | 45 | 19 | E-Mail | 74 | 20 | E-Mail | 74 | <div style="text-align: right; font-weight: bold;">85</div> <div style="margin-top: 10px;"> <p>1</p> <p>2 C E R T I F I C A T I O N</p> <p>3</p> <p>4 I, BRIAN BRENNER, a Notary Public for</p> <p>5 and within the State of New York, do</p> <p>6 hereby certify:</p> <p>7 That the witness, WOODY RAYMOND, whose</p> <p>8 testimony as herein set forth, was duly</p> <p>9 sworn by me; and that the within</p> <p>10 transcript is a true record of the</p> <p>11 testimony given by said witness.</p> <p>12 I further certify that I am not</p> <p>13 related to any of the parties to this</p> <p>14 action by blood or marriage, and that I am</p> <p>15 in no way interested in the outcome of</p> <p>16 this matter.</p> <p>17 IN WITNESS WHEREOF, I have hereunto</p> <p>18 set my hand this 22nd day of April, 2008.</p> <p>19</p> <p>20</p> <p>21</p> <hr style="width: 20%; margin-left: 0;"/> <p>22 BRIAN BRENNER</p> <p>23 * * *</p> <p>24</p> <p>25</p> </div> |
| WITNESS | EXAMINATION BY | PAGE | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RAYMOND | MR. GABRIEL | 4 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| W. RAYMOND | DESCRIPTION | PAGE | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 | Subpoena | 19 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 16 | Documents | 30 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 17 | Letter | 36 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 | Declaration | 45 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 19 | E-Mail | 74 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 20 | E-Mail | 74 | | | | | | | | | | | | | | | | | | | | | | | | | | |

22 (Pages 82 to 85)

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2 ERRATA SHEET
3 VERITEXT/NEW YORK REPORTING, LLC

4 CASE NAME: UMG RECORDING VS. LINDOR
5 DATE OF DEPOSITION: APRIL 22, 2008
6 WITNESS' NAME: WOODY RAYMOND

7 PAGE/LINE(S)/ CHANGE REASON

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21 _____ WOODY RAYMOND
22 SUBSCRIBED AND SWORN TO
23 BEFORE ME THIS _____ DAY
24 OF _____, 2008.

25 _____
NOTARY PUBLIC