

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Capitol Records, Inc., a)
Delaware corporation; Sony BMG) File No. CV-06-1497
Music Entertainment, a) (MJD/RLE)
Delaware general partnership;)
Arista Records, LLC, a) Duluth, Minnesota
Delaware limited liability) October 2, 2007
company; Interscope Records, a) 9:20 a.m.
California general)
partnership; Warner Bros.)
Records, Inc., a Delaware)
corporation; and UMG)
Recordings, Inc., a Delaware)
corporation,)
)
Plaintiffs,)
)
vs.)
)
Jammie Thomas,)
)
Defendant.)
)

BEFORE THE HONORABLE MICHAEL J. DAVIS and a Jury
UNITED STATES DISTRICT COURT JUDGE

(TRIAL - JURY SELECTION)

Proceedings recorded by mechanical stenography;
transcript produced by computer.

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APPEARANCES

For the Plaintiffs:	Holme, Roberts & Owen RICHARD L. GABRIEL, ESQ. TIMOTHY M. REYNOLDS, ESQ. Suite 4100 1700 Lincoln Street Denver, Colorado 80203
For the Defendant:	Chestnut & Cambronne BRIAN N. TODER, ESQ. Suite 3700 222 South Ninth Street Minneapolis, Minnesota 55402
Court Reporter:	LORI A. SIMPSON, RMR-CRR 1005 U.S. Courthouse 300 South Fourth Street Minneapolis, Minnesota 55415

1 MR. OPPENHEIM: Yes, Your Honor.

2 THE COURT: Representing Jammie Thomas is Brian
3 Toder from the law firm of Chestnut & Cambronne in
4 Minneapolis. Also at counsel table is the defendant, Jammie
5 Thomas, and Carol Dawson, who is Mr. Toder's paralegal.

6 There are a number of witnesses that may be called
7 in this matter. Counsel, if you would get your witness --
8 prospective witness lists out and go to the podium and read
9 those names to the jury.

10 MR. GABRIEL: Good morning. The witnesses that we
11 expect to call are Jennifer Pariser, Mark Weaver, David
12 Edgar, Douglas Jacobson, JoAn Cho, Kevin Havemeier, Eric
13 Stanley, Jammie Thomas, Ryann Maki, Betsy Brown, Christopher
14 Bavitz, and Cary Sherman.

15 THE COURT: Mr. Toder.

16 MR. TODER: We just will be calling Jammie Thomas.

17 THE COURT: Prospective Members of the Jury, I
18 have introduced the parties involved in this matter, the
19 lawyers that are involved in this matter, and the companies
20 that are involved in this matter.

21 Anyone work for any of the corporations, have
22 worked or any family members worked for any of the record
23 companies that I've listed?

24 Does anyone know Mr. Gabriel and Mr. Reynolds, who
25 is representing those record companies?

1 Mr. Toder is representing Ms. Thomas. Does anyone
2 know Mr. Toder?

3 The witness list was read off to you. Anyone
4 recognize any of the names on that list?

5 How many have served on a jury in previous years,
6 whether or not it's in state court or in federal court?
7 Keep your hands up for me.

8 Let's go back and we'll talk to Mr. Rossow. If
9 you would keep your voice up so everyone --

10 UNIDENTIFIED SPEAKER: Your Honor, I do know
11 Jammie Thomas.

12 THE COURT: We'll get to that later.

13 Mr. Rossow, you've served on a jury in previous
14 years?

15 PROSPECTIVE JUROR ROSSOW: Yes.

16 THE COURT: Where was that?

17 PROSPECTIVE JUROR ROSSOW: State court, Kanabec
18 County, Minnesota.

19 THE COURT: Did you sit on a criminal or a civil
20 case?

21 PROSPECTIVE JUROR ROSSOW: I believe it was a
22 criminal case.

23 THE COURT: How long ago was that?

24 PROSPECTIVE JUROR ROSSOW: Three years.

25 THE COURT: Can you tell me what the nature of the

1 case was about?

2 PROSPECTIVE JUROR ROSSOW: Yeah. It was a
3 probation violation, I believe. A woman who was not to be
4 in possession of firearms due to her criminal history was
5 charged with in fact being in possession of a firearm and
6 then she was contesting that.

7 THE COURT: And were you -- did the jury come back
8 with a verdict in that matter?

9 PROSPECTIVE JUROR ROSSOW: No, we didn't,
10 actually. That trial ended in a mistrial.

11 THE COURT: Anything about the nature of that
12 trial that would keep you from being a juror on this matter,
13 something that happened, something the lawyers did,
14 something the judge did, or just the nature of the process
15 that would keep you from being a fair and impartial juror in
16 this matter?

17 PROSPECTIVE JUROR ROSSOW: No, I don't think so.

18 THE COURT: All right. And let's go down and talk
19 to -- is it Barbara Veit?

20 PROSPECTIVE JUROR OBERG: Patricia Oberg.

21 THE COURT: Patricia Oberg. And when did you
22 serve as a juror and where?

23 PROSPECTIVE JUROR OBERG: Down in Rochester,
24 Minnesota. I don't know. About 20, 25 years ago maybe.

25 THE COURT: Do you remember if it was a civil or a

1 criminal matter that you sat on?

2 PROSPECTIVE JUROR OBERG: It was a robbery case.

3 THE COURT: Robbery. And did you come back with a
4 verdict in that matter?

5 PROSPECTIVE JUROR OBERG: Yes, sir, we did.

6 THE COURT: And what was your verdict in that
7 matter?

8 PROSPECTIVE JUROR OBERG: It was guilty.

9 THE COURT: Anything about the nature of that
10 trial that would keep you from being a fair and impartial
11 juror in this matter?

12 PROSPECTIVE JUROR OBERG: I don't think so, no.

13 THE COURT: And I saw a hand down here. Bruce
14 Cornelius?

15 PROSPECTIVE JUROR CORNELIUS: Yes.

16 THE COURT: Where did you serve as a juror?

17 PROSPECTIVE JUROR CORNELIUS: In Virginia,
18 Minnesota, at the county courthouse.

19 THE COURT: And when was that?

20 PROSPECTIVE JUROR CORNELIUS: About 15 years ago,
21 sir.

22 THE COURT: Do you know if it was a civil or
23 criminal matter that you sat on?

24 PROSPECTIVE JUROR CORNELIUS: It was civil, sir.

25 THE COURT: A car accident or --

1 PROSPECTIVE JUROR CORNELIUS: It was actually a
2 murder trial, sir.

3 THE COURT: And did you come back with a verdict
4 in that matter?

5 PROSPECTIVE JUROR CORNELIUS: Yes, we did, sir,
6 innocent.

7 THE COURT: And were you the jury foreperson in
8 that matter?

9 PROSPECTIVE JUROR CORNELIUS: No, sir.

10 THE COURT: Anything about the nature of that case
11 or the length of the trial or the way the lawyers handled
12 it, the way the judge handled it that would keep you from
13 being a fair and impartial juror in this matter?

