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 TICKETMASTER L.L.C. and *Counter-Defendant*  
 8 IAC/INTERACTIVECORP

9 UNITED STATES DISTRICT COURT  
 10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 TICKETMASTER L.L.C., a Virginia  
 limited liability company,

13 Plaintiff,

14 vs.

15 RMG TECHNOLOGIES, INC., a  
 16 Delaware corporation, and DOES 1  
 through 10, inclusive,

17 Defendants.

19 RMG TECHNOLOGIES, INC., a  
 Delaware corporation,

20 Counterclaim-Plaintiff,

21 vs.

22 TICKETMASTER L.L.C., a Virginia  
 23 limited liability company,  
 IAC/INTERACTIVE CORP., a  
 24 Delaware corporation, and ROES 1  
 through 10, inclusive,

25 Counterclaim-Defendants.  
 26

Case No. CV 07-2534-ABC (JCx)

Hon. Audrey B. Collins

**NOTICE OF APPLICATION AND  
 APPLICATION BY  
 TICKETMASTER L.L.C. AND  
 IAC/INTERACTIVECORP FOR  
 ENTRY OF DEFAULT JUDGMENT  
 AGAINST RMG TECHNOLOGIES,  
 INC.; MEMORANDUM OF POINTS  
 AND AUTHORITIES;  
 DECLARATIONS OF DONALD R.  
 BROWN AND KEVIN McLAIN**

[[Proposed] Judgment and Permanent  
 Injunction submitted concurrently  
 herewith]

Complaint filed: April 17, 2007

1 TO DEFENDANT AND COUNTERCLAIMANT RMG TECHNOLOGIES, INC.:

2 PLEASE TAKE NOTICE THAT plaintiff and counterclaim-defendant  
3 Ticketmaster L.L.C. (“Ticketmaster”) and counterclaim-defendant  
4 IAC/InterActiveCorp (“IAC,” erroneously sued as “IAC/Interactive Corp.”) hereby  
5 apply, pursuant to Rule 55 of the Federal Rules of Civil Procedure and Rule 55 of  
6 the Local Rules for the Central District of California, for entry of a default  
7 judgment and permanent injunction in their favor and against defendant and  
8 counterclaimant RMG Technologies, Inc. (“RMG”). This application is made on  
9 the grounds that the Court has entered a default against RMG, stricken RMG’s  
10 Answer to Ticketmaster’s First Amended Complaint, dismissed RMG’s Second  
11 Amended Counterclaims with prejudice, and ordered Ticketmaster and IAC to  
12 submit a proposed default judgment to the Court no later than June 9, 2008.

13 As part of the proposed judgment, Ticketmaster seeks the entry of a  
14 permanent injunction to prohibit RMG and all persons acting for its benefit or on its  
15 behalf from (1) creating, trafficking in, facilitating the use of or using computer  
16 programs or other automatic devices to circumvent the technological copy  
17 protection systems in Ticketmaster’s website; (2) using information gained from  
18 access of Ticketmaster’s website to create computer programs to circumvent  
19 Ticketmaster’s copy protection and website regulation systems; (3) copying or  
20 facilitating the copying of portions of Ticketmaster’s website in excess of any  
21 license Ticketmaster has granted; (4) otherwise accessing and using Ticketmaster’s  
22 website in excess of the license granted by the Terms of Use posted thereon; and (5)  
23 breaching or facilitating the breach by others of the Terms of Use posted on  
24 Ticketmaster’s website, as they may be amended from time to time. Ticketmaster  
25 also seeks to require the impoundment and destruction of all copies of all bots,  
26 programs, or other automatic devices used by RMG and all persons acting for its  
27 benefit or on its behalf to violate Ticketmaster’s rights.

1 Also as part of the proposed judgment, Ticketmaster seeks an award of  
2 damages in the amount of \$18,237,200, comprised of \$10,237,200 based on  
3 Ticketmaster's Eighth Claim for Relief for inducement to breach contract and Ninth  
4 Claim for Relief for intentional interference with contractual relations, and \$8  
5 million based on Ticketmaster's First Claim for Relief for copyright infringement  
6 and 17 U.S.C. Section 504.

7 Also as part of the proposed judgment, Ticketmaster seeks an award of  
8 attorneys' fees under 17 U.S.C. Sections 505 and 1203(a)(5) based on the First  
9 Claim for Relief for copyright infringement and the Second Claim for Relief for  
10 violation of the Digital Millennium Copyright Act, California Penal Code Section  
11 502(e) based on the Fourth Claim for Relief for violation of the California Penal  
12 Code Section 502, and 18 U.S.C. Section 1964 based on the Fifth and Sixth Claims  
13 for Relief for violation of RICO, 18 U.S.C. Sections 1962(c) and 1962(d). This  
14 application seeks fees in an amount to be calculated by reference to the fee schedule  
15 in Local Rule 55-3, without waiver of any right by Ticketmaster or IAC to seek  
16 actual attorneys' fees upon entry of a default judgment. Based on damages of  
17 \$18,237,200, the amount of attorneys' fees recoverable under the Rule 55 schedule  
18 would be \$368,344.

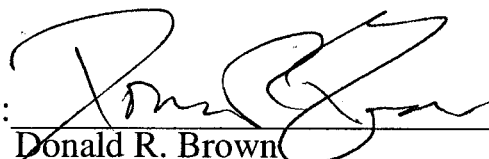
19 Ticketmaster and IAC have provided notice of this application to  
20 RMG on June 3, 2008 by mailing a copy of the application to RMG's Chief  
21 Executive Officer, C.J. Garibay, at the address where RMG's former counsel served  
22 its motion to withdraw as counsel from the case.

23 This application is based on this Notice of Application and  
24 Application, the attached Memorandum of Points and Authorities, the attached  
25 declarations of Donald R. Brown and Kevin McLain, the May 29, 2008 Order  
26 entering default against RMG, the May 30, 2008 Order requiring Ticketmaster and  
27 IAC to submit a proposed judgment on or before June 9, 2008, the proposed  
28 Judgment and Permanent Injunction submitted concurrently herewith, all pleadings,

1 records and files herein, of which the Court is respectfully requested to take judicial  
2 notice, and such other and further matters as may be presented in connection with  
3 this application.

4 Dated: June 3, 2008

ROBERT H. PLATT  
MARK S. LEE  
DONALD R. BROWN  
MANATT, PHELPS & PHILLIPS, LLP

7  
8 By:   
Donald R. Brown  
9 (Attorneys for *Plaintiff and Counter-*  
10 *Defendant* TICKETMASTER L.L.C. and  
11 *Counter-Defendant*  
12 IAC/INTERACTIVECORP  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This Court has already entered a default against RMG. Ticketmaster  
4 and IAC now seek entry of a default judgment, including a permanent injunction  
5 and an award of damages and attorneys' fees, to end this action.

6 As alleged in Ticketmaster's First Amended Complaint, RMG designs,  
7 manufactures, distributes and supports automated devices that enable its customers  
8 to jump to the front of the line on Ticketmaster's website, thus denying legitimate  
9 consumers a fair opportunity to buy tickets. Ticketmaster has asserted claims  
10 against RMG for copyright infringement, violation of the Digital Millennium  
11 Copyright Act, violation of the Computer Fraud and Abuse Act, violation of  
12 California Penal Code Section 502, violation of the Racketeer Influenced and  
13 Corrupt Organizations Act ("RICO"), breach of contract, inducing breach of  
14 contract, intentional interference with contractual relations, fraud, and aiding and  
15 abetting fraud. Ticketmaster's First Amended Complaint seeks a permanent  
16 injunction, compensatory damages, treble damages, punitive damages,  
17 disgorgement of RMG's ill-gotten gains, imposition of a constructive trust, and  
18 recovery of attorneys' fees and costs incurred by Ticketmaster to prosecute this  
19 lawsuit.

20 Entry of a permanent injunction at this time is necessary and  
21 appropriate. Earlier in this case, the Court entered a preliminary injunction based  
22 on the irreparable harm RMG's automated devices were causing to Ticketmaster  
23 and the public. The same factors that warranted entry of a preliminary injunction  
24 against RMG still apply. A permanent injunction is needed to ensure that RMG  
25 does not recommence infringing activity after judgment is entered.

26 Ticketmaster also respectfully requests damages in the amount of  
27 \$18,237,200, comprised of \$10,237,200 based RMG's inducement to breach  
28 contract and interference with contractual relations, and \$8 million based on profits

1 derived by RMG through its direct and contributory copyright infringement. In  
2 confining its request for damages to these claims and in these amounts in the  
3 interest of judicial economy, Ticketmaster is not waiving any right or contention  
4 regarding other damages as alleged in the First Amended Complaint.

5 Ticketmaster further requests an award of attorneys' fees in  
6 accordance with the schedule in Local Rule 55-3, based on Ticketmaster's claims  
7 under copyright laws, the Digital Millennium Copyright Act, California Penal Code  
8 Section 502, and civil RICO. In seeking fees under the Local Rule 55-3 schedule,  
9 neither Ticketmaster nor IAC is waiving any right to apply for actual fees upon  
10 entry of the requested default judgment.

## 11 **II. STATEMENT OF FACTS**

12 There are three primary factual bases for the relief requested in this  
13 application: (i) the allegations of the First Amended Complaint, (ii) evidence  
14 previously submitted in support of Ticketmaster's motion for a preliminary  
15 injunction, and (iii) additional evidence submitted with this application.

### 16 **A. The Allegations of the First Amended Complaint Are Deemed** 17 **True Because a Default Has Been Entered.**

18 On April 8, 2008, the Court granted the motion of RMG's counsel to  
19 withdraw as counsel. RMG is a corporation and thus can neither prosecute claims  
20 nor defend against claims except through counsel. After RMG failed to retain new  
21 counsel within a reasonable time, Ticketmaster and IAC moved to enter default  
22 against RMG, and that motion was granted on May 29, 2008. The Court ordered  
23 that a default be entered against RMG, that RMG's Answer to the First Amended  
24 Complaint be stricken, and that RMG's Second Amended Counterclaims be  
25 dismissed with prejudice. On May 30, 2008, the Court ordered Ticketmaster and  
26 IAC to file a proposed judgment "immediately" and in no event later than June 9,  
27 2008.

1           Because a default has been entered, the factual allegations in the First  
2 Amended Complaint must be treated as true. *TeleVideo Sys., Inc. v. Heidenthal*,  
3 826 F.2d 915, 917-18 (9th Cir. 1987), *quoting Geddes v. United Financial Group*,  
4 559 F.2d 557, 560 (9th Cir. 1977) ("The general rule of law is that upon default the  
5 factual allegations of the complaint, except those relating to the amount of  
6 damages, will be taken as true.").

7           **B. The Facts Which Supported Entry of a Preliminary Injunction**  
8           **Also Support Entry of a Permanent Injunction.**

9           This Court entered a preliminary injunction against RMG on October  
10 16, 2007, and entered Findings of Fact and Conclusions of Law in support of its  
11 preliminary injunction ruling on October 26, 2007. *See Ticketmaster L.L.C. v.*  
12 *RMG Technologies, Inc.*, 507 F. Supp. 2d 1096 (C.D. Cal. 2007).

13           All of the facts and supporting evidence discussed below were  
14 previously submitted to the Court in support of Ticketmaster's preliminary  
15 injunction motion, and thus have previously been considered by the Court in  
16 substantial detail. Rather than re-file this extensive evidence, Ticketmaster will  
17 merely cite to it by reference to previous filings which contain the evidence and the  
18 Courts' Findings of Fact and Conclusions of Law. Ticketmaster will also cite to  
19 now-admitted allegations in the First Amended Complaint that support these facts.

20           1. Ticketmaster And Its Website

21           Ticketmaster distributes tickets for live entertainment events to the  
22 general public on behalf of Ticketmaster's clients, which are venues, promoters,  
23 entertainers and sports franchises. Those clients contract with Ticketmaster to  
24 distribute their tickets because of Ticketmaster's demonstrated ability to do so  
25 quickly, efficiently and fairly. (Declaration of Kevin McLain, dated August 24,  
26 2007 and filed August 27, 2007 (Docket No. 28) in support of motion for  
27 preliminary injunction ("*August 24, 2007 McLain Decl.*") ¶ 2; Findings of Fact and  
28

1 Conclusions of Law (Docket No, 61) (“*Findings*”), Fact No, 1; First Amended  
2 Complaint (“*FAC*”) ¶ 11.)<sup>1</sup>

3 Ticketmaster sells tickets through various distribution channels,  
4 including its website, viewable at “http://www.ticketmaster.com”  
5 (“ticketmaster.com”). Ticketmaster created its website for consumers who want to  
6 purchase event tickets for their own, personal use. (*August 24, 2007 McLain Decl.*  
7 ¶ 3; *Findings*, Fact No. 1; *FAC* ¶ 11.)

8 Consumers generally must first visit ticketmaster.com’s home page,  
9 and then navigate through a series of web pages, to buy tickets. Consumers  
10 navigate through those pages by clicking on designated hypertext “links” located on  
11 each of those pages, culminating in a ticket purchase page. Viewing any  
12 Ticketmaster web page causes electronic copies of each of those pages to be created  
13 and to appear on a user’s computer screen. (*August 24, 2007 McLain Decl.* ¶ 4;  
14 Declaration of Adam Lieb (Docket No. 28) in support of motion for preliminary  
15 injunction (“*Lieb Decl.*”) ¶ 8; *Findings*, Fact No. 3; *FAC* ¶ 20.) Ticketmaster has  
16 obtained copyright registrations for various versions of its website or portions  
17 thereof, including registrations for its home page, event purchase pages, and access  
18 control and copy protection systems. (Declaration of Mark S. Lee (Docket No. 28)  
19 in support of motion for preliminary injunction (“*Lee Decl.*”) ¶ 2; *August 24, 2007*  
20 *McLain Decl.* ¶ 5 and Exh. 2; *Findings*, Fact No. 11 and Concl. No. 3; *FAC* ¶ 15.)

## 21 2. Demand For Tickets

22 The number of tickets available for purchase for any particular event is  
23 determined by Ticketmaster’s clients. Demand for tickets sold through  
24 ticketmaster.com often exceeds the supply of tickets available for purchase. Such  
25 high demand for entertainment events inspires intense competition to purchase  
26

---

27 <sup>1</sup> Ticketmaster submitted several declarations by Kevin McLain in connection  
28 with the preliminary injunction. Therefore, each McLain declaration discussed  
above will be identified by date.

1 tickets, because many consumers seek to acquire the same tickets to the same event  
2 at the same time, *i.e.*, when they go “on sale” on ticketmaster.com. Recognizing  
3 this competitive reality, Ticketmaster tries to make the ticket buying process as fair  
4 and equitable to consumers as possible. (*August 24, 2007 McLain Decl.* ¶ 6; *FAC*  
5 ¶¶ 12-13.)

6 3. Ticketmaster’s Technological Efforts To Maintain A Fair  
7 Website

8 Ticketmaster has engaged in extensive technical efforts to make the  
9 ticket purchasing process on ticketmaster.com as fair and equitable to consumers as  
10 possible. Among other things, it tries to prevent the use of computer programs,  
11 sometimes called “software robots” or “bots,” that provide an unfair advantage over  
12 human consumers in the ticket purchasing process. It also blocks people who use  
13 such programs to buy tickets when it discovers them. (*August 24, 2007 McLain*  
14 *Decl.* ¶¶ 7-8, 22; *Findings*, Fact No. 16; *FAC* ¶¶ 13-14.)

15 One of the technical measures Ticketmaster has undertaken is a  
16 security computer program, commonly known as CAPTCHA (“Completely  
17 Automated Public Turing Test To Tell Computers And Humans Apart”), that is  
18 designed to distinguish between human users and computer programs. With  
19 CAPTCHA, a box appears on a user’s computer screen with stylized, partially  
20 obscured random characters whenever a user submits a ticket request. The user  
21 must retype those characters to proceed to purchase tickets. Most automated  
22 devices cannot decipher and retype these random characters, and thus cannot  
23 proceed past that screen to complete a ticket transaction. (*August 24, 2007 McLain*  
24 *Decl.* ¶ 9 and Exh. 3; *Findings*, Fact Nos. 16-18 and Concl. No. 25; *FAC* ¶ 14.)

25 4. Ticketmaster’s Contractual Efforts To Maintain A Fair Website

26 Use of ticketmaster.com requires the acceptance of contractual  
27 provisions that restrict access to the website and give consumers the fairest  
28

1 opportunity to purchase tickets from ticketmaster.com at the “face” price. The  
2 ticketmaster.com home page prominently displays the following warning:

3 “Use of this website is subject to express Terms of Use  
4 which prohibit commercial use of this site. By continuing  
past this page, you agree to abide by these terms.”

5 The underlined phrase “Terms of Use” on the home page is a readily visible  
6 hypertext link that, when clicked, causes the full Terms of Use to appear on the  
7 user’s screen. The same message and hyperlink appear on virtually every webpage  
8 on ticketmaster.com. (*August 24, 2007 McLain Decl.* ¶¶ 10-11 and Exhs. 4-5;  
9 *Findings*, Fact No. 3; *FAC* ¶¶ 16-17.)

10 Users of ticketmaster.com must affirmatively agree to the Terms of  
11 Use to purchase tickets. Since 2003, users of ticketmaster.com have had to  
12 affirmatively agree to Ticketmaster’s Terms of Use as part of the account setup  
13 procedure. Since mid-2006, users have had to affirmatively agree to the Terms of  
14 Use every time they purchase tickets. (*August 24, 2007 McLain Decl.* ¶¶ 12-13 and  
15 Exhs. 6-7; *Findings*, Fact No. 3; *FAC* ¶¶ 18-19.)

16 Ticketmaster’s Terms of Use act as a license agreement that describes,  
17 *inter alia*, when and under what conditions a user may permissibly access and copy  
18 pages from ticketmaster.com. Among other things, the Terms of Use permit access  
19 only for personal use, prohibit commercial use of Ticketmaster’s website, prohibit  
20 the use of “bots” and other computer programs to access ticketmaster.com, and  
21 prohibit unauthorized use of the site. (*August 24, 2007 McLain Decl.* ¶ 14 and Exh.  
22 8; *Findings*, Fact No. 2 and Concl. Nos. 7, 9; *FAC* ¶¶ 20-24.)

23 The Terms of Use also prohibit consumers from purchasing more than  
24 a specified number of tickets in a single transaction, pursuant to Ticketmaster’s  
25 “ticket purchase policy.” The Terms of Use contain a hyperlink to and expressly  
26 incorporate the ticket purchase policy. Ticket limits are meant to ensure that more  
27 individuals have fair access to event tickets. The ticket limit for a particular event  
28

1 is included on the event page and ticket purchase page. (*August 24, 2007 McLain*  
2 *Decl.* ¶ 15 and Exh. 9; *FAC* ¶¶ 25-26.)

3 5. Ticket Brokers

4 Certain individuals and entities have capitalized on the demand for  
5 event tickets by circumventing Ticketmaster’s technical measures, breaching its  
6 Terms of Use, and using computer programs to improperly access and copy  
7 portions of Ticketmaster’s website. They do this to robotically “cut in line” in front  
8 of human customers so they can acquire and resell tickets at prices far above that  
9 designated by the sponsors of the event (the “face” price shown on the ticket).  
10 Such persons, sometimes called “ticket brokers,” reduce the number of tickets  
11 available for fans and customers at the “face” price. Ticketmaster has undertaken  
12 the technical and legal measures described above to try to prevent such actions.  
13 (*August 24, 2007 McLain Decl.* ¶ 16; *Findings*, Fact No. 4; *FAC* ¶ 28.)<sup>2</sup>

14 6. RMG’s Wrongful Conduct

15 RMG has developed marketed and sold approximately 21 computer  
16 programs that enable its ticket broker customers to access Ticketmaster’s website,  
17 block access to the best tickets, copy purchase pages, and quickly purchase large  
18 quantities of tickets faster than human customers can. (*Lee Decl.* ¶¶ 3-5 and  
19 Exhs. 10-12; *August 24, 2007 McLain Decl.* ¶ 25 and Exh. 1; *Lieb Decl.* ¶ 8 and  
20 Exhs. 13-16; Declaration of Chris Kovach (Docket No. 28) in support of motion for  
21 preliminary injunction (“*Kovach Decl.*”) ¶ 3; *Findings*, Fact No. 4 and Concl. Nos.  
22 12-13; *see also FAC* ¶ 28.) Those automated devices are designed to, and do, allow  
23 RMG’s customers to covertly circumvent Ticketmaster’s access control and copy  
24 protection systems, including CAPTCHA. (*Kovach Decl.* ¶¶ 5-9; *August 24, 2007*

25 <sup>2</sup> This case is not about stopping ticket reselling. Ticketmaster has no  
26 objection to ticket reselling that complies with applicable laws and the Terms of  
27 Use of its website. Instead, this case is about fairness, and RMG’s use of technical  
28 measures to improperly access Ticketmaster’s website, breach its Terms of Use,  
and give its clients an unfair technological advantage over consumers in the ticket  
purchasing process.

1 *McLain Decl.* ¶ 25 and Exh. 1; *FAC* ¶ 30; *see also Findings*, Fact No. 10 and Concl.  
2 Nos. 12-13.) RMG boasts that its programs “do the work of a dozen people at  
3 once[,]” and employ “stealth technology” so its customers “**never get blocked by**  
4 **Ticketmaster.**” (*August 24, 2007 McLain Decl.* ¶ 25 and Exh. 1, emphasis in  
5 original; *Findings*, Fact No. 6 and Concl. No. 13; *see also FAC* ¶ 30.)

6 RMG had to visit, and thereby copy pages from, Ticketmaster’s  
7 website to develop its computer programs. (*Lieb Decl.* ¶ 9; *Findings*, Fact Nos. 5,  
8 13 and Concl. No. 8; *FAC* ¶ 33.) RMG necessarily saw repeated reminders of the  
9 Terms of Use each time it viewed a ticketmaster.com webpage during that process.  
10 (*August 24, 2007 McLain Decl.* ¶¶ 9-12, Exhs. 4-6; *Findings*, Fact No. 13 and  
11 Concl. Nos. 8, 27; *FAC* ¶ 33.) RMG necessarily purchased tickets on  
12 Ticketmaster’s website as part of the ongoing testing of its computer programs, and  
13 has affirmatively clicked on the “accept” button on the ticket purchase page with  
14 each purchase. (*August 24, 2007 McLain Decl.* ¶¶ 12-13 and Exhs. 6-7; *Lieb Decl.*  
15 ¶ 9; *Findings*, Fact Nos. 5, 13; *FAC* ¶ 33.) RMG’s unauthorized invasions into and  
16 copying from Ticketmaster’s website exceed the scope of the license created by and  
17 breach the Terms of Use. (*August 24, 2007 McLain Decl.* ¶ 14 and Exh. 8;  
18 *Findings*, Concl. Nos. 17, 27; *FAC* ¶¶ 34 and 48.)

19 RMG also participates with its ticket broker customers in every  
20 unauthorized access of Ticketmaster’s website and every breach of Ticketmaster’s  
21 Terms of Use. RMG’s ticket broker customers do not acquire physical possession  
22 of or download RMG’s software. Instead, they log onto RMG’s website at  
23 “www.ticketbrokertools.com” and use a suite of devices and products available  
24 there to improperly access Ticketmaster’s website in excess of the authorization  
25 granted by Ticketmaster’s Terms of Use. (*Kovach Decl.* ¶ 4; *August 24, 2007*  
26 *McLain Decl.*, Exh. 1; *Lieb Decl.* ¶ 8 and Exhs. 13-16; *FAC* ¶¶ 29-31; *see also*  
27 *Findings*, Fact No. 9 and Concl. Nos. 12-13.)



1 RMG provides a variety of online software schemes to maximize the  
2 effectiveness of its “stealth technology.” (*Kovach Decl.* ¶¶ 5-9; *McLain Decl.* ¶ 25,  
3 Exh. 1; *Lieb Decl.* ¶ 8; *FAC* ¶¶ 29-30; *see also Findings*, Fact Nos. 9-10 and Concl.  
4 Nos. 12-13.) Among other things, RMG utilizes a computer program known as a  
5 “proxy server” to accomplish its goals and conceal its and its customers’ identities.  
6 (*Lieb Decl.* ¶ 8 and Exhs. 12, 14-16; *Findings*, Concl. Nos. 12-13.) Through the  
7 proxy server, RMG rewrites ticketmaster.com’s own domain names to help it  
8 overcome Ticketmaster’s technical protections. (*Lieb Decl.* ¶ 8.) Depending on the  
9 level of service and features a customer purchases from RMG, it can use multiple  
10 bots—sometimes hundreds of them—to simultaneously flood the Ticketmaster  
11 website with requests for tickets. (*Kovach Decl.* ¶ 5; *Findings*, Concl. No. 12; *FAC*  
12 ¶ 30.)

13 RMG and its customers purchase tickets on a massive scale, thereby  
14 denying the public access to tens of thousands of the best tickets to many events.  
15 One RMG customer alone placed about 9,500 orders to purchase almost 24,000  
16 tickets using RMG’s technology; and while Ticketmaster does not know how many  
17 customers RMG has, two other known RMG customers have purchased a total of  
18 about 36,000 tickets, and RMG customers have purchased more than 65,800 tickets  
19 so far in 2007 alone. Indeed, for one event, RMG’s customers acquired about 40%  
20 of the tickets in one of the most desirable sections and 13% of all “floor” seats; they  
21 also acquired significant portions of tickets to other events. (*August 24, 2007*  
22 *McLain Decl.* ¶ 24; *see also Findings*, Fact Nos. 7-8, 24; *FAC* ¶¶ 39-40.)

23 Further, RMG and its customers make millions of ticket requests, and  
24 thus copy millions of copies of ticketmaster.com web pages, through their ticket  
25 purchases. Ticketmaster tracked over 425,000 automated ticket requests from one  
26 individual who used RMG technology on one day, and about 600,000 automated  
27 ticket requests from another individual who used RMG technology on another day.  
28 Ticketmaster estimates that RMG and the three identified RMG customers alone

1 copied millions of pages in this manner to purchase the 60,000 tickets they bought  
2 for resale. Consistent with that estimate, Ticketmaster has confirmed that millions  
3 of automated ticket requests have been made to ticketmaster.com on many days,  
4 with automated requests constituting up to 80% of all ticket requests made to  
5 ticketmaster.com on some days. Ticketmaster also estimates that on one day after  
6 this lawsuit was filed, RMG customers contacted ticketmaster.com at least once  
7 every .25 seconds. (*August 24, 2007 McLain Decl.* ¶¶ 23-24, 27; Supplemental  
8 Reply Declaration of Kevin McLain dated and filed October 5, 2007 (Docket No.  
9 54) in support of motion for preliminary injunction (“*October 5, 2007 McLain*  
10 *Decl.*”); *see also Findings*, Fact Nos. 7-8, 24 and Concl. No. 20; *FAC* ¶ 34.)

11 RMG conceals its actions from Ticketmaster in various ways. It  
12 spreads its automated requests for tickets over multiple IP addresses to conceal the  
13 source of its requests, and helps customers obtain new IP addresses from their  
14 internet service providers. (*Lieb Decl.* ¶ 8e; *Kovach Decl.* ¶ 11; *Findings*, Fact No.  
15 10; *FAC* ¶¶ 36-37.) RMG also screens potential customers to ensure that they have  
16 no affiliation with or loyalty to Ticketmaster and warns its customers not to  
17 publicize the existence of RMG’s ticket buying services. If an existing customer  
18 wishes to recommend RMG’s services to another broker, he or she is instructed to  
19 provide the name of the potential customer to RMG, so that RMG may first screen  
20 the potential customer before deciding whether to initiate contact. (*Kovach Decl.*  
21 ¶¶ 3, 12, and Exh. 18; *Findings*, Fact No. 10; *FAC* ¶ 32.)

22 If a customer encounters any obstacle in securing tickets or  
23 circumventing Ticketmaster’s security measures, the customer may immediately  
24 consult with an RMG representative to receive advice concerning how to obtain  
25 improper access to the Ticketmaster website. RMG also offers consulting services  
26 to enable its customers to set up hardware, telecommunications equipment and  
27 other tools to expand their invasion of Ticketmaster’s website. (*Kovach Decl.*  
28 ¶¶ 10-11; *Findings*, Fact No. 9; *FAC* ¶ 31.)

1                   7.     The Harm Caused By RMG's Wrongful Conduct

2                   As described below, the use of automated devices to access  
3 Ticketmaster's website for commercial purposes causes ongoing expenses of  
4 technical countermeasures, harm to Ticketmaster's goodwill, and continued harm to  
5 the public trying to obtain tickets. (*August 24, 2007 McLain Decl.* ¶¶ 8-9, 20-21,  
6 30-35; *Findings*, Fact Nos. 19-22, 24-26 and Concl. No. 36; *FAC* ¶¶ 35-45.)

7                   The massive volume of ticket requests strains Ticketmaster's technical  
8 systems, and forces Ticketmaster to incur significant expense to increase the scale  
9 of its infrastructure to insure that its computer systems will remain functional in the  
10 face of the overwhelming increase in traffic caused by automated ticket requests.  
11 (*August 24, 2007 McLain Decl.* ¶ 34; *FAC* ¶ 45.) Ticketmaster has been forced to  
12 reassign its technical personnel from productive development tasks that would  
13 improve the functionality of its website to technical measures to mitigate the harm  
14 caused by these automated invasions, as well as discover who is invading its  
15 computer systems. (*August 24, 2007 McLain Decl.* ¶¶ 20-21; *FAC* ¶ 45.) It is  
16 impossible for Ticketmaster to precisely calculate the costs it has incurred through  
17 these efforts, but it easily amounts to more than hundreds of thousands of dollars  
18 per year. (*August 24, 2007 McLain Decl.* ¶ 21.)

19                  Although Ticketmaster's technical countermeasures have had some  
20 success, automated intrusions continue, and Ticketmaster will continue to have to  
21 incur significant expenses to combat this problem, and to divert precious resources  
22 from important, more productive endeavors. (*August 24, 2007 McLain Decl.* ¶¶ 34-  
23 35.) It is not realistic to believe that technical countermeasures, no matter how  
24 expensive or extensive, can ever fully stop this problem.

25                  RMG's misconduct also injures Ticketmaster's goodwill in ways that  
26 are real but impossible to quantify, and in ways that are difficult if not impossible to  
27 repair. Many consumers are unable to purchase event tickets from Ticketmaster at  
28 the face price because ticket brokers using RMG's programs have already blocked

1 their access to and purchased such tickets. Such customers understandably become  
2 frustrated and tend to blame Ticketmaster for the unavailability of these tickets.  
3 (Declaration of Steven J. Obara (Docket No. 28) in support of motion for  
4 preliminary injunction (“*Obara Decl.*”) ¶ 4 and Exh. 19; *Lee Decl.* ¶¶ 7-8 and Exhs.  
5 20-21; *Findings*, Fact Nos. 19-22; *FAC* ¶¶ 39-40.) Many complain to Ticketmaster,  
6 and accuse Ticketmaster of colluding with brokers to divert tickets. (*Obara Decl.*  
7 ¶¶ 3-5 and Exh. 19.) Others complain in public forums, exacerbating the goodwill  
8 problem. RMG’s actions also threaten to harm Ticketmaster’s client relationships  
9 by impairing its ability to provide accurate ticket sales information and jeopardizing  
10 the fairness of its online ticket purchasing system. (*August 24, 2007 McLain Decl.*  
11 ¶¶ 36-41; *Findings*, Fact No. 25; *FAC* ¶ 40.)

12 Ticketmaster will suffer such harm as long as RMG and its customers  
13 are permitted to use their computer programs to invade Ticketmaster’s website.  
14 Further, the public will continue to be denied a chance to buy tickets at the “face”  
15 price, and will continue to pay RMG’s customers’ inflated prices to acquire those  
16 tickets, unless this Court permanently orders RMG to stop its misconduct.

17 C. **Additional Facts Relevant to Ticketmaster’s Request for a**  
18 **Permanent Injunction and Damages.**

19 1. The Use of Automated Devices Has Continued.

20 In the time since the preliminary injunction was entered in October  
21 2007, automated devices, including RMG’s, have continued to access  
22 Ticketmaster’s website. (Declaration of Kevin McLain dated June 3, 2008,  
23 attached hereto (“*June 3, 2008 McLain Decl.*”) ¶ 2.) As described in the  
24 Declaration of Kevin McLain dated November 6, 2007 (Docket No. 66), two of  
25 RMG’s customers, Thomas Prior and Gary Bonner, used RMG’s automated devices  
26 to access Ticketmaster’s website in the weeks after the preliminary injunction was  
27 entered.  
28

1 Prior, a defendant in a related action, has continued to use RMG's  
2 devices even up to the present. In verified discovery responses from the related  
3 action, Prior explained that he only uses automated devices from RMG.  
4 (Declaration of Donald R. Brown attached hereto ("*Brown Decl.*") ¶ 3 and Exh. 1.)  
5 As a recent example, on May 13, 2008, Prior made 917 requests to Ticketmaster's  
6 website in a single hour from one IP address. That volume can only be achieved  
7 through the use of automated devices. (*June 3, 2008 McLain Decl.* ¶ 2.)

8 2. Other Harm Resulting From RMG's Conduct.

9 The First Amended Complaint describes harm to Ticketmaster's  
10 website and infrastructure that was only briefly argued in support of the motion for  
11 preliminary injunction but is relevant to the need for a permanent injunction. Every  
12 ticket request to Ticketmaster's website causes tickets to be placed temporarily on  
13 reserve. When a large number of requests is made through an automated device,  
14 not only is the inventory of tickets for legitimate consumers diminished, but  
15 Ticketmaster's ability to provide an important service to its clients is compromised.  
16 Clients use the Ticketmaster system to monitor ticket sales activity to make a  
17 variety of decisions, including whether to open more seats or move the seats to  
18 other distribution channels. The artificially high volume of seats revolving in and  
19 out of reserve status due to the use of automated devices makes it difficult to gauge  
20 how well tickets for the event are actually selling, which in turn interferes with the  
21 clients' ability to make the ongoing decisions that are based on sales activity. (*FAC*  
22 ¶ 40.)

23 In addition, Ticketmaster's website allocates traffic to various servers  
24 through a load balancing program that is designed to ensure consumer requests are  
25 processed equitably and that no consumer receives slower service merely because  
26 his or her request was directed to one server rather than another. However, users of  
27 automated devices bypass the load balancing program and target specific servers  
28 directly with thousands of requests, thus interfering with the website's traffic

1 allocation feature and putting some consumers whose requests were allocated to the  
2 same server that was targeted by the automated device at risk of slower service.  
3 (*FAC* ¶ 41.)

4 Further, Ticketmaster's website is part of a carefully crafted business  
5 model that integrates other services and features into the ticket purchasing process.  
6 The website is designed so that users will follow certain steps and will see certain  
7 pages in the process of requesting and purchasing tickets. Based on this expected  
8 flow of traffic, clients, advertisers and Ticketmaster itself offer particular services  
9 or opportunities on particular pages, ranging from parking at the event to signing up  
10 for client newsletters. However, automated devices, which do not use traditional  
11 browsers, bypass the HTML code for these features, so the users of those devices  
12 never even see these offers. These same offenders further exacerbate the problem  
13 by purchasing enormous quantities of tickets, which diminishes the ticket inventory  
14 for legitimate consumers and reduces the number of legitimate consumers who will  
15 reach the pages that provide these up-sell opportunities. (*FAC* ¶ 42.)

16 Automated devices also alter the security features of the website itself  
17 by accessing the Ticketmaster system at targeted points. Normally, users receive  
18 automatic and temporary permission—in effect, a token—to make requests on the  
19 system. That token is automatically revoked if the pace of requests exceeds a  
20 certain limit. However, by systematically deleting cookies on the user's system,  
21 automated devices enable the user to constantly assume a new identity and acquire  
22 new tokens even though that same user is far exceeding the request limit. (*FAC* ¶  
23 43.)

### 24 3. RMG Has Profited from its Misconduct.

25 RMG has earned substantial revenue through its automated devices.  
26 According to a March 2008 article in TicketNews—which was based on an  
27 “exclusive interview” with RMG’s President, C.J. Garibay—RMG was “generating  
28 more than \$12 million in annual revenues.” (*Brown Decl.* ¶ 4, Exh. 2.) Moreover,

1 during a videotaped May 13, 2008 interview on an ESPN news program, Garibay  
2 said that gross sales from RMG's automated devices were \$2 million in 2007.  
3 (*Brown Decl.* ¶¶ 5-6, Exhs. 3-4.) Even accepting the more conservative of these  
4 two figures, RMG has earned annual revenues of \$2 million through its  
5 Ticketmaster-related automated devices.<sup>3</sup>

6 Assuming, *arguendo*, that RMG started marketing and distributing  
7 these devices at the beginning of 2004 (there is reason to believe RMG started  
8 sooner) and that RMG's revenues from those devices ceased by the end of 2007,  
9 RMG has derived at least \$8 million in revenue through these devices.

### 10 **III. TICKETMASTER IS ENTITLED TO A PERMANENT INJUNCTION**

11 Ticketmaster is entitled to a permanent injunction under its breach of  
12 contract claim as well as the various statutory claims. The website's Terms of Use  
13 expressly provide for injunctive relief in the event of a breach of the Terms of Use.  
14 Moreover, the following statutes provide for injunctive relief: 17 U.S.C. § 502  
15 (First Claim for Relief for copyright infringement); 17 U.S.C. § 1203 (Second  
16 Claim for Relief for violation of the Digital Millennium Copyright Act); 18 U.S.C.  
17 § 1030(g) (Third Claim for Relief for violation of the Computer Fraud and Abuse  
18 Act); California Penal Code § 502(e) (Fourth Claim for Relief for violation of the  
19 California Penal Code Sec 502); and 18 U.S.C. § 1964 (Fifth and Sixth Claims for  
20 Relief for violation of RICO, 18 U.S.C. §§ 1962(c) and 1962(d)).

21 To obtain a permanent injunction, Ticketmaster "must demonstrate: (1)  
22 that it has suffered an irreparable injury; (2) that remedies available at law, such as  
23 monetary damages, are inadequate to compensate for that injury; (3) that,  
24 considering the balance of hardships between the plaintiff and defendant, a remedy  
25 in equity is warranted; and (4) that the public interest would not be disserved by a  
26 permanent injunction." *eBay, Inc. v. MercExchange, LLC*, 547 U.S. 388, 126 S. Ct

27 <sup>3</sup> Because RMG has defaulted, Ticketmaster has not had the opportunity to  
28 obtain revenue figures from RMG in discovery. (*Brown Decl.* ¶ 7.)

1 1837, 1839-40 (2006). Such injunctions are routinely granted where copyright  
2 infringement is shown. *See, e.g., MAI Sys. Corp. v. Peak Computer, Inc.*, 991 F.2d  
3 511, 520 (9th Cir. 1993) (“as a general rule, a permanent injunction will be granted  
4 when liability has been established and there is a threat of continuing violations”).  
5 RMG should be permanently enjoined under these criteria.

6 **A. Ticketmaster Has Suffered Irreparable Injury.**

7 RMG’s actions have significantly harmed Ticketmaster, and will  
8 continue to cause harm if RMG is permitted to distribute its infringing software  
9 products after termination of this case. Should that occur, Ticketmaster would once  
10 again be faced with massive numbers of automated ticket requests that strain its  
11 technical systems. Ticketmaster would again have to reassign technical personnel  
12 from productive tasks that improve the functionality of its website to technical  
13 measures to mitigate the harm caused by automated intrusions. (*August 24, 2007*  
14 *McLain Decl.* ¶ 21.) It would again be faced with frustrated consumers who are  
15 denied a fair opportunity to buy tickets. (*Obara Decl.* and Exh. 20; *Findings*, Fact  
16 Nos. 19-22 and Concl. No. 36.)

17 Moreover, Ticketmaster could again be faced with nationwide negative  
18 publicity in which frustrated consumers mistakenly blame Ticketmaster for their  
19 inability to get tickets. (*Lee Decl.*; *Obara Decl.* and Exhs. 19-20; *Findings*, Fact  
20 Nos. 20-22.) Ticketmaster could again have to address governmental investigations  
21 that are driven by the misimpression that Ticketmaster is colluding with ticket  
22 brokers to deny the public a fair opportunity to buy tickets. (Declaration of Mark S.  
23 Lee dated September 24, 2007 (Docket No. 49) in support of motion for  
24 preliminary injunction (“*Sept. 24, 2007 Lee Decl.*”) and Exh. 24, pp. 46-47, and  
25 Exhs. 25-26; *Findings*, Fact No. 22.) In addition, Ticketmaster would again risk  
26 losing clients if they are publicly criticized for using Ticketmaster to sell their  
27 tickets. (*August 24, 2007 McLain Decl.* ¶¶ 35-41; *Findings*, Fact No. 25.)  
28



1           Such losses are “irreparable” and support a permanent injunction.  
2 *Register.com, Inc. v. Verio, Inc.*, 126 F. Supp. 2d 238, 252 (S.D.N.Y. 2000), *aff’d.*,  
3 356 F.3d 393, 404 (2d Cir. 2004) (potential harm from loss of customers and  
4 uncertain but significant expense involved in insuring that computer system can  
5 withstand unauthorized automated attacks constitute “irreparable” harm that  
6 supports an injunction); *Metro-Goldwyn-Mayer Studios, Inc., v. Grokster, Ltd.*, 518  
7 F. Supp. 2d 1197, 1215 (C.D. Cal. 2007) (hereinafter, “*MGM*”) (damage to brand  
8 recognition and goodwill caused by infringement establishes permanent irreparable  
9 harm that supports a permanent injunction).

10           **B. Money Damages Are Inadequate.**

11           Money damages are inadequate here because the monetary value of  
12 harm caused by diversion of employee resources, and the harm to Ticketmaster’s  
13 goodwill, while real and significant, cannot be computed with sufficient precision  
14 to fully compensate Ticketmaster. Further, any future infringement by RMG and  
15 future RMG customers would harm Ticketmaster in amounts that cannot now be  
16 computed, and require future suits to obtain compensation. “A legal remedy is  
17 inadequate if it would require a multiplicity of suits.” *MGM, supra*, 518 F. Supp.  
18 2d at 1220 (internal quotations and citation omitted).

19           **C. The Balance of Harms Favors an Injunction.**

20           Ticketmaster will be significantly harmed if RMG is permitted to once  
21 again distribute its computer programs that deny the public a fair chance to buy  
22 tickets from the tickemaster.com website as described above. In contrast, the only  
23 harm that RMG would suffer if a permanent injunction issues is that it would be  
24 prevented from engaging in illegal conduct. Such “harm” is not cognizable under  
25 applicable law. *Triad Sys. Corp. v. SE. Exp. Co.*, 64 F. 3d, 1330, 1338 (9th Cir.  
26 1995) (“when the only harm that defendant will suffer is lost profits from an  
27 activity which has been shown . . . infringing, such an argument merits little  
28 equitable consideration”) (internal citation omitted).

1           The balance of harms thus favors a permanent injunction here. A  
2 company that has built its business on infringing conduct has no equitable right to  
3 continue the infringing conduct to survive. Otherwise, anyone could justify  
4 infringing activities by claiming he or she needed to “avoid going out of business,”  
5 and no permanent injunction could be obtained against a professional infringer.

6           **D. The Public Interest Favors a Permanent Injunction.**

7           “[T]he public interest is . . . served when the rights of copyright  
8 holders are protected against acts constituting infringement.” *MGM, supra*, 518 F.  
9 Supp. 2d at 1222. “An injunction is thus in the public interest; only if the  
10 distribution of [RMG’s infringing software] is stopped can further fraud be  
11 avoided.” *Corning Glass Works v. Jeannette Glass Co.*, 308 F. Supp. 1321, 1328  
12 (S.D.N.Y.), *aff’d* on the opinion below, 432 F.2d 784 (2nd Cir. 1970).

13           The public interest obviously favors a permanent injunction here.  
14 RMG’s misconduct denied consumers the opportunity to purchase many event  
15 tickets from Ticketmaster at the face price and instead forced them to purchase  
16 tickets from RMG’s ticket broker clients at inflated prices. Such actions enrich  
17 RMG and its clients at the public’s expense.

18           The public interest in an injunction is underscored by actions of the  
19 Kansas City Council and Attorneys General of Missouri and Arkansas, as described  
20 in connection with Ticketmaster’s motion for preliminary injunction. The Kansas  
21 City Council held a televised hearing on September 20, 2007 to investigate whether  
22 Ticketmaster was improperly withholding tickets from the public, and the  
23 Attorneys General of Missouri and Arkansas launched investigations into  
24 Ticketmaster’s distribution of tickets for the Hannah Montana concerts. (*Sept. 24,*  
25 *2007 Lee Decl.* and Exh. 24, pp. 46-47, and Exhs. 25-26; *Findings*, Fact No. 22.)<sup>4</sup>

26 \_\_\_\_\_  
27 <sup>4</sup> In the time since Ticketmaster moved for a preliminary injunction, other  
28 states have also been in contact with Ticketmaster regarding possible investigations  
into ticket distribution issues created by the use of automated devices. (*June 3,*  
*2008 McLain Decl.* ¶ 5.)

1 The public obviously is very interested in this issue, and the public  
2 interest favors giving the public a fair chance to acquire as many tickets as possible  
3 at the face price from ticketmaster.com's website, as Ticketmaster and its clients  
4 intend. A permanent injunction will help give the public that chance.

5 **E. RMG Will Almost Certainly Continue Its Misconduct in the**  
6 **Absence of a Permanent Injunction.**

7 The volume of assaults decreased after a preliminary injunction was  
8 entered in this case. (*June 3, 2008 McLain Decl.* ¶ 2.) Nonetheless, the use of  
9 automated devices has not disappeared, and there is evidence, discussed above, that  
10 RMG's automated devices continue to access Ticketmaster's website. Without a  
11 permanent injunction, there is a significant risk that the volume of automated  
12 devices assaulting Ticketmaster's website will only increase.

13 Therefore, Ticketmaster seeks a permanent injunction in the form  
14 incorporated in the proposed judgment filed concurrently with this application.

15 **IV. TICKETMASTER IS ENTITLED TO DAMAGES**

16 The First Amended Complaint asserts a variety of claims for relief for  
17 damages. In the interest of judicial economy, and without waiver of any rights or  
18 contentions regarding other damages, Ticketmaster is only requesting damages for  
19 its inducement/interference and copyright infringement claims.

20 **A. Ticketmaster is Entitled to Liquidated Damages from RMG's**  
21 **Inducement to Breach Contract and Intentional Interference with**  
22 **Contractual Relations.**

23 The Terms of Use for Ticketmaster's website include a provision for  
24 liquidated damages in the amount of \$10 for every page request that exceeds 1000  
25 page requests in a 24-hour period. (*FAC* ¶ 90.)<sup>5</sup> As alleged in the Seventh, Eighth

26 <sup>5</sup> The full provision reads as follows:

27 You agree that Abusive Use of the Site, as defined above,  
28 causes damage and harm to Ticketmaster in the form of,  
among other things, impaired goodwill, lost sales, and  
increased expenses associated with responding to Abusive  
Use of the Site. You further agree that monetary damages

1 and Ninth Claims for Relief (breach of contract, inducement to breach contract, and  
2 intentional interference with contractual relations), RMG was aware of this  
3 provision in the Terms of Use and agreed to it when accessing Ticketmaster's  
4 website and requesting and purchasing tickets. (FAC ¶¶ 86, 95-96, 106.)

5 RMG breached the Terms of Use. (FAC ¶ 89.) RMG also induced its  
6 customers to breach the Terms of Use by using RMG's automated devices to access  
7 Ticketmaster's website and purchase tickets. (FAC ¶¶