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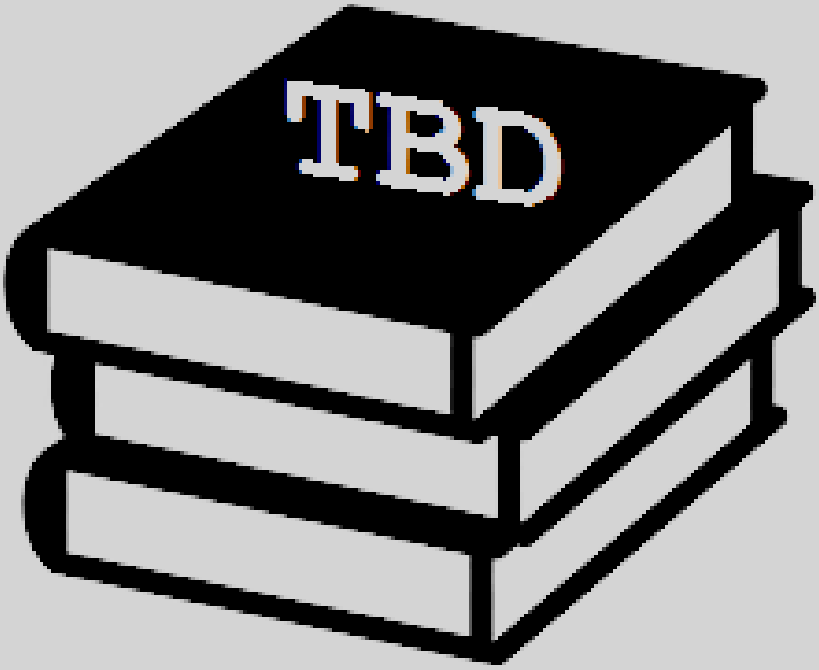

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ATLANTIC RECORDING CORPORATION, a Delaware corporation; CAPITOL RECORDS, INC., a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; INTERSCOPE RECORDS, a California general partnership; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New York general partnership; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; and ARISTA RECORDS LLC, a Delaware limited liability company,

Plaintiffs,

v.

JEFF DANGLER,

Defendant.

Case No.: 6:07-cv-06139-DGL

NOTICE OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE COURT'S ORDER DENYING DEFAULT JUDGMENT

PLEASE TAKE NOTICE, that upon the Declaration of Patrick Train-Gutierrez, Esq. dated November 2, 2007, and the Declaration of Elizabeth Hardwick, dated November 2, 2007, plaintiffs will move this Court at a Motion Term thereof, to be held at the Courthouse of the U.S. District Court for the Western District of New York, located at 100 State Street, Rochester, New York 14614 as soon as counsel can be heard for an Order reconsidering the Court's decision and order dated October 23, 2007 denying entry of default judgment against the defendant.

LECLAIR KORONA GIORDANO COLE LLP

Dated: November 5, 2007

By: /s/ Steven E. Cole

Steven E. Cole, Esq.
Attorneys for Plaintiffs
150 State Street, Suite 300
Rochester, New York 14614
Telephone: (585) 327-4108
scole@leclairkorona.com

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ATLANTIC RECORDING CORPORATION, a Delaware corporation; CAPITOL RECORDS, INC., a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; INTERSCOPE RECORDS, a California general partnership; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New York general partnership; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; and ARISTA RECORDS LLC, a Delaware limited liability company,

Plaintiffs,

v.

JEFF DANGLER,

Defendant.

Case No.: 6:07-cv-06139-DGL

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF THE COURT'S ORDER DENYING DEFAULT JUDGMENT

Plaintiffs respectfully submit this memorandum in support for their motion for reconsideration of the Court's October 23, 2007 Decision and Order (Doc. No. 8) denying Plaintiffs' motion for default judgment against Defendant Jeff Dangler ("Defendant") and state as follows:

INTRODUCTION

Plaintiffs brought this action for copyright infringement against Defendant on March 13, 2007. (Doc. No. 1.) Defendant was personally served on March 28, 2007 (Doc. No. 3), but has failed to appear or to answer the complaint. The Clerk entered Defendant's default on May 3, 2007. (Doc. No. 5.) Plaintiffs filed a motion for entry of default judgment on May 10, 2007. (Doc. No. 7.)

In its Decision and Order, the Court denied Plaintiff's motion for default judgment on grounds that Plaintiffs' complaint "does not identify details such as the time period during which the [copyright] violations allegedly took place, or explain how that user, identified only by the username heavyjeff@KaZaA, was determined to be the defendant." (Doc. No. 8 at 4.) The Court further indicated that it would set a hearing under Fed. R. Civ. P. 55(b)(2) to allow the introduction of additional evidence concerning the copyright violations.

Plaintiffs respectfully request that, in lieu of a Rule 55(b)(2) hearing, the Court consider the attached declarations of Patrick Train-Gutierrez and Elizabeth Hardwick, which declarations provide supplemental evidence regarding the time period during which the copyright violations at issue in this case took place and also explain how Defendant was determined to be the infringer. In light of this supplemental evidence, and for the reasons explained below and in Plaintiffs' motion for entry of default judgment, Plaintiffs request that the Court reconsider its Decision and Order and grant Plaintiffs' motion for default judgment against Defendant.