14 PROSPECTIVE JUROR CORNELIUS: Absolutely not, sir.

15 THE COURT: Anyone else?

16 Is anyone presently involved in any type of
17 litigation? Litigation means that you are involved in a
18 lawsuit, whether or not at the beginning stages or the trial
19 stages or the deposition stages or the discovery stages. Is
20 anyone -- and if you're working for a company, a business,
21 or a corporation that's involved in a litigation and your
22 division is helping with that litigation, that you're
23 providing documents to lawyers or involved in having your
24 deposition taken, please raise your hand. Is anyone
25 presently involved in any type of litigation? That includes

1 going to conciliation court, going to divorce court,
2 anything.

3 All right. We'll start with Jill. Why don't you
4 tell me what type of litigation that you're involved in with
5 now.

6 PROSPECTIVE JUROR FORSEEN: Currently going
7 through a divorce.

8 THE COURT: I'm sorry?

9 PROSPECTIVE JUROR FORSEEN: Currently going
10 through a divorce.

11 THE COURT: All right. Divorces can be very
12 contentious and lawyers get involved in that and a judge
13 gets involved in that. Anything about the nature of that
14 process that would keep you from being a fair and impartial
15 juror in this matter?

16 PROSPECTIVE JUROR FORSEEN: No.

17 THE COURT: All right. Anyone else in the back
18 row? Let's go down and talk to Michele. Is that correct?

19 PROSPECTIVE JUROR NIVALA: Yes. I'm going through
20 a divorce as well, but the judge just has to sign the
21 papers, that's it. We did it all on our own. We had no
22 lawyers or nothing.

23 THE COURT: So nothing about the process, about
24 the court process, that would keep you from being a fair and
25 impartial juror in this matter?

1 PROSPECTIVE JUROR NIVALA: (Shaking head.)

2 THE COURT: Anyone else?

3 Change the question just a little bit. Any close
4 friends or relatives that are involved in litigation at the
5 present time, any close friends or relatives that are
6 involved in litigation?

7 Jill.

8 PROSPECTIVE JUROR FORSEEN: My husband has been
9 charged with a gross misdemeanor.

10 THE COURT: You're going to have to speak up
11 because I'm hard of hearing.

12 PROSPECTIVE JUROR FORSEEN: My husband has been
13 charged with a gross misdemeanor.

14 THE COURT: All right. And anything about the
15 nature of that that would keep you from being a fair and
16 impartial juror in this matter?

17 PROSPECTIVE JUROR FORSEEN: No.

18 THE COURT: Anyone else?

19 Change the question just a little bit again. In
20 previous years have you or close friends or relatives been
21 involved in any type of litigation?

22 Let's go to James Anderson in the back row. Yes,
23 sir.

24 PROSPECTIVE JUROR ANDERSON: It was a car
25 accident.

1 THE COURT: Car accident. And was it you that was
2 involved in that accident or --

3 PROSPECTIVE JUROR ANDERSON: I was a passenger in
4 the vehicle.

5 THE COURT: All right. Were you injured?

6 PROSPECTIVE JUROR ANDERSON: Yes.

7 THE COURT: And did it go to trial or was it
8 settled before trial?

9 PROSPECTIVE JUROR ANDERSON: It was settled before
10 trial.

11 THE COURT: Anything about the nature of that
12 process, the legal process, the way the lawyers treated you,
13 the way the judge treated you that would keep you from being
14 an impartial juror in this matter?

15 PROSPECTIVE JUROR ANDERSON: No.

16 THE COURT: Any other hands in the back row?
17 Okay. Let's talk to Kathleen Burt.

18 PROSPECTIVE JUROR BURT: It was divorce and that
19 was -- we settled it ourselves too.

20 THE COURT: So nothing about that process that
21 would cause you any problems here?

22 PROSPECTIVE JUROR BURT: No.

23 THE COURT: Anyone else? Debra.

24 PROSPECTIVE JUROR KLEIN: Two divorces in the
25 past.

1 THE COURT: Anything about those matters that
2 would cause you any problems?

3 PROSPECTIVE JUROR KLEIN: (Shaking head.)

4 THE COURT: I failed to mention to you if there's
5 anything that you feel that you would like to talk to me in
6 private about, certainly we can have a sidebar and have a
7 private conversation.

8 Anyone else in the second row? All right.
9 Roseanne. Is that correct?

10 PROSPECTIVE JUROR MORISCH: Yes. I've been to
11 court several times with my husband for DUI, driving without
12 a license.

13 THE COURT: Anything about the way the lawyers
14 handled that matter, the way the judge handled that matter
15 that would keep you from being a fair and impartial juror in
16 this matter?

17 PROSPECTIVE JUROR MORISCH: No.

18 THE COURT: And we're talking to Patricia again?

19 PROSPECTIVE JUROR OBERG: Yes, sir. We sold a
20 house and had an issue of a furnace not working properly and
21 the people we sold the house to took us to court, but we
22 settled before the case actually went to trial.

23 THE COURT: Anything about that legal problem that
24 would cause you any problems serving as a juror in this
25 matter?

1 PROSPECTIVE JUROR OBERG: No, sir.

2 THE COURT: Anyone else?

3 All right. How many of you like music?

4 How many of you have CD's or some type of tape
5 recordings of music?

6 How many of you have ever downloaded music from
7 the Internet? We'll get to that in a few minutes.

8 Those of you that -- how many of you are
9 musicians, whether or not professional or for fun? Keep
10 your hands up so we can see.

11 And how many of you have recorded your own songs
12 or someone else's songs for a CD?

13 Let's go back and talk to Benjamin. Do you have a
14 copyright on your music?

15 PROSPECTIVE JUROR ROSSOW: No, I don't.

16 THE COURT: So you were recording someone else's
17 songs?

18 PROSPECTIVE JUROR ROSSOW: No, they're my songs,
19 but I record them at home and don't release them under a
20 label or anything. It's almost more of a hobby, but -- and
21 I don't sell them either. I just give them to people for
22 fun.

23 THE COURT: And do you have an Internet site
24 that --

25 PROSPECTIVE JUROR ROSSOW: No, I don't.

1 THE COURT: Let me ask you -- well, back up. How
2 many of you have computers in your home and have an Internet
3 connection?

4 Now, I've asked about whether or not any of you
5 are musicians. Let me change that just a little bit. Any
6 close friends or relatives that are musicians?

7 Do you know, Patricia, whether or not, your close
8 friend or relative has ever recorded songs?

9 PROSPECTIVE JUROR OBERG: Both my children are
10 musicians and, yes, they have.

11 THE COURT: And do they have copyrights on their
12 songs, if you know?

13 PROSPECTIVE JUROR OBERG: I believe my daughter
14 does.

15 THE COURT: And does she sell her songs over the
16 Internet, or do you know?

17 PROSPECTIVE JUROR OBERG: I don't believe she
18 does, no.

19 THE COURT: Barbara?

20 PROSPECTIVE JUROR VEIT: Yes.

21 THE COURT: Family and friends that are musicians?

22 PROSPECTIVE JUROR VEIT: My brother is a musician.
23 He's a percussionist. He's usually in a group situation.

24 THE COURT: And as far as you know, he's recorded?

25 PROSPECTIVE JUROR VEIT: I think informally just

1 for himself. Nothing has ever been published or sold.

2 THE COURT: All right. Now, I saw some hands
3 dealing with using the computer to download music. Those of
4 you who raised your hands, would you raise your hands again
5 for me.

6 Let's start in the back. Benjamin, do you
7 download -- what programs do you use to download music?

8 PROSPECTIVE JUROR ROSSOW: Primarily iTunes.

9 THE COURT: All right. And how long have you been
10 doing that?

11 PROSPECTIVE JUROR ROSSOW: Oh, probably two or
12 three years.

13 THE COURT: Anything about that process, other
14 than you can't use it on other MP3 players?

15 PROSPECTIVE JUROR ROSSOW: No. I've pretty much
16 accepted the Mac world.

17 THE COURT: I saw some other hands. Lisa, what
18 programs do you use?

19 PROSPECTIVE JUROR HEYESEN: iTunes.

20 THE COURT: Then we have Daniel. And what do you
21 use?

22 PROSPECTIVE JUROR GOLDEN: iTunes as well.

23 THE COURT: Roseanne.

24 PROSPECTIVE JUROR MORISCH: It was about five
25 years ago. I'm not really sure what it was. My significant

1 other is the computer savvy one. I just did it one time, a
2 couple of songs. I couldn't tell you what program it was.

3 THE COURT: Then we have Michele.

4 PROSPECTIVE JUROR NIVALA: I did it once too,
5 downloaded on my MP3 player. I have no idea how it got
6 there, not a clue. I did it once. That's it.

7 THE COURT: The magic of the Internet.

8 PROSPECTIVE JUROR NIVALA: I was just pushing
9 buttons.

10 THE COURT: Anyone else?

11 Well, there's other uses for the Internet.
12 Certainly you know this case is about music, but has anyone
13 downloaded -- I guess you can download movies now and books
14 and other copyrighted material. Has anyone else done that
15 sort of thing?

16 All right. Daniel, movies or books?

17 PROSPECTIVE JUROR GOLDEN: Television shows and --
18 like podcasts. Television shows mostly.

19 THE COURT: Let me ask this question. How many
20 would consider yourself Internet savvy, that you know
21 something about the Internet?

22 Since most of you have computers, do you have
23 family members in your household that download music?

24 Now, has anyone heard of the Napster program?

25 Please raise your hands.

1 Have any of you heard of the lawsuits that have
2 been brought by record companies against people who download
3 or share music files over the Internet?

4 All right. Let me talk to you. Benjamin, you had
5 your hand up. What have you heard about those lawsuits?

6 PROSPECTIVE JUROR ROSSOW: Well, lots, I guess.
7 Being a big music fan, I have a subscription to *Rolling*
8 *Stone* magazine. They write about it in their magazine
9 frequently, about these kinds of lawsuits.

10 I also happen to be a high school English teacher
11 and my students will often do research papers and especially
12 more so, I guess, maybe four or five years ago it was a
13 pretty popular topic because kids were into downloading and
14 there were lots of issues, so it made for a good
15 controversial, debatable topic for students to write about.
16 So, you know, reading a lot of student papers and reviewing
17 the research they've done, I feel like I've learned quite a
18 bit about it.

19 THE COURT: This is a lawsuit by record companies
20 against Ms. Thomas regarding downloading of music. Anything
21 about the research or your knowledge of the topic that would
22 keep you from being a fair and impartial juror to either
23 side?

24 PROSPECTIVE JUROR ROSSOW: I don't think so. I'm
25 trying to think of the slant that *Rolling Stone* magazine

1 often takes. I don't know that I would necessarily call
2 them neutral on the issue.

3 I would say that probably most of my students
4 aren't necessarily on the side of, when it comes to a
5 lawsuit, on the side of the labels or the corporations.
6 They're probably more on the side of the downloaders
7 themselves because that's who they relate to.

8 But having read a lot about it, I know that it's a
9 very debatable topic and there's lots of issues surrounding
10 it. So I don't know that I've come to my own conclusions on
11 it. I feel like I sometimes go back and forth on the issue.

12 THE COURT: Under the copyright laws of the United
13 States, the music companies have brought a lawsuit here in
14 this courtroom. And the question is: Will you be able to
15 follow the law as I give it to you --

16 PROSPECTIVE JUROR ROSSOW: Yes.

17 THE COURT: -- and come back with a fair and
18 impartial verdict in this matter?

19 PROSPECTIVE JUROR ROSSOW: Yes, I would be able to
20 follow the law as you give it to me.

21 THE COURT: You may have many opinions on the
22 subject. The question is whether or not you will be able to
23 listen to the testimony and follow the law as I give it to
24 you. Will you be able to do that?

25 PROSPECTIVE JUROR ROSSOW: Yes.

1 THE COURT: All right. Who else? Lisa.

2 PROSPECTIVE JUROR HEYESEN: I basically had only
3 heard headline topics that lawsuits have been brought to --
4 I don't know that they've been brought to a jury yet, but I
5 just have heard about the lawsuits, more the headline.

6 THE COURT: It's gathered headlines.

7 PROSPECTIVE JUROR HEYESEN: Headlines.

8 THE COURT: The question is -- we read headlines,
9 we hear sound bites on TV. And the question is whether or
10 not you have formed a strong opinion, one way or the other,
11 about whether or not it's legal or illegal and whether or
12 not you could be fair to the music corporations or the
13 defendant. The question is: Can you be fair and impartial
14 to both sides?

15 PROSPECTIVE JUROR HEYESEN: Yes, Your Honor, I can
16 be.

17 THE COURT: Who else has heard about the -- in the
18 back row first, let's go to Daniel.

19 PROSPECTIVE JUROR GOLDEN: I remember hearing
20 about it a few years ago on the news and hearing about some
21 bands suing Napster and I remember something where they
22 changed their service and made it a pay site. And I tried
23 to actually set up an account with it and I couldn't figure
24 out how to do that, just to use it as, like, another means
25 to get music and -- once it became a pay site at least --

1 and I couldn't figure out how to set up the account. So I
2 wasn't really sure either way. That's pretty much the
3 extent of what I heard about it.

4 THE COURT: Any firm opinions, one way or the
5 other, that would keep you from being a fair and impartial
6 juror in this matter?

7 PROSPECTIVE JUROR GOLDEN: I don't think so, no.

8 THE COURT: Let's go to the second row. I saw
9 some hands. Roseanne.

10 PROSPECTIVE JUROR MORISCH: Just a few years ago
11 just the headlines and all the lawsuits that were being
12 brought up.

13 And I guess as far as -- I haven't really formed
14 any strong opinion on either side. I guess I see both sides
15 and it depends upon how -- I guess to me the songs that I
16 did download were of such poor quality and other people kind
17 of mess with them along the way and they add different
18 sounds and slow them down and stuff so by the time you get
19 it, it's really not the same as if you go out and buy a CD.
20 And I guess I prefer when you buy a CD, sometimes you get
21 songs that you never heard before.

22 So to me I guess I didn't think it was really -- I
23 didn't think it was right that all these musicians' songs
24 were being downloaded for free, but I thought, you know,
25 they shouldn't be too worried about it because, you know,

1 it's not the quality of the CD's, in my opinion.

2 THE COURT: Do you feel that you could be fair and
3 impartial to both sides on this issue?

4 PROSPECTIVE JUROR MORISCH: I think I could.

5 THE COURT: Patricia.

6 PROSPECTIVE JUROR OBERG: For me it's more I
7 think -- of course I've heard of it, but I don't have any
8 strong feelings about it one way or the other, but I do hear
9 a lot of conversation when my kids are home since they're
10 both musicians, you know, kind of both sides of the story.

11 THE COURT: The question here is -- we all hear
12 certain things. It's whether or not you have such strong
13 opinions that you could not be fair and impartial to either
14 side here.

15 PROSPECTIVE JUROR OBERG: I don't think so.

16 THE COURT: Will you be able to listen to the
17 testimony that comes from the witness stand, follow the law
18 as I give it, and come back with a fair and just verdict?

19 PROSPECTIVE JUROR OBERG: I believe so, yes.

20 THE COURT: And we'll talk to Barbara.

21 PROSPECTIVE JUROR VEIT: Just several years ago I
22 remember hearing quite a bit on National Public Radio, on
23 the news. That's about my only source. And maybe some
24 headlines in newspapers. I don't have a strong opinion. I
25 never looked into it, really, to see what the --

1 THE COURT: So you can be fair and impartial to
2 both sides?

3 PROSPECTIVE JUROR VEIT: I can.

4 THE COURT: Anyone else?

5 All right. Let me ask this question. How many
6 own an MP3 player or iPod or iPhone?

7 How many in your family own iPods or iPhones?

8 Have any of you ever made a CD compilation from
9 the CD's that you own or burn your own CD?

10 Okay. Let's go to the sheets that we have. I
11 would ask you to please stand and tell us who you are and go
12 through those list of questions. We'll start with Jill.

13 PROSPECTIVE JUROR FORSEEN: Jill Maureen Forseen.
14 I live in St. Louis County. I do work outside the home. I
15 work for the City of Mountain Iron. No other jobs besides
16 that one. Level of school, I did graduate high school and
17 went to one year of vo-tech for accounting. I'm currently
18 married. I have three children, three daughters, 30, 23,
19 and 15. I've never been on a jury before and I don't have
20 any problems seeing or hearing. I do have a mousy voice,
21 though.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR ROSSOW: I'm Benjamin Curtis
24 Rossow. I do work outside the home. I'm a high school
25 English teacher at Mora High School, Kanabec County, here in

1 Minnesota. I've been an English teacher for -- this is my
2 ninth year overall. I have a master's degree in education.
3 I am married. I have three kids, 6, 3, and 1, all girls.
4 And I have served on a jury before, which I mentioned
5 before, so we're good there, and I can see and hear fine.

6 THE COURT: Does your wife work outside the home?

7 PROSPECTIVE JUROR ROSSOW: Oh, I'm sorry. I
8 skipped that one. She does. My wife is a social worker.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR HEYESSEN: I'm Lisa Heyesen. I
11 live in St. Louis County. I do work outside my home. I
12 work for the Area Partnership for Economic Expansion as a
13 director of business development. I have had other jobs in
14 the past five years. I've worked in the medical equipment
15 industry, in sales. I have graduated from college. I have
16 a B.S. in marketing. I am married. My husband works for
17 Compudyne, a managed service IT company. We have no
18 children. I have not served on a jury and I have no
19 problems that would prevent me from seeing or hearing.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR ANDERSON: My name is Jim
22 Anderson. I live in St. Louis County. I do work outside of
23 the home. I own a funeral home. I attended college. I'm
24 married. My wife is a nurse. We have no children and I
25 have never served on a jury before.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR BURT: Kathleen Burt and I am a
3 bartender. I live in St. Louis County. I've been a
4 bartender for 11 years. I reached two years of college. I
5 am divorced. I have two children, 31 and 29, and they've
6 given me five grandchildren. I have never served on jury
7 duty before and I have no problems seeing or hearing.

8 PROSPECTIVE JUROR KLEIN: I'm Debra Klein. I live
9 in Benton County. I work for [inaudible].

10 COURT REPORTER: I'm sorry. Could you speak up?
11 You work for who?

12 PROSPECTIVE JUROR KLEIN: I'm Debra Klein. I live
13 in Benton County. I've worked as a phlebotomist for Quest
14 Diagnostics for the last little over six years. I have a
15 bachelor's of elective studies degree. I'm not married. I
16 have two children, 30 and 27. Never been on jury duty
17 before.

18 The only medical problem is I have advanced
19 degeneration of my spine and I'm currently seeking
20 professional help, but I haven't seen the specialist quite
21 yet. I have an appointment next month.

22 THE COURT: Are you in pain right now?

23 PROSPECTIVE JUROR KLEIN: They have me on some
24 medication.

25 THE COURT: Is it hard for you to sit for long

1 periods of time?

2 PROSPECTIVE JUROR KLEIN: For long periods of
3 time, yes.

4 THE COURT: We sit for -- we do take breaks. We
5 take a morning break for approximately 15 minutes, lunch
6 break for approximately an hour, and then an afternoon
7 break, but we go from 9:00 to 5:00, 5:30. Is that going to
8 cause you problems? We're going to go at least three or
9 four days to try this case, I suspect.

10 PROSPECTIVE JUROR KLEIN: I do believe it probably
11 would be causing a problem, yes.

12 THE COURT: I'm going to excuse you from this
13 case. Please leave your placard in your chair.

14 Let's call another juror.

15 THE CLERK: Michael Hegg of Duluth.

16 THE COURT: Michael, we'll come back to you in a
17 few minutes after we've gone through the panel. We'll
18 continue with Daniel.

19 PROSPECTIVE JUROR GOLDEN: Daniel Golden, resident
20 of St. Louis County. I work for a health insurance company.
21 And the question is work outside the home. Technically I
22 work in the home, I have a home office. I have been doing
23 that for a year. I've worked for that company for the last
24 four years. I worked for a restoration company prior to
25 that.

1 THE COURT: What do you do for the company that
2 you're working for now?

3 PROSPECTIVE JUROR GOLDEN: Pencil pusher. I work
4 in the billing department, just random billing paperwork. I
5 am married, been married for nine years. I have a
6 13-year-old stepson and a 6-year-old daughter. My wife also
7 works for that same health insurance company, although she
8 works actually at the building. Never served on a jury
9 before and no problems seeing or hearing. Oh, and very
10 little college, one semester.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR REINKE: My name is Lisa Reinke.
13 I live in Koochiching County. I work outside of the home
14 for United Healthcare. I've worked there for three months.
15 Before then I worked at Ben Franklin Crafts as a retail
16 merchandiser for 12 years. I have a high school diploma.
17 I've been married for 23 years. I have three children, 18,
18 20, and 22. I've never served on a jury before and I have
19 no problems.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR MORISCH: My name is Roseanne
22 Morisch. I live in Crow Wing County. I work outside the
23 home. For the last three years I've been working in the
24 patient accounting department at St. Joseph's Medical Center
25 in Brainerd and before that, for about a year, I worked at

1 *St. Cloud Times* down in St. Cloud. I have an associate in
2 applied science degree in accounting. I am married, my 20th
3 anniversary is coming up here, but me and my husband haven't
4 lived together for the last five years. We just haven't
5 filed for a divorce yet. He does construction work and
6 cement work. Right now he's unemployed. We have a
7 19-year-old daughter. I have never served on a jury before
8 and I have no problems hearing, but I have been told I need
9 to get glasses. When I went to renew my driver's license a
10 couple months ago, I was told I would have to get glasses
11 before I can -- by the next time I take my test.

12 THE COURT: Thank you. We'll go on to Kathy.

13 PROSPECTIVE JUROR MESSENGER: I'm Kathy Messenger,
14 St. Louis County. I am an LPN. I've worked at SMDC for the
15 past 30 years. High school, technical school. I am not
16 married. I have two boys, 26 and 27. I have never been on
17 a jury and I don't have any other problems.

18 THE COURT: And what is SMDC?

19 PROSPECTIVE JUROR MESSENGER: SMDC, St. Mary's
20 Duluth Clinic. It's a hospital.

21 THE COURT: And what do you do there?

22 PROSPECTIVE JUROR MESSENGER: I'm an LPN.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR BITZAN: I'm Doug Bitzan. I
25 live in Mille Lacs County. I'm a foreman for East Central

1 Energy. I've been there for 20 years. I went to vocational
2 school. I am married. I have a stepson who is 24, a
3 stepdaughter who is 20; and we have two of our own, 12 and
4 10, a son and a daughter. My wife would be a homemaker,
5 stays at home. I've never served on a jury before and I
6 have no problems hearing or seeing.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR OBERG: Patricia Oberg of
9 St. Louis County. I do work outside the home. I work -- I
10 supervise a small group of people at a golf and ski resort.
11 That's been for about the past eight years. I have a couple
12 of years of college, but no degree. I am married. My
13 husband is a retired systems analyst with IBM Corporation.
14 I have two children. My son is 39. My daughter is 37. I
15 have served on a jury, which I explained to you earlier, and
16 I don't have any problems seeing or hearing.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR NIVALA: I'm Michele Nivala. I
19 live in St. Louis County. I work outside the home. I work
20 at a jewelry store in the mall in Virginia and I've been
21 there about three months, and prior to that I worked at
22 Kmart in Virginia. I never went on to school after
23 graduating. I'm currently going through a divorce. My
24 husband works at one of the mines up on the Iron Range. We
25 have no kids. I've never been on a jury and I don't have

1 any other problems.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR VEIT: My name is Barbara Veit.
4 I live in Itasca County. I am a retired elementary school
5 teacher. I have had no other jobs in the last five years.
6 I have a bachelor's degree in education plus about 75
7 credits. I've been married for 41 years. My husband is a
8 retired county forester. We have no children. I have never
9 served on a jury before and I have no problems seeing or
10 hearing.

11 THE COURT: Thank you.

12 PROSPECTIVE JUROR CORNELIUS: I'm Bruce Cornelius.
13 I live in St. Louis County. I'm a retired postal employee.
14 I was a postmaster for 30 years and now the last five years
15 I'm just having fun doing odd jobs, worked for the airline
16 industry and I did computer networking for about five years
17 as well. Two years of college. I'm married with four
18 children and four grandkids. My oldest child is 32 and all
19 the way down to 26. Don't ask me all their ages. That's
20 more Mom's job than Dad's job. I served on a jury before,
21 as we discussed, up in northern Minnesota. And I have no
22 problems seeing or hearing.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR CURTIS: My name is Dale Curtis.
25 I reside in Aitkin County. I work down in the Cities,

1 Brooklyn Park, a suburb, for Kraft Nabisco. I got a college
2 degree back in 1968, bachelor of science. I'm single. No
3 children. Never served on a jury before, but I was a
4 witness in a murder trial -- two murder trials 20 some years
5 ago. And I don't have any problems seeing or hearing.

6 THE COURT: Thank you.

7 All right. Michael.

8 PROSPECTIVE JUROR HEGG: My name is Michael Hegg
9 and I live in St. Louis County. I do work outside the home.
10 I'm a steel worker. I've been on the job for ten years
11 there. I have a two-year degree in firefighting. I am
12 married. I've been married for 17 years. My wife is a
13 finance manager at St. Mary's Duluth Clinic. I have two
14 children, 11 and 17. I've never been on a jury before and I
15 don't have any problems seeing or hearing.

16 THE COURT: I've got some other questions for you.
17 Please be seated. Have you -- are you involved in any
18 litigation now or close friends or relatives involved in any
19 litigation right now?

20 PROSPECTIVE JUROR HEGG: No.

21 THE COURT: In previous years have you or any
22 close friends or relatives been involved in any type of
23 litigation, either as a plaintiff or a defendant?

24 PROSPECTIVE JUROR HEGG: No.

25 THE COURT: Have you served on a jury in past

1 years?

2 PROSPECTIVE JUROR HEGG: No.

3 THE COURT: Have you -- do you have Internet
4 access?

5 PROSPECTIVE JUROR HEGG: Yes.

6 THE COURT: Do you have a computer at home?

7 PROSPECTIVE JUROR HEGG: Yes.

8 THE COURT: Have you ever downloaded music, books,
9 magazines, or --

10 PROSPECTIVE JUROR HEGG: I'm computer illiterate.

11 THE COURT: I'm sorry?

12 PROSPECTIVE JUROR HEGG: I'm computer illiterate
13 in the family.

14 THE COURT: All right. Any of your family members
15 that have downloaded anything, music or otherwise?

16 PROSPECTIVE JUROR HEGG: No.

17 THE COURT: Do you own an MP3 player, one of those
18 little digital players, or an iPod or --

19 PROSPECTIVE JUROR HEGG: No.

20 THE COURT: Are you a musician or do you have any
21 family members or close friends that are musicians?

22 PROSPECTIVE JUROR HEGG: No.

23 THE COURT: Have you ever heard of the company
24 called Napster?

25 PROSPECTIVE JUROR HEGG: Yes.

1 THE COURT: Have you ever heard about any of the
2 lawsuits regarding people that have downloaded music over
3 the Internet illegally?

4 PROSPECTIVE JUROR HEGG: Just what I have read in
5 the paper.

6 THE COURT: And what you have read in the paper,
7 would that keep you from being a fair and impartial juror in
8 this matter, either for the plaintiff or the defendant?

9 PROSPECTIVE JUROR HEGG: No.

10 THE COURT: All right. That's all the questions I
11 have. Now I'm going to turn the questioning over to the
12 attorneys for a very short period of time, so they can
13 follow up with any questions that I've asked you, and then
14 we'll go into the selection of the jury.

15 Mr. Gabriel.

16 MR. GABRIEL: Thank you, Your Honor. Good
17 morning, Ladies and Gentlemen. Again, my name is Rich
18 Gabriel. I'm an attorney representing the record companies
19 in this case and I have just some follow-ups on questions
20 that Judge Davis asked all of you.

21 Can I see hands if any of you have heard any news
22 stories about this case, heard or read any stories about
23 this case. Nobody?

24 PROSPECTIVE JUROR HEYSEN: I heard something on
25 the news this morning, just that the case was being tried.

1 That's the only thing I've heard.

2 MR. GABRIEL: It's Ms. Heyesen?

3 PROSPECTIVE JUROR HEYESSEN: Heyesen.

4 MR. GABRIEL: Did anything that you heard affect
5 your view, one way or the other, how this case should come
6 out?

7 PROSPECTIVE JUROR HEYESSEN: No.

8 MR. GABRIEL: A number of you, I think, indicated
9 that you've heard stories through -- over the years
10 regarding cases like this one brought by the record
11 companies. Have any of you heard anything that you
12 believe -- let me ask Mr. -- is it Rossow?

13 PROSPECTIVE JUROR ROSSOW: Rossow.

14 MR. GABRIEL: I know you've heard many stories
15 about it. Anything that you've heard affected your -- do
16 you have a bias? I know you've talked about your kids
17 writing and you've read *Rolling Stone*. Does it lean you one
18 way or the other, do you think?

19 PROSPECTIVE JUROR ROSSOW: You know, for me
20 personally it's so complex and I can see it from both sides.
21 I feel like I've gotten really good at seeing a lot of
22 issues from both sides with the job that I have. You know,
23 I think each circumstance is different.

24 I've personally never downloaded music illegally.
25 I've paid for everything I've ever downloaded. I don't know

1 that I believe that everyone who has -- my brother is a
2 perfect example. My brother was big into Napster when it
3 was downloading music for free and he did a lot of that and
4 he did it for himself. Should he have paid for those?
5 Should he have been punished because he didn't pay for
6 those? I don't know. It's complex.

7 MR. GABRIEL: All right.

8 PROSPECTIVE JUROR ROSSOW: Maybe you can ask me
9 to -- clarify what you want to know.

10 MR. GABRIEL: Sir, I respect your personal
11 opinions and I'm not trying -- I'm trying to ask gingerly
12 and not pry.

13 PROSPECTIVE JUROR ROSSOW: Right.

14 MR. GABRIEL: Has anything you have heard leaned
15 you one way or the other? I recognize you say it's complex.
16 Do you feel that you're in the middle or is it kind of day
17 to day?

18 PROSPECTIVE JUROR ROSSOW: I feel like I'm in the
19 middle. I can certainly understand an artist saying I feel
20 like I should be compensated for this music that I've
21 created to sell to people, but I also can feel empathy for
22 individuals who maybe did some downloading on their own
23 computer and are suddenly being faced with huge fines or
24 litigation. I can feel some empathy for them as well. So I
25 guess I feel like I'm in the middle.

1 MR. GABRIEL: Thank you very much for your candor
2 on that.

3 Anybody else have -- from what you've heard about
4 lawsuits by the record companies against people who
5 downloaded, anyone else have any feelings or come away from
6 those stories with an opinion about them? Nobody?

7 Does everybody feel that they're -- does anybody
8 feel they're not in the middle, you know, that they feel
9 they really couldn't decide fairly based on the evidence?
10 Everybody is comfortable they can do that?

11 I saw a couple of folks -- when Judge Davis asked
12 who had computers, there were many, many people that raised
13 their hand and I couldn't write fast enough, but I think I
14 saw two people who didn't. Were there some folks who don't
15 have computers?

16 Okay. And is it Mr. Curtis?

17 PROSPECTIVE JUROR CURTIS: (Nodding.)

18 MR. GABRIEL: Have you ever worked on a computer
19 before?

20 PROSPECTIVE JUROR CURTIS: At work I do one thing
21 on a computer. I know how to do that, but as far as -- I
22 don't even know how to send an e-mail. I wouldn't know how
23 to get on. I don't know how to do anything.

24 MR. GABRIEL: And I guess my wife tends to tell
25 people she's computer phobic and afraid of technology.

1 Would you describe yourself as somebody -- if you hear about
2 computers, do you kind of daze out or are you computer
3 phobic?

4 PROSPECTIVE JUROR CURTIS: I don't like them
5 because I don't understand them. I hate using new cameras
6 because I don't know how to operate them. Any of that kind
7 of technology thing, I avoid it. It's not me, I'm not
8 interested in it, and I don't understand it. I don't
9 attempt to understand it.

10 MR. GABRIEL: Thank you so much for that.

11 Ms. Burt, do you -- you also do not have a
12 computer?

13 PROSPECTIVE JUROR BURT: No.

14 MR. GABRIEL: Have you ever worked on a computer
15 before?

16 PROSPECTIVE JUROR BURT: Yes, I have. I have
17 taken classes and gone to the library and used the computer.

18 MR. GABRIEL: Do you use the Internet when you go
19 elsewhere or have you --

20 PROSPECTIVE JUROR BURT: No.

21 MR. GABRIEL: Can you just generally tell us what
22 you've used a computer for when you've used it.

23 PROSPECTIVE JUROR BURT: When I went to college it
24 was doing accounting and then the classes were discontinued.
25 The library was just looking up information. I wasn't on

1 the Internet.

2 MR. GABRIEL: Oh, I see. Okay. Would you -- do
3 you describe yourself as a computer phobic person or are you
4 okay with --

5 PROSPECTIVE JUROR BURT: No. I'm just afraid if I
6 got one, I would spend all my time on it and wouldn't do my
7 other work and the other things I need to get done.

8 MR. GABRIEL: I understand. Thank you.

9 Do any of you have -- following up on one of Judge
10 Davis's questions, do any of you have a view as to -- a
11 strong view as to whether materials on the Internet should
12 be free or not? Let me ask you it this way. Does anyone
13 feel that things on the Internet are free or should be free;
14 does anybody think that?

15 Yes, sir.

16 PROSPECTIVE JUROR BITZAN: I guess -- I don't have
17 the Internet, but from what I've heard, it's kind of free
18 will on there, you can do what you want, but I've never been
19 on it.

20 MR. GABRIEL: You anticipated what I was going to
21 ask you. It's Mr. Bitzan?

22 PROSPECTIVE JUROR BITZAN: Yeah.

23 MR. GABRIEL: You've never used the Internet
24 itself?

25 PROSPECTIVE JUROR BITZAN: No.

1 MR. GABRIEL: Anybody else have a view -- yes,
2 ma'am. Is it Ms. Veit?

3 PROSPECTIVE JUROR VEIT: Yes. I think some things
4 should be free on the Internet, but other things should not
5 be. I have never -- I have to say I've never purchased
6 programming or things that you pay for on the Internet. I
7 use it for e-mailing mostly and looking up information on
8 the Internet. And I think one should be able to look up
9 information and do e-mails for free, but I certainly think
10 other things should be paid for.

11 MR. GABRIEL: What kind of things do you think
12 should be paid for?

13 PROSPECTIVE JUROR VEIT: I think if you're going
14 to subscribe to a service of some kind, that should be paid
15 for, a magazine or newspaper or music, I guess, although
16 I've never looked into that at all.

17 MR. GABRIEL: And you can be open-minded in this
18 case?

19 PROSPECTIVE JUROR VEIT: Yes.

20 MR. GABRIEL: Anybody else have a view on whether
21 things should be free on the Internet?

22 The case, as Judge Davis will tell you, involves
23 copyrights and music copyrights. Do any of you have
24 opinions as to whether there are certain kinds of music that
25 shouldn't be copyrighted or shouldn't be allowed to be

1 copyrighted for whatever reason?

2 Can everybody accept as a premise that
3 copyrighted -- music should be copyrighted no matter what
4 the content of it is?

5 Does anyone think the content makes a difference
6 on whether you should be able to -- the content, you know,
7 what the song is, think that makes a difference on whether
8 you should be allowed to have a copyright? Nobody thinks
9 that?

10 Judge Davis asked -- just a couple of more
11 questions. I appreciate all of your patience. Judge Davis
12 asked whether -- those of you who may have used a service to
13 download, a bunch of you have talked about iTunes. Have any
14 of you used any service where you were trading files over
15 the Internet with somebody else?

16 Yes, ma'am. Is it Ms. Morisch?

17 PROSPECTIVE JUROR MORISCH: Yes.

18 MR. GABRIEL: Okay. And I think you said you may
19 have downloaded some time ago just trying to --

20 PROSPECTIVE JUROR MORISCH: I don't even remember
21 how I did it, but it seemed like, like I said, the quality
22 was bad on some of the stuff. And the way my significant
23 other explained to me is that people can manipulate them and
24 stuff and they are sharing their files or whatever. I
25 didn't really like it, so I'm not into getting music, but

1 yet my significant other, he has an MP3 player and he's got
2 all kinds of songs. When I listen to them, you know, some
3 are okay, some of them aren't. It's just you really get
4 what you pay for. If it was free, then it's not very good
5 quality.

6 MR. GABRIEL: Was this some time ago when you
7 downloaded this?

8 PROSPECTIVE JUROR MORISCH: Yeah, yeah. I would
9 say probably 2003.

10 MR. GABRIEL: And I think you told us you didn't
11 remember which service you used.

12 PROSPECTIVE JUROR MORISCH: No, I'm not sure what
13 it was. It had all kinds of radio stations that you could
14 go to, including other countries and stuff. I have no idea
15 what it was called. And I'm not sure what my significant
16 other uses at this time. I don't even know how he does it
17 or anything.

18 MR. GABRIEL: And from your -- did your experience
19 affect, one way or the other, whether you think it was right
20 to trade files over the Internet?

21 PROSPECTIVE JUROR MORISCH: Well, I think that was
22 before I heard about people getting in trouble for
23 downloading music. You know, I felt -- I was, like, oh, I
24 didn't even realize I was doing something wrong because, you
25 know, if it's there and you have access to it and nobody is

1 charging you for it, you don't really think anything of it
2 and I was just using it just for myself.

3 You know, the music, if I wanted to listen to it,
4 I had to sit at the computer and use the computer speakers,
5 which I don't do very often, you know. I usually listen to
6 a CD on the stereo or a tape in the car or the radio.

7 So, yeah, I guess I was surprised when people were
8 getting in trouble for it, for downloading it free. I guess
9 I felt like if you are just using it for yourself, it
10 doesn't seem like it's wrong, you know. I could see if you
11 are copying it and selling it to other people, you know,
12 that obviously seems wrong.

13 MR. GABRIEL: And is that your view -- do you have
14 that view today?

15 PROSPECTIVE JUROR MORISCH: Yeah, I still kind of
16 feel that way. You know, I don't feel like I did
17 something -- at the time you don't really think of it and
18 then when it all came out, then you kind of realize, well,
19 you know, maybe that was wrong, you know, getting it for
20 free. But then, like I said, it was such poor quality and
21 it is other people's files that, you know, it seemed like no
22 big deal.

23 MR. GABRIEL: Okay. And is it your -- would it
24 make a difference if the quality was better? You said the
25 quality was really --

1 PROSPECTIVE JUROR MORISCH: Well, yeah, because I
2 know there's that newer stuff out there and that you can buy
3 songs for like 99 cents or \$1.99 or whatever it is. If you
4 are paying that, yeah, they better be good quality.

5 MR. GABRIEL: And in terms of your view as to
6 what's right and wrong about trading files, does the quality
7 make a difference, does the quality affect your view?

8 PROSPECTIVE JUROR MORISCH: Well, so you're
9 saying, like, if I got some really good quality music, if I
10 was getting that from another person --

11 MR. GABRIEL: Yes.

12 PROSPECTIVE JUROR MORISCH: -- sharing the files?
13 Well, there again, if it's just for me, for my own, you
14 know -- and most of these songs I've listened to over the
15 last 30 years of my life and I have probably already bought
16 the CD's and the tapes over and over and they've gotten lost
17 and technology keeps changing and pretty soon the CD's will
18 be -- it's like you have to keep buying your whole record
19 collection over and over again.

20 You are only getting maybe -- it's not like you're
21 getting the whole tape with all the songs. I guess it
22 just -- you know, if you are just using it for yourself, it
23 doesn't seem like it's, you know --

24 MR. GABRIEL: Okay. And you mentioned when you're
25 trading files for pay, that you are getting money for that.

1 Would it make a difference if you're trading files and there
2 was no money? So, in other words, you were trading files,
3 but you weren't getting any money for it. Does that affect
4 your view, one way or the other?

5 PROSPECTIVE JUROR MORISCH: Well, I guess I could
6 look at it like when I was a teenager and we would tape
7 stuff, you know, when tape recorders first came out and
8 somebody would make a tape and they would share it with you
9 and stuff. I guess I never, growing up, never thought there
10 was anything wrong with that.

11 But there again, you would maybe get poor quality
12 with the taping and stuff. If I really liked something, I
13 would go out and buy it. I want to own the CD, you know,
14 have it.

15 MR. GABRIEL: Okay. Thank you. I didn't mean to
16 monopolize all your time. Thank you very much.

17 Does anyone -- and I appreciate very much
18 Ms. Morisch's candor. Does anyone have a different view?
19 Does everybody generally agree with Ms. Morisch's view?

20 THE COURT: One of the -- let me stop here. I
21 want to make it clear that we all have different opinions on
22 what happens in our community, but in a courtroom you will
23 hear the evidence and then you will have to follow the law
24 that I give you.

25 Most consumers don't know what the copyright law

1 is, and you will find out what that is and you will have to
2 apply that to the facts in this case. And so let me -- it
3 may come as a surprise that something may be illegal that
4 you didn't know about or something that you thought was
5 illegal is legal. You just don't know until I give you the
6 law.

7 So will you be able to follow the law as I give it
8 to you? That's the big thing.

9 MR. GABRIEL: Thank you for that, Your Honor.

10 Really just one more question I think to you,
11 Ms. Veit. You indicated that you listen to National Public
12 Radio?

13 PROSPECTIVE JUROR VEIT: Yes.

14 MR. GABRIEL: Did you hear stories about cases
15 like this very recently, in the last two weeks?

16 PROSPECTIVE JUROR VEIT: No.

17 MR. GABRIEL: Ladies and Gentlemen, thank you so
18 much for your time and patience with me.

19 THE COURT: Mr. Toder.

20 MR. TODER: Thank you. Hello. I just have a few
21 follow-up questions. Mr. Gabriel took the words out of my
22 mouth for most of these.

23 Ms. Oberg, you said a little while ago that your
24 kids tell you a lot of things about downloading and the
25 things that we're talking about today.

1 PROSPECTIVE JUROR OBERG: Um-hmm.

2 MR. TODER: What are the things that they've told
3 you?

4 PROSPECTIVE JUROR OBERG: I think kind of
5 generally about the current state for musicians. The
6 industry seems to be in such a flux and it doesn't seem to
7 be as simple as it used to be. You used to go out and get
8 your band and make your recordings. Now there's a lot of
9 technology involved. It seems like copyright comes into
10 play. Fairness to the artist, both my children are
11 musicians and I'm a visual artist, so, you know, that's
12 always a big issue. Things like that in general. We
13 haven't specifically discussed Napster or any of the other
14 things that have come up today.

15 MR. TODER: Did you form any kind of opinion based
16 on what your children told you?

17 PROSPECTIVE JUROR OBERG: I would have to say I
18 don't believe I have really because I don't feel like I know
19 enough about it at this point in time. I just kind of
20 listen to their conversation and take it in. You know,
21 since it doesn't directly affect me on a day-to-day basis, I
22 haven't researched it or done, you know, any kind of further
23 information gathering.

24 MR. TODER: Are any of you familiar with copyright
25 law?

1 Ms. Morisch.

2 PROSPECTIVE JUROR MORISCH: My significant other
3 is a professional photographer and that's a very big deal to
4 him. He puts "copyright" on everything that he does.

5 MR. TODER: Has he actually registered copyrights
6 too?

7 PROSPECTIVE JUROR MORISCH: I'm not sure. He
8 might do that online. I don't know. I don't get real
9 involved with all the technical stuff. I just know that he
10 puts "copyright" on every one of his pictures.

11 MR. TODER: Ms. Foreseen.

12 PROSPECTIVE JUROR FORSEEN: Well, I work for a
13 government office and you just know what you need to buy and
14 what you can copy as far as the copyright laws. Like I
15 teach election classes. Everything we get we can print, but
16 there is certain things that are copyrighted that you have
17 to purchase everything for.

18 MR. TODER: Do any of you have strong feelings
19 about lawsuits in general?

20 Ms. Reinke, am I pronouncing your name right?

21 PROSPECTIVE JUROR REINKE: Yes.

22 MR. TODER: We don't know each other, right?

23 PROSPECTIVE JUROR REINKE: No.

24 MR. TODER: I'm from International Falls too. Do
25 you know me by reputation or my family or anything like

1 that?

2 PROSPECTIVE JUROR REINKE: No.

3 MR. TODER: You work for United Healthcare?

4 PROSPECTIVE JUROR REINKE: Yes.

5 MR. TODER: Are you aware of some litigation right
6 now involving United Healthcare and Mr. McGuire?

7 PROSPECTIVE JUROR REINKE: No. I've only been
8 there three months.

9 MR. TODER: Where were you before then?

10 PROSPECTIVE JUROR REINKE: I worked at Ben
11 Franklin Crafts.

12 MR. TODER: Mr. Hegg, you're not from
13 International Falls, are you?

14 PROSPECTIVE JUROR HEGG: No.

15 MR. TODER: That's all, Your Honor. I think all
16 my questions have been answered. Thanks.

17 THE COURT: Sidebar with the attorneys, please.

18 **(At sidebar.)**

19 MR. GABRIEL: We would move to strike juror
20 number 9 for cause. She indicated -- well, everyone heard
21 her responses to my questions. She indicated that she
22 thinks it's okay to share files unless someone paid for it
23 and we believe that -- recognizing she also said she thought
24 she could be fair, we don't believe that she could be fair
25 given her fairly strong conviction.

1 THE COURT: Admit or deny the challenge for cause?

2 MR. TODER: We will deny the challenge for cause.
3 We think that you asked her if she could still be fair in
4 spite of her opinions, and she obviously doesn't know what
5 the law is and that's why she has the opinion. When she's
6 instructed to what the law is and she's wrong, it will be
7 fine.

8 THE COURT: Challenge for cause denied. Any other
9 challenges?

10 MR. GABRIEL: No, Your Honor.

11 THE COURT: Other challenges for cause?

12 MR. TODER: No, Your Honor.

13 THE COURT: Thank you. Counsel, did you get a
14 sheet?

15 MR. GABRIEL: Yeah, we have one.

16 MR. TODER: Yes.

17 THE COURT: You may begin.

18 MR. TODER: Thank you.

19 **(In open court.)**

20 THE COURT: Let's take a stretch break while the
21 attorneys are making their final selections. Those in the
22 back in the gallery can stretch and those of you --
23 Prospective Members of the Jury, those of you that need to
24 use the restrooms, go ahead and use the restrooms, but
25 please come back -- you cannot talk about this case with the

1 parties or anybody else that's in the gallery. Just use the
2 restrooms and then come back to the seat that you're in.

3 (Recess taken at 10:30 a.m.)

4 * * * * *

5 (10:40 a.m.)

6 **IN OPEN COURT**

7 **(JURY PRESENT)**

8 THE COURT: Prospective Members of the Jury, when
9 you hear your name called, would you please stand. When you
10 hear your name called, please stand.

11 THE CLERK: Daniel Golden, Roseanne Morisch,
12 Patricia Oberg, and Barbara Veit.

13 THE COURT: Thank you for your time and
14 consideration. You are excused from this jury. Please
15 leave the placards in your chair. The prospective -- and
16 you can leave now.

17 Prospective members of the jury that are in the
18 back, I wish to thank you for the time and consideration of
19 coming down to the courthouse to possibly serve on this
20 case. We needed a number of jurors for this case because of
21 the nature of the case and the length of the trial, but you
22 are excused. So those of you that are in the back, you are
23 excused.

24 Let's get organized. Bruce, if you would take the
25 second chair in the second row. Dale, if you would take the

1 fifth chair in the second row.

2 If you would all rise.

3 THE CLERK: Members of the Jury, please raise your
4 right hand.

5 (Jury panel sworn.)

6 * * *

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9 I, Lori A. Simpson, certify that the foregoing is a
10 correct transcript from the record of proceedings in the
11 above-entitled matter.

12

13 Certified by: s/ Lori A. Simpson

14 Lori A. Simpson, RMR-CRR

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