

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UMG RECORDINGS, INC., <i>et al.</i>,)	
)	
Plaintiffs,)	CV 05-MHT-0600-VPM
)	
v.)	
)	
JAMIE HEARD,)	
)	
Defendant.)	

DEFENDANT S FIRST REQUEST FOR PRODUCTION

COMES NOW Jamie Heard, Defendant in the above-styled action (Mr. Heard or Defendant), and, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, hereby requests that Plaintiffs serve upon Defendant s Counsel Plaintiffs responses to these Requests for Production of Documents and Other Tangible Items within thirty (30) days after the date indicated below on this Document s Certificate of Service:

I. DOCUMENT ENCOMPASSMENT

As used herein, the term document shall include writings, notes, drafts, outlines, recordings and files, regardless of storage media; they include, but are not limited to, writings contained on paper, recordable tape, celluloid, disks, hard drives, electronic mail servers or any other digitally stored media. The term document shall also include the full range of writings described in Rule 1001 of the Federal Rules of Evidence.

The requests listed herein include: writings, notes, drafts, outlines, recordings and files, regardless of storage media; they included, but were not limited to: writings contained on paper,

recordable tape, celluloid, disks, hard drives, electronic mail servers and any other digitally stored media.

II. SPECIAL INSTRUCTIONS REGARDING ELECTRONIC DATA

L. In those instances when requested information is stored only on software or other data compilations, Defendant should either produce the raw data along with all codes and programs from translating it into usable form or produce the information in a finished usable form, which would include all necessary glossaries, keys and indices for interpretation of the material.

M. The Requests stated herein include all electronic data generated, stored or accessible by your computer system. Plaintiffs consider electronic data to be an irreplaceable source of evidence in this matter. In addition to discovery of all tangible forms of evidence, therefore, Plaintiffs request access to your computer system for nondestructive retrieval of relevant electronic data. Accordingly, pending an agreement of the parties as to the timing and procedure for examining your computer system, or an order by the Court regarding same, Plaintiffs will insist that the following safeguards against the destruction of evidence be maintained until the final resolution of this issue:

N. On-Line Data Storage on Mainframes and Minicomputers: With regard to on-line storage or direct access storage devices attached to your mainframe computer or minicomputer: Do not modify or delete any electronic data files existing at the time these discovery request are served that are or may be responsive to any of the requests enumerated below, unless a true and correct copy of each such electronic data file has been made and steps have been taken to assure that such a copy will be preserved and accessible for purposes of this lawsuit.

O. Off-Line Data Storage, Backups and Archives, Floppy Diskettes, Tapes and Other Removable Electronic Media: With regard to all electronic media used for off-line storage, including magnetic tapes and cartridges and other media, which at the time of this discovery request is served contain any electronic data responsive to any of the request enumerated below: Stop any activity which may result in the loss of such electronic data, including rotation, destruction, overwriting or erasure of such media in whole or in part. This special instruction is intended to cover all removable electronic media used for data storage in connection with your computer system, including magnetic tapes and cartridges, magneto-optical disks, floppy diskettes, and all other media, whether used with personal computers, minicomputers or mainframes or other computers, and whether containing backup or archive data sets and other electronic data, for your computer system.

P. Replacement of Data Storage Devices: Do not dispose of any electronic data storage devices or media which may be replaced due to failure or upgrade or other reasons that may contain electronic data meeting the criteria listed in paragraph 2 above.

Q. Fixed Drives on Stand-Alone Personal Computers and Network Workstations: With regard to electronic data that is responsive to any of the requests enumerated below, which exist on fixed drives attached to stand-alone microcomputers or network workstations at the time this discovery request is served: Do not alter or erase such electronic data, and do not perform other procedures (such as data compression and disk de-fragmentation or optimization routines) which may affect such data, unless a true and correct copy has been made of such active files and of completely restored versions of such deleted electronic files and file fragments, copies have been made of all directory listings (including hidden files) for all directories and subdirectories

containing such files, and arrangements have been made to preserve copies during the pendency of this lawsuit.

R. Programs and Utilities: Preserve copies of all application programs and utilities, which may be used to process electronic data covered by the requests enumerated below.

S. Log of System Modifications: Maintain an activity log to document modifications made to any electronic data processing system that may affect the system's capability to process any electronic data that is responsive to any of the requests enumerated below, regardless of whether such modifications were made by employees, contractors, vendors or any other third parties.

T. Personal Computers Used by You: The following steps should immediately be taken in regard to all personal computers used by you or any assistant or person working at your direction, or its secretaries and assistants.

1. As to fixed drives attached to such computers: (i) a true and correct copy should be made of all electronic data on such fixed drives that is responsive to any of the requests enumerated below, including all active files completely restored versions of all deleted electronic files and file fragments; (ii) full directory listings (including hidden files) for all directories and subdirectories (including hidden directories) on such fixed drives should be written; and (iii) such copies and listings should be preserved until this matter reaches its final resolution.

2. All floppy diskettes, magnetic tapes and cartridges, and other media used in connection with such computers prior to the date of service of these discovery requests

containing any electronic data that is responsive to any of the requests enumerated below, should be collected and put into storage for the duration of this lawsuit.

III. SPECIFIC DOCUMENTS AND OTHER ITEMS REQUESTED

With respect to the following requests, to the extent possible, the documents are to be produced in all of the following formats listed below:

- A. Hard copies of all of the requested information.
- B. Native file format, including all metafiles and metatags.
- C. PDF (Portable Document Files).
- D. TIFF Format (Tagged Image File format).
- E. Electronic Copy.

REQUEST NO. 1:

Any and all documents or other tangible items that pertain, relate, or represent the IP Address 24.178.134.148 and the computer to which said IP Address is/was assigned.

REQUEST NO. 2:

Any and all of Plaintiffs financial statements, profit and loss statements, balance sheets, accounting information, both federal and state tax returns for the period commencing on January 1, 2000 and ending June 3, 2006.

REQUEST NO. 3:

Any and all documents or other tangible items concerning any registration by Defendant of any Online Media Distribution System.

REQUEST NO. 4:

Any and all documents or other tangible items that relate, pertain, or represent Plaintiffs

Copyright ownership rights and/or licenses of exclusive rights under U.S. Copyright law with respect any of the Copyrighted Sound Recordings identified in Exhibit B to Plaintiffs Complaint, including, but not limited to, valid Certificates of Copyright Registration issued by the register of Copyrights concerning any and all Copyrighted Sound Recordings identified in said Exhibit B which Plaintiffs claim ownership rights.

REQUEST NO. 5:

Any and all documents or other tangible items pertaining, relating, and representing Plaintiffs proper placement of Notices of Copyright, pursuant to 17 U.S.C. § 401, on each respective album cover of each of the sound recordings identified in Exhibit A to Plaintiffs Complaint, including, but not limited to, a copy of each respective album cover of each of the sound recordings in Exhibit A.

REQUEST NO. 6:

Any and all documents or other tangible items pertaining, relating or representing the data retention structure, procedures and operations of Plaintiffs.

REQUEST NO. 7:

Any and all documentation concerning the legal action which resulted in the issuance of a Subpoena against Charter Communications for information concerning Defendant.

REQUEST NO. 8:

Any and all documents or other tangible items pertaining, relating, or representing the data deletion and destruction procedures and operations of Plaintiffs.

REQUEST NO. 9:

Any and all letters, messages, emails, communications, or other forms of documentation

and other tangible items which name Defendant as the author, sender, recipient, and/or bear Defendant s signature.

REQUEST NO. 10:

Any and all documents or other tangible items concerning any sound recording that Defendant has made available via an Online Media Distribution System from the computer within three years before the Complaint was filed in this action.

REQUEST NO. 11:

Any and all documents or other tangible items concerning any sound recording that Defendant has copied or downloaded from other users of an Online Media Distribution System within three years before the Complaint was filed in this action.

REQUEST NO. 12:

Any and all documents or other tangible items that pertain, relate, or represent any contractual or business relationship between MediaSentry and any Plaintiff to this action.

REQUEST NO. 13:

Produce the Music Recordings identified in Exhibit A to Plaintiff s Complaint in the manner in which they were stored upon their download from Defendant s computer, as Plaintiffs allege.

REQUEST NO. 14:

Any and all documents, electronic copies, or any other forms of data that represent, relate, or pertain to any and all Screenshots concerning the computer to which IP Address 24.178.134.148 is/was assigned, including, but not limited to, any and all Screenshots of said computer s Shared Folder.

REQUEST NO. 15:

Copies of the Certificate of Copyright Registration for each sound recording at issue in this lawsuit.

REQUEST NO. 16:

Any and all documents, computer files, Internet files, policies, or other information concerning Data Mining.

REQUEST NO. 17:

An electronic copy of the Registry Files (preferences files if Macintosh) or System Information Report (System Profiler Report if Macintosh) of each and every computer used by the individual or individuals who supplied, provided or assisted in supplying and providing Plaintiffs Responses to Defendant s First Interrogatory Requests.

REQUEST NO. 18:

A copy of the Screenshot of the Windows Desktop of each and every computer used by the individual or individuals who supplied, provided or assisted in supplying and providing Plaintiffs Responses to Defendant s First Interrogatory Requests.

REQUEST NO. 19:

Any and all documents or other tangible items that pertain, relate, or represent any contractual or business relationship between Palisade Systems and any Plaintiff to this action.

REQUEST NO. 20:

Any and all documents or other tangible items that pertain or relate to any and all information concerning Defendant that Plaintiffs obtained from KaZaA, including, but not limited to, what specific steps were taken by Plaintiffs to obtain said information concerning

Defendant from KaZaA.

REQUEST NO. 21:

Any and all documents or other tangible items that pertain or relate to any Technical Presentation of Dr. Doug W. Jacobson on the topic of Security Problems with Peer-to-Peer Networks, on or about September 9, 2003 before the U.S. Senate Judiciary Committee.

REQUEST NO. 22:

Any and all documents or other tangible item that represent, relate or pertain to Yan Li's 2005 Masters Degree Theses, Secure Group Communications Protocol and Implementation for JetMeeting, and Application Based on P2P.

REQUEST NO. 23:

Any and all documents or other tangible item that represent, relate or pertain to Shujin Ding's 1993 Masters Degree Theses, Server Program for File Retrieving and Transferring with Internet.

REQUEST NO. 24:

Any and all documents, computer files, Internet files, policies, or other information concerning MediaDecoy.

REQUEST NO. 25:

Any and all documents or other tangible items that relate or pertain to any law enforcement investigations, complaints, incident reports, civil or criminal prosecution, or cases that relate or pertain to computers, including, but not limited to, the use of peer-to-peer networks to distribute pirated software and/or child pornography.

REQUEST NO. 26:

Any and all documents or other tangible items that relate or pertain to the development, implementation, and/or use of any system that monitors peer-to-peer networks and other forms of file sharing, including, but not limited to, child pornography or copyrighted music or other works.

REQUEST NO. 27:

Any and all documents or other tangible items that relate or pertain to Static IP Addresses and their configuration.

REQUEST NO. 28:

Any and all documents or other tangible information that relate, pertain, and/or represent data or other information concerning Defendant and/or KaZaA that was obtained by Plaintiffs and/or Plaintiffs Counsel pursuant to the service of any Subpoena, regardless of who or what entity caused said Subpoena(s) to be served, who or what entity said Subpoena(a) was/were served upon, or the nature of the action which resulted in the execution of said Subpoena(a).

REQUEST NO. 29:

Any and all documents or other tangible items that relate or pertain to Dynamic Addressing, its configuration, and DHCP.

REQUEST NO. 30:

Any and all documents or other tangible items that relate or pertain to any IP Address concerning Defendant, including, but not limited to, the Capture of any such IP Address.

REQUEST NO. 31:

Any and all documents or other tangible items that relate or pertain to Recording Industry Association of America (RIAA), including, but not limited to, any relationship between RIAA to any Plaintiff to this action, MediaSentry, Inc., Dr. Doug Jacobson, Palisade Systems, Inc., and SafeNet, Inc.

REQUEST NO. 32:

Any and all documents or other tangible items that relate or pertain to data supplied by MediaSentry concerning Defendant and/or this lawsuit, including, but not limited to MediaSentry Screenshots, MediaSentry Systemlog(s), MediaSentry UserLog (compressed), MediaSentry UserLog, MediaSentry Download Logs, Certificate of Registration, and MediaSentry Trace(s).

REQUEST NO. 33:

Any and all documents or other tangible items that relate, pertain, or represent Plaintiffs Copyright ownership rights and/or licenses of exclusive rights under U.S. Copyright law with respect to the nine (9) Copyrighted Sound Recordings identified in Exhibit A to Plaintiffs Complaint, including, but not limited to, valid Certificates of Copyright Registration issued by the register of Copyrights regarding all nine (9) of the Copyrighted Sound Recording identified in said Exhibit A.

REQUEST NO. 34:

Any and all documents or other tangible items that relate or pertain to Defendant s Internet Service Provider (ISP) Charter Communications, whether obtained by Subpoena or any other means, including, but not limited to, any Certificate of Registration and/or

UserLogs (compressed or otherwise).

REQUEST NO. 35:

Produce any and all documents that relate or pertain to any and all written statements, declarations, tape recordings, video recording, or any other fixed medium or recording (signed or unsigned), made by any person or entity which mention, discuss or refer to Plaintiffs and/or Defendant, and/or concerning the matter(s) made the basis of Plaintiffs Complaint, whether conducted by the Parties, Police Offices, Insurance Representatives or Investigators, Witnesses, and/or any other individual or entity.

REQUEST NO. 36:

_____An electronic and hardcopy Screenshot of the Shared Folder for each and every computer used by the individual or individuals who supplied, provided or assisted in supplying and providing Plaintiffs Responses to Defendant s First Interrogatory Requests.

REQUEST NO. 37:

Any and all documents or other tangible items that relate or pertain to Defendant s download and/or use of the KaZaA semi-decentralized based peer-to-peer software program, including, but not limited to, any uploaded Copyrighted music from the Internet using the KaZaA peer-to-peer network..

REQUEST NO. 38:

Any and all documents or other tangible items that relate or pertain to the KaZaA User ID heard@KaZaA.

REQUEST NO. 39:

Any and all documents or other tangible items that relate or pertain to SafeNet, Inc.,

including, but not limited to, any relationship between SafeNet, Inc. To any Plaintiff to this action, MediaSentry, Inc., Dr. Doug Jacobson, Palisade Systems, Inc., and the RIAA.

REQUEST NO. 40:

Any and all documents concerning news reports, articles, public service announcements, and other print media informing the public that using an Online Media Distribution System to download, distribute, and/or make available for distribution to others Copyrighted Sound recordings constitutes Copyright Infringement.

Respectfully submitted,

Coker B. Cleveland
(ASB-4299-O36C) (CLE-040)
Attorney for Defendant
Jamie Heard

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, the undersigned hereby certify that a true and correct copy of the above and foregoing was served via CM/ECF to the following, this the 7th day of June, 2006:

Dorman Walker
Kelley F. Pate
Leslie E. Williams
BALCH & BINGHAM, LLP
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OF COUNSEL