SUPPLEMENTAL EVIDENCE

A. Background:

Users of peer-to-peer networks who distribute files over a computer network can be identified by using Internet Protocol ("IP") addresses because the unique IP address of the computer distributing the files can be captured by another user during a search for files or during a file transfer. (Train-Gutierrez Decl.¶ 2, Exhibit A hereto.) Users of peer-to-peer networks can be identified by their IP addresses because each computer or network device that connects to a peer-to-peer network must have a unique IP address within the Internet to deliver files from one computer or network device to another. (*Id.*) Two computers cannot effectively function if they are connected to the Internet with the same IP address at the same time. (*Id.*) This is analogous

to the postal system, where each mail drop has a unique address. (*Id.*) Each computer or network device is connected to a network that is administered by an organization like a business, Internet Service Provider ("ISP"), college, or university. (*Id.*) Each network, in turn, is analogous to a zip code. (*Id.*) The network provider will maintain a log of IP address allocations. (*Id.*) An IP address can be associated with an organization such as an ISP, business, college, or university, and that organization can identify the peer-to-peer network user associated with the IP address. (*Id.*)

B. Plaintiffs' investigation of online infringement:

As part of their effort to protect their copyrights from online infringement, Plaintiffs, through their trade association, the Recording Industry Association of America ("RIAA"), retained the services of a company called MediaSentry to assist them in locating individuals infringing their copyrights over peer-to-peer networks. (Hardwick Decl. ¶ 3, attached as Exhibit B hereto.) To perform this task, MediaSentry searches peer-to-peer networks, looking for users distributing ("uploading") files that appear to be digital copies of sound recordings whose copyrights are owned by the RIAA's member record companies. (*Id.* ¶ 5.) When MediaSentry finds such a file, it may download the file. As part of that downloading process, MediaSentry, like any other peer-to-peer user, receives basic information about the user from whom the work is being downloaded. That information includes, among other things, the IP address of the user. (*Id.*)

Once connected to the user's computer, MediaSentry also seeks to determine what other files the individual is distributing to others for download. (*Id.* ¶ 6.) KaZaA and other file-copying programs permit users to share all of the files in their shared folders, and they may contain a feature that permits users to browse the entire shared folder of another user. (*Id.*) When

available, MediaSentry invokes this feature of a peer-to-peer program, just as any other user could do, and is able to determine whether the individual user is merely distributing one or two music files or whether the user is distributing hundreds or even thousands of music files. (*Id.*)

Using a feature of the peer-to-peer software available to any user, MediaSentry can then capture a list of all of the files that the user is distributing to others for download. (*Id.* ¶ 7.) MediaSentry collects this information in two forms. (*Id.*) First, MediaSentry takes screen shots, which are actual pictures of the screens that MediaSentry or any other user of the peer-to-peer network can see when reviewing the files being distributed. (*Id.*) Second, MediaSentry captures as a text file all of the contents of the user's shared directory, such as the names of each file and the size of each file, as well as additional information (called "metadata") about each file. (*Id.*) Metadata may include a wide range of information about a file. (*Id.*) Metadata, for example, can include information such as identification of the person or group that originally copied the file and began disseminating it unlawfully. (*Id.*) MediaSentry does nothing to create this text file; it exists on the user's hard drive and is distributed by the user to anyone to whom the user distributes files. (*Id.*)

MediaSentry's process for identifying potential infringers and gathering evidence of infringement has multiple fail-safes to ensure that the information gathered is accurate. (*Id.* ¶ 8.) MediaSentry takes numerous steps to check and double-check the IP address of the potential infringer to prevent misidentification. (*Id.*)

C. Plaintiffs' identification of Defendant in this case:

MediaSentry followed the procedures outlined above with respect to the evidence that it gathered in this case. (*Id.* ¶ 9.) Specifically, on August 24, 2005, at approximately 6:26 p.m., MediaSentry detected the username "heavyjeffmc@KaZaA" logged into the KaZaA file-sharing

service at IP address 172.139.93.233. (*Id.*) Attached as Exhibit B to Plaintiffs' Complaint is a true and correct copy of a compilation of screen shots captured by MediaSentry on August 24, 2005 showing the list of files that the computer connected to KaZaA with the IP address of 172.139.93.233 was distributing, for free, under the username "heavyjeffmc@KaZaA" to others for download. (*Id.*) MediaSentry also downloaded a sampling of the sound recordings that this individual was distributing to other users. (*Id.*) A list of eight such sound recordings downloaded by MediaSentry from the KaZaA user heavyjeffmc@KaZaA connected to the Internet at IP address 172.139.93.233 on August 24, 2005, at approximately 6:26 p.m. is attached as Exhibit A to Plaintiffs' Complaint. (*Id.*)

Just as any other user on the same peer-to-peer network as this individual would be able to do, MediaSentry was able to detect the infringement of copyrighted works, and identify the user's IP address, because the KaZaA peer-to-peer software had its file-sharing feature enabled. (Train-Gutierrez Decl.¶ 4.) After MediaSentry took a screenshot of the individual's "shared" folder and downloaded a number of the .MP3 music files that the individual was distributing to KaZaA users, the record companies verified that these music files were, indeed, their copyrighted sound recordings. These music files are the ones listed in Exhibit A to the Complaint. (*Id.*)

Once Plaintiffs verified that their copyrights had been infringed, Plaintiffs began the process of identifying the individual associated with IP address 172.139.93.233. (*Id.* at 5.) To do so, Plaintiffs filed a "Doe" lawsuit and a motion for leave to take expedited discovery. (*Id.*) The purpose of the discovery motion was to allow Plaintiffs to serve a subpoena on the ISP with which IP address 172.139.93.233 was associated in order to learn the identity of the individual to whom this IP address was assigned. (*Id.*) Specifically, Plaintiffs sought leave to serve a subpoena

asking the ISP to identify the individual associated with IP address 172.139.93.233 on August 24, 2005, at 6:26 p.m., when MediaSentry detected the infringement. (*Id.*)

The Court in which the Doe case was filed granted Plaintiffs' discovery motion, and Plaintiffs served the above-referenced subpoena on America Online, Inc. ("AOL"), the ISP associated with the IP address 172.139.93.233. (*Id.* at 6.) In response to Plaintiffs' subpoena, AOL identified Defendant as the person responsible for IP address 172.139.93.233 on August 24, 2005. (*Id.*) A true and correct copy of AOL's subpoena response is attached as Exhibit C hereto. (*Id.*)

ARGUMENT

The Copyright Act grants the copyright owner of a sound recording the exclusive rights to, among other things, "reproduce the copyrighted work in copies or phonorecords" and "distribute copies or phonorecords of the copyrighted work to the public." 17 U.S.C. § 106(1), (3). To prevail in this action, Plaintiffs must prove only: (1) that they own the copyrights in the sound recordings; and (2) that Defendant copied or distributed those sound recordings. *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991) ("To establish infringement, two elements must be proven: (1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original."); *see also Lipton v. Nature Co.*, 71 F.3d 464, 469 (2d Cir. 1995) ("A successful claim of copyright infringement pursuant to the Copyright Act, 17 U.S.C. § 501 et seq., requires proof that (1) the plaintiff had a valid copyright in the work allegedly infringed and (2) the defendant infringed the plaintiff's copyright by copying protected elements of the plaintiff's work."). Plaintiffs alleged both of these elements in their Complaint. (Compl., Doc. No. 1 ¶¶ 14-16.)

Defendant's default concedes the truth of the allegations of the Complaint as to Defendant's liability. *See, e.g., Greyhound Exhibitgroup v. E.L.U.L. Realty Corp.,* 973 F.2d 155, 158 (2d Cir. 1992) (stating that upon the entry of default, a party concedes all well pleaded factual allegations); *Leisure Direct, Inc. v. Glendale Capital, LLC*, 2007 U.S. Dist. LEXIS 40212, at *4 (E.D.N.Y. 2007) (a party's default is deemed to constitute a concession of all well pleaded allegations of liability). As a result, Defendant's default has established Defendant's liability to Plaintiffs for copyright infringement for the eight copyrighted sound recordings listed in Exhibit A to the Complaint.

Specifically, Defendant's default concedes, among other things, that Defendant used an online media distribution system to copy the eight recordings and to distribute those recordings to other users of the system. (Compl., Doc. No. 1 ¶¶ 14-16.) Further, as demonstrated above, Plaintiffs identified Defendant by viewing and downloading a sampling of the sound recordings that Defendant was distributing to other KaZaA users under the user name heavyjeffmc@KaZaA while connected to the Internet at IP address 172.139.93.233 on August 24, 2005 at approximately 6:26 p.m. These established facts constitute direct copyright infringement, as distributing copyrighted sound recordings to others by placing them in a shared folder on an online media distribution system violates Plaintiffs' exclusive right to distribute their recordings. 17 U.S.C. § 106(3); *In re Aimster Copyright Litig.*, 334 F.3d 643, 645 (7th Cir. 2003) ("transmitting a digital copy of [copyrighted] music . . . infringes copyright"); *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004, 1014 (9th Cir. 2001) (holding that "users who upload file names to the search index for others to copy violate plaintiffs' distribution rights"); *Sony Pictures Home Entm't, Inc. v. Lott*, 471 F. Supp. 2d 716, 719, 721-22 (N.D. Tex. 2007) (granting summary judgment to the plaintiff motion picture companies based on evidence that their copyrighted

motion pictures were being distributed from the defendant's computer as identified by the IP address used to connect to the Internet); *MGM Studios Inc. v. Grokster Inc.*, 259 F. Supp. 2d. 1029, 1034-35 (C.D. Cal. 2001) (users who upload copyrighted music violate copyright owner's exclusive distribution right); *see also United States v. Shaffer*, 472 F.3d 1219, 1223 (10th Cir. 2007) ("We have little difficulty in concluding that [the defendant] distributed child pornography" by placing the pornography "in his computer's Kazaa shared folder."); *Hotaling v. Church of Jesus Christ of Latter-Day Saints*, 118 F.3d 199, 203 (4th Cir. 1997) (placing unauthorized copy of copyrighted work in library's collection, listing work in library's index or catalog system, and making work available to borrowing or browsing public was distribution of work within meaning of Copyright Act).

CONCLUSION

For all of these reasons, and in light of the supplemental information Plaintiffs have provided herein, Plaintiffs respectfully request that the Court reconsider its October 23, 2007 Decision and Order and grant Plaintiffs' motion for default judgment without the need of hearing under Fed. Civ. P. 55(b)(2). Plaintiffs further request such other relief as the Court deems appropriate.

Respectfully submitted,

WOLFORD & LECLAIR LLP

Dated: November 5, 2007

By: /s/ Steven E. Cole

Steven E. Cole, Esq.
Attorneys for Plaintiffs
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16 East Main Street
Rochester, New York 14614
Telephone: (585) 325-8000
scole@wolfordleclair.com

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ATLANTIC RECORDING CORPORATION, a Delaware corporation; CAPITOL RECORDS, INC., a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; INTERSCOPE RECORDS, a California general partnership; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New York general partnership; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; and ARISTA RECORDS LLC, a Delaware limited liability company,

Plaintiffs,

v.

JEFF DANGLER,

Defendant.

Case No.: 6:07-cv-06139-DGL

DECLARATION OF PATRICK TRAIN-GUTIERREZ

1. I am an associate in the law firm of Holme Roberts & Owen LLP national counsel to Plaintiffs in the above matter. I, along with Steven Cole, represent the Plaintiffs in this matter. I have personal knowledge of all facts set forth in this declaration, except as where stated on information and belief. As to such facts, I believe them to be true.

2. Users of peer-to-peer networks who distribute files over a computer network can be identified by using Internet Protocol ("IP") addresses because the unique IP address of the computer distributing the files can be captured by another user during a search for files or during a file transfer. Users of peer-to-peer networks can be identified by their IP addresses because each computer or network device that connects to a peer-to-peer network must have a unique IP address within the Internet to deliver files from one computer or network device to another. Two

computers cannot effectively function if they are connected to the Internet with the same IP address at the same time. This is analogous to the postal system, where each mail drop has a unique address. Each computer or network device is connected to a network that is administered by an organization like a business, Internet Service Provider ("ISP"), college, or university. Each network, in turn, is analogous to a zip code. The network provider will maintain a log of IP address allocations. An IP address can be associated with an organization such as an ISP, business, college, or university, and that organization can identify the peer-to-peer network user associated with the IP address.

3. On August 24, 2005, Plaintiffs' investigators detected an individual, later determined to be Defendant, using the KaZaA online media distribution system over a peer-to-peer file-sharing network. This individual had 663 music files on his computer and was distributing them to the millions of people who use peer-to-peer networks. A third-party investigator retained by Plaintiffs, MediaSentry, Inc., determined that the individual used IP address 172.139.93.233 to connect to the Internet.

4. Just as any other user on the same peer-to-peer network as this individual would be able to do, MediaSentry was able to detect the infringement of copyrighted works, and identify the user's IP address, because the KaZaA peer-to-peer software had its file-sharing feature enabled.[1] MediaSentry took a screenshot of the individual's "shared" folder and downloaded a number of the .MP3 music files that the individual was distributing to other KaZaA users. Then, the record companies verified that these music files were, indeed, their copyrighted sound recordings.

---

[1] *See United States v. Kennedy*, 81 F. Supp. 2d 1103, 1106 n.4 (D. Kan. 2000) (explaining detection through a file-sharing program).

These music files are the ones listed in Exhibit A to the Complaint. The screenshot of the individual's "shared" folder is attached as Exhibit B to the Complaint.

5. Once Plaintiffs verified that their copyrights had been infringed, Plaintiffs began the process of identifying the individual associated with IP address 172.139.93.233 by filing a "Doe" lawsuit and a motion for leave to take expedited discovery. The purpose of the discovery motion was to allow the Plaintiffs to serve a subpoena on the ISP with which IP address 172.139.93.233 was associated, in order to learn the identity of the individual to whom this IP address was assigned at the date and time the infringement was detected. Specifically, Plaintiffs sought leave to serve a subpoena asking the ISP to identify the individual associated with IP address 172.139.93.233 on August 24, 2005, at 6:26 p.m., when MediaSentry detected the infringement.

6. The Court in which the Doe case was filed granted Plaintiffs' discovery motion, and Plaintiffs served the above-referenced subpoena on America Online, Inc. ("AOL"), the ISP associated with the IP address 172.139.93.233. In response to the subpoena, AOL identified Jeff Dangler as the person responsible for IP address 172.139.93.233 on August 24, 2005. A true and correct copy of AOL's subpoena response is attached as Exhibit C to Plaintiffs' Motion For Reconsideration Of The Court's Order Denying Default Judgment.

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

Dated: November 2, 2007.

PATRICK TRAIN-GUTIERREZ, ESQ.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ATLANTIC RECORDING CORPORATION, a Delawar corporation; CAPITOL RECORDS, INC., a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; INTERSCOPE RECORDS, a California general partnership; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New Yor general partnership; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; an ARISTA RECORDS LLC, a Delaware limited liability company,

Plaintiffs,

v.

JEFF DANGLER,

Defendant.

Case No.: 6:07-cv-06139-DGL

DECLARATION OF ELIZABETH HARDWICK

I, Elizabeth Hardwick, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Product Manager, Data Services for the MediaSentry Business Unit of Safenet, Inc., formerly MediaSentry, Inc. ("MediaSentry"). I have personal knowledge of all of the matters discussed in this Declaration except as where stated on information and belief. As to such facts, I believe them to be true.

2. MediaSentry is one of the principal providers of online anti-piracy services worldwide. It specializes in providing services to detect and prevent unauthorized distribution of music, films, software, and other content on the Internet.

3. MediaSentry has been engaged by the Recording Industry Association of America ("RIAA") on behalf of the Plaintiffs to assist them in locating individuals infringing their copyrights over peer-to-peer networks and gathering evidence of their infringement. To perform

this task, MediaSentry searches peer-to-peer networks for individuals distributing infringing files for download and gathers evidence concerning that infringement.

4. In gathering evidence of infringement, MediaSentry does not do anything that any user of a peer-to-peer network cannot do and does not obtain any information that is not available to anyone who logs onto a peer-to-peer network. Thus, when MediaSentry searches for sound recordings on the peer-to-peer network, views the files that each peer-to-peer user is disseminating to others, obtains the IP address and screen name of each user, and downloads copyrighted works distributed by each user, it is using functionalities that are built into the peer-to-peer protocols that each user has chosen to use to upload (or distribute) and download (or copy) music.

5. MediaSentry searches peer-to-peer networks, looking for users distributing ("uploading") files that appear to be digital copies of sound recordings whose copyrights are owned by the RIAA's member record companies. When MediaSentry finds such a file, it may download the file. As part of that downloading process, MediaSentry, like any other peer-to-peer user, receives basic information about the user from whom the work is being downloaded. That information includes, among other things, the Internet Protocol ("IP") address of the user.

6. Once connected to the user's computer, MediaSentry also seeks to determine what other files the individual is distributing to others for download. KaZaA and other file-copying programs permit users to share all of the files in their shared folders, and they may contain a feature that permits users to browse the entire shared folder of another user. When available, MediaSentry invokes this feature of a peer-to-peer program, just as any other user could do, and is able to determine whether the individual user is merely distributing one or two music files or whether the user is distributing hundreds or even thousands of music files.

7. Again using a feature of the peer-to-peer software available to any user, MediaSentry can then capture a list of all of the files that the user is distributing to others for download. MediaSentry collects this information in two forms. First, MediaSentry takes screen shots, which are actual pictures of the screens that MediaSentry or any other user of the peer-to-peer network can see when reviewing the files being distributed. Second, MediaSentry captures as a text file all of the contents of the user's shared directory, such as the names of each file and the size of each file, as well as additional information (called "metadata") about each file. Metadata may include a wide range of information about a file. Metadata, for example, can include information such as identification of the person or group that originally copied the file and began disseminating it unlawfully. MediaSentry does nothing to create this text file; it exists on the user's hard drive and is distributed by the user to anyone to whom the user distributes files.

8. MediaSentry's process for identifying potential infringers and gathering evidence of infringement has multiple fail-safes to ensure that the information gathered is accurate. MediaSentry takes numerous steps to check and double-check the IP address of the potential infringer to prevent misidentification.

9. MediaSentry followed the procedures outlined above with respect to the evidence that it gathered in this case. Specifically, on August 24, 2005, at approximately 6:26 p.m., MediaSentry detected the username "heavyjeffmc@KaZaA" logged into the KaZaA file-sharing service at IP address 172.139.93.233. Attached as Exhibit B to Plaintiffs' Complaint is a true and correct copy of a compilation of screen shots captured by MediaSentry on August 24, 2005 showing the list of files, including digital music files, that the computer connected to KaZaA with the IP address of 172.139.93.233 was distributing, for free, under the username "heavyjeffmc@KaZaA" to others for download. MediaSentry also downloaded a sampling of

the sound recordings that this individual was distributing to other users. A list of eight such sound recordings downloaded by MediaSentry from the KaZaA user heavyjeffmc@KaZaA connected to the Internet at IP address 172.139.93.233 on August 24, 2005, at approximately 6:26 p.m. is attached as Exhibit A to Plaintiffs' Complaint.

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

Executed this 2nd day of November, 2007.

_/s/ Elizabeth Hardwick_____
Elizabeth Hardwick

REDACTED

AMERICA ONLINE
INCORPORATED

Seth Brown
Assistant General Counsel
email: sethebrown@aol.com

December 2, 2005

VIA FACSIMILE (816.421.5547)
& FIRST CLASS MAIL

Shook, Hardy & Bacon LLP
Hamilton Square
600 14th Street, N.W.
Suite 1800
Washington, DC 20005-2004

Re: Civil Case No. 1:05-cv-1129

Dear Sir or Madam:

Without waiver, admission, or prejudice to any objection, claim or defense at law or in equity, please find the enclosed information located pursuant to a reasonable search in response to the subpoena served on America Online, Inc. ("AOL") on November 4, 2005. To the best of our knowledge the identity of the person using the IP address:

"172.128.13.77" on "2005-08-08" at "01:57:41 EDT" is:

"172.128.178.75" on "2005-08-26" at "22:46:15 EDT" is:

"172.128.239.40" on "2005-08-23" at "21:08:10 EDT" is:

"172.128.29.134" on "2005-08-25" at "21:55:25 EDT" is:

"172.128.37.205" on "2005-08-25" at "22:33:40 EDT" is:

"172.128.41.61" on "2005-08-23" at "04:50:51 EDT" is:

22000 AOL Way • Dulles, VA 20166 • tel: 703-265-6547 • fax: 703-265-1075
www.aol.com

EXHIBIT C

REDACTED

"172.131.130.56" on "2005-08-11" at "19:20:12 EDT" is:

"172.131.180.152" on "2005-08-19" at "18:14:53 EDT" is:

"172.131.231.139" on "2005-08-11" at "20:41:08 EDT" is:

"172.131.39.177" on "2005-08-15" at "06:33:29 EDT" is:

"172.133.0.9" on "2005-08-19" at "22:50:10 EDT" is:

"172.133.255.123" on "2005-08-25" at "18:47:38 EDT" is:

"172.133.28.79" on "2005-08-10" at "03:39:23 EDT" is:

"172.138.148.169" on "2005-08-23" at "20:31:55 EDT" is:

"172.138.160.199" on "2005-08-31" at "03:13:39 EDT" is:

"172.138.163.228" on "2005-09-07" at "21:24:31 EDT" is:

"172.138.242.114" on "2005-08-31" at "04:19:26 EDT" is:

"172.138.49.137" on "2005-09-12" at "00:40:43 EDT" is:

"172.138.69.197" on "2005-08-23" at "19:51:19 EDT" is:

REDACTED

"172.138.95.147" on "2005-08-20" at "18:56:19 EDT" is:

"172.139.222.54" on "2005-08-12" at "01:58:09 EDT" is:

"172.139.93.233" on "2005-08-24" at "18:26:51 EDT" is: Jeff Dangler
70 Short Hills
Hilton, NY 14468

"172.140.127.111" on "2005-08-12" at "19:17:47 EDT" is:

"172.140.245.231" on "2005-09-08" at "22:05:15 EDT" is:

"172.143.145.91" on "2005-08-24" at "19:49:48 EDT" is:

"172.143.189.174" on "2005-09-08" at "19:44:23 EDT" is:

"172.143.48.225" on "2005-08-22" at "02:08:33 EDT" is:

"172.143.68.68" on "2005-09-03" at "02:08:21 EDT" is:

"172.143.8.220" on "2005-08-09" at "02:10:53 EDT" is:

"172.144.249.220" on "2005-09-07" at "00:33:20 EDT" is:

"172.145.178.45" on "2005-08-24" at "00:44:38 EDT" is:

REDACTED

"172.145.83.104" on "2005-08-24" at "17:54:51 EDT" is:

"172.146.110.125" on "2005-08-19" at "16:54:14 EDT" is:

"172.146.215.154" on "2005-09-07" at "01:36:48 EDT" is:

"172.146.233.222" on "2005-08-12" at "18:12:29 EDT" is:

"172.146.72.97" on "2005-09-01" at "00:46:46 EDT" is:

"172.146.85.82" on "2005-08-15" at "04:52:24 EDT" is:

"172.147.120.49" on "2005-09-01" at "06:32:51 EDT" is:

"172.147.135.249" on "2005-08-26" at "04:57:00 EDT" is:

"172.147.206.160" on "2005-08-08" at "06:40:07 EDT" is:

"172.147.4.135" on "2005-08-14" at "23:15:33 EDT" is:

"172.147.73.176" on "2005-08-20" at "18:32:15 EDT" is:

"172.147.73.206" on "2005-08-18" at "18:44:18 EDT" is:

"172.147.73.66" on "2005-08-13" at "20:26:10 EDT" is:

REDACTED

"172.147.77.168" on "2005-08-08" at "20:28:09 EDT" is:

"172.147.87.99" on "2005-08-09" at "20:36:02 EDT" is:

"172.147.96.238" on "2005-08-22" at "22:11:24 EDT" is:

"172.148.110.253" on "2005-09-01" at "06:43:02 EDT" is:

"172.148.196.56" on "2005-08-18" at "00:30:59 EDT" is:

"172.148.236.174" on "2005-08-19" at "03:48:25 EDT" is:

"172.148.243.50" on "2005-08-25" at "10:01:53 EDT" is:

"172.148.34.56" on "2005-08-30" at "00:44:50 EDT" is:

"172.148.6.31" on "2005-08-12" at "03:29:43 EDT" is:

"172.149.17.161" on "2005-08-10" at "07:53:39 EDT" is:

"172.150.114.56" on "2005-08-18" at "23:12:35 EDT" is:

"172.150.151.182" on "2005-09-07" at "04:13:36 EDT" is:

"172.150.159.188" on "2005-08-10" at "04:11:59 EDT" is:

REDACTED

"172.150.192.52" on "2005-08-11" at "22:01:59 EDT" is:

"172.152.206.101" on "2005-08-15" at "17:46:11 EDT" is:

"172.152.254.97" on "2005-09-08" at "00:20:25 EDT" is:

"172.152.71.34" on "2005-08-17" at "20:41:06 EDT" is:

"172.153.130.154" on "2005-08-30" at "06:39:32 EDT" is:

"172.153.216.241" on "2005-08-19" at "19:31:07 EDT" is:

"172.153.247.136" on "2005-08-19" at "08:07:16 EDT" is:

"172.153.5.131" on "2005-08-17" at "07:56:10 EDT" is:

"172.154.15.159" on "2005-08-16" at "02:02:06 EDT" is:

"172.154.15.170" on "2005-09-01" at "00:51:48 EDT" is:

"172.154.223.28" on "2005-09-08" at "00:40:08 EDT" is:

"172.154.228.10" on "2005-08-09" at "02:00:39 EDT" is:

REDACTED

"172.155.125.14" on "2005-08-12" at "13:10:24 EDT" is:

"172.155.164.72" on "2005-08-09" at "05:23:08 EDT" is:

"172.155.164.87" on "2005-08-23" at "10:35:08 EDT" is:

"172.155.169.192" on "2005-08-11" at "08:32:19 EDT" is:

"172.155.219.205" on "2005-09-01" at "01:20:52 EDT" is:

"172.155.226.134" on "2005-08-16" at "04:42:08 EDT" is:

"172.158.101.214" on "2005-09-01" at "07:35:07 EDT" is:

"172.158.111.113" on "2005-08-20" at "01:52:47 EDT" is:

"172.158.115.36" on "2005-08-25" at "23:40:51 EDT" is:

"172.158.121.98" on "2005-08-12" at "22:46:55 EDT" is:

"172.158.176.133" on "2005-09-08" at "22:55:19 EDT" is:

"172.158.18.128" on "2005-08-16" at "01:39:54 EDT" is:

"172.158.235.59" on "2005-08-16" at "19:23:44 EDT" is:

"172.158.25.176" on "2005-08-12" at "18:42:42 EDT" is:

REDACTED

"172.158.3.97" on "2005-09-08" at "20:39:21 EDT" is:

"172.158.48.29" on "2005-08-10" at "00:23:50 EDT" is:

"172.158.60.144" on "2005-08-08" at "05:00:02 EDT" is:

"172.159.206.108" on "2005-08-25" at "08:57:46 EDT" is:

"172.159.32.69" on "2005-08-15" at "20:39:53 EDT" is:

"172.200.141.138" on "2005-08-10" at "03:35:28 EDT" is:

"172.200.141.99" on "2005-08-09" at "07:59:55 EDT" is:

"172.200.152.63" on "2005-08-15" at "07:59:55 EDT" is:

"172.200.2.208" on "2005-08-15" at "09:48:10 EDT" is:

"172.200.200.141" on "2005-08-23" at "14:43:37 EDT" is:

"172.200.205.182" on "38584" at "05:18:43 EDT" is:

"172.200.205.28" on "2005-08-17" at "09:42:45 EDT" is:

"172.200.206.230" on "2005-08-19" at "08:56:12 EDT" is:

"172.200.246.168" on "2005-08-18" at "19:59:31 EDT" is:

"172.200.249.130" on "2005-08-15" at "07:47:40 EDT" is:

"172.200.32.56" on "2005-09-01" at "08:54:17 EDT" is:

"172.200.40.207" on "2005-08-12" at "19:09:21 EDT" is:

"172.200.51.125" on "2005-08-15" at "03:52:57 EDT" is:

"172.200.61.199" on "2005-08-19" at "10:18:02 EDT" is:

REDACTED

"172.200.76.90" on "2005-08-10" at "04:20:06 EDT" is:

"172.200.80.248" on "2005-08-08" at "03:22:49 EDT" is:

"172.200.80.26" on "2005-08-24" at "00:07:26 EDT" is:

"172.200.84.4" on "2005-08-26" at "03:27:11 EDT" is:

"172.201.10.166" on "2005-08-19" at "06:50:50 EDT" is:

"172.201.113.220" on "2005-08-25" at "14:55:03 EDT" is:

"172.201.115.225" on "2005-08-15" at "07:03:53 EDT" is:

"172.201.143.92" on "2005-09-07" at "08:01:44 EDT" is:

"172.201.15.72" on "2005-09-02" at "02:17:05 EDT" is:

"172.201.167.61" on "2005-08-10" at "07:06:29 EDT" is:

"172.201.173.55" on "2005-08-31" at "09:22:20 EDT" is:

"172.201.174.246" on "2005-08-09" at "06:40:30 EDT" is:

"172.201.179.62" on "2005-08-31" at "07:24:04 EDT" is:

"172.201.218.114" on "2005-08-10" at "09:04:57 EDT" is:

"172.201.221.81" on "2005-08-13" at "12:11:59 EDT" is:

"172.201.46.248" on "2005-08-10" at "14:18:09 EDT" is:

"172.201.55.81" on "38572" at "05:27:40 EDT" is:

"172.201.55.99" on "2005-08-19" at "20:15:20 EDT" is:

"172.201.60.138" on "2005-08-24" at "16:54:51 EDT" is:

"172.201.66.85" on "2005-08-13" at "19:15:24 EDT" is:

"172.202.109.75" on "2005-08-15" at "05:05:03 EDT" is:

"172.202.110.131" on "2005-08-17" at "14:48:16 EDT" is:

"172.202.122.184" on "2005-08-11" at "06:55:49 EDT" is:

"172.202.136.219" on "2005-09-01" at "05:07:38 EDT" is:

"172.202.143.228" on "2005-08-12" at "11:52:11 EDT" is:

"172.202.170.132" on "2005-08-21" at "17:52:38 EDT" is:

REDACTED

"172.202.175.23" on "2005-08-25" at "16:27:37 EDT" is:

"172.202.176.119" on "2005-08-10" at "14:11:22 EDT" is:

"172.202.179.14" on "2005-08-10" at "14:57:06 EDT" is:

"172.202.196.138" on "2005-08-11" at "16:06:35 EDT" is:

"172.202.196.214" on "2005-08-11" at "17:33:53 EDT" is:

"172.202.198.180" on "2005-08-09" at "12:32:24 EDT" is:

"172.202.203.63" on "2005-08-17" at "04:33:13 EDT" is:

"172.202.218.69" on "2005-08-18" at "05:50:57 EDT" is:

"172.202.219.158" on "2005-08-17" at "18:53:07 EDT" is:

"172.202.231.170" on "2005-08-24" at "16:57:23 EDT" is:

"172.202.231.88" on "2005-08-21" at "17:53:31 EDT" is:

"172.202.234.77" on "2005-08-24" at "21:59:14 EDT" is:

"172.202.236.71" on "2005-08-15" at "13:20:39 EDT" is:

"172.202.237.79" on "2005-08-25" at "21:15:36 EDT" is:

"172.202.244.54" on "2005-09-08" at "06:46:56 EDT" is:

"172.202.248.138" on "2005-08-17" at "19:19:35 EDT" is:

"172.202.29.208" on "2005-08-18" at "04:20:01 EDT" is:

"172.202.34.63" on "2005-09-06" at "10:27:48 EDT" is:

"172.202.4.144" on "2005-08-17" at "08:03:26 EDT" is:

"172.202.48.6" on "2005-09-13" at "04:44:57 EDT" is:

"172.202.5.163" on "2005-08-17" at "18:10:00 EDT" is:

"172.202.9.159" on "2005-09-07" at "09:22:16 EDT" is:

"172.208.155.150" on "2005-08-24" at "05:04:02 EDT" is:

"172.208.155.206" on "2005-08-15" at "18:15:28 EDT" is:

REDACTED

"172.208.182.14" on "2005-09-02" at "03:17:49 EDT" is:

"172.208.43.30" on "2005-08-15" at "17:46:56 EDT" is:

"172.210.149.218" on "2005-08-10" at "11:22:05 EDT" is:

"172.210.173.226" on "2005-09-09" at "08:05:18 EDT" is:

"172.210.179.146" on "2005-08-17" at "10:17:51 EDT" is

"172.210.198.173" on "2005-08-24" at "18:32:26 EDT" is.

"172.210.49.185" on "2005-08-16" at "12:02:09 EDT" is:

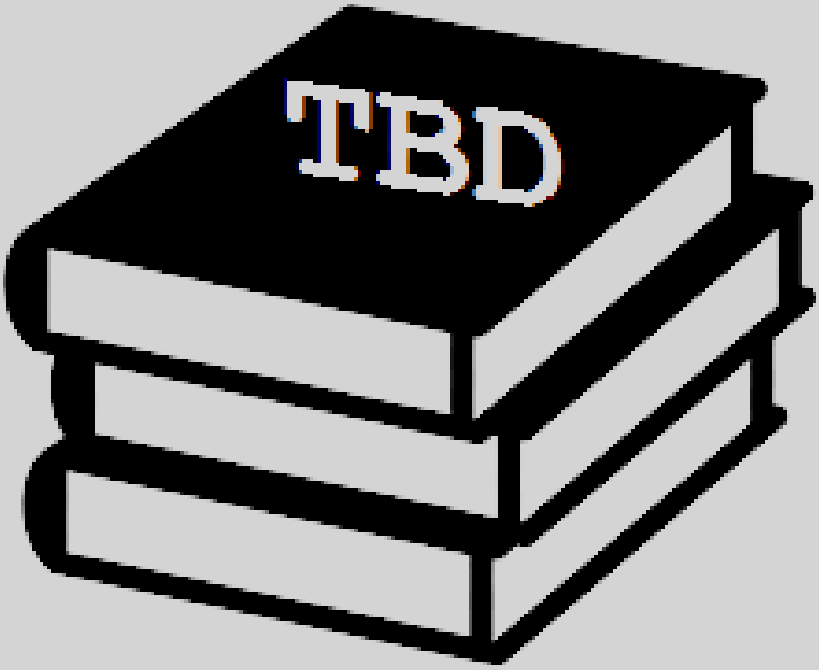
This information completes AOL's production pursuant to the subpoena, and we will now consider this matter closed.

Sincerely yours,

Seth Brown

SEB/as

BUY™	SELL™	SHOP™



SELL YOUR OWN SAMPLES

(help others get the justice that they deserve)

BUY™	SELL™	SHOP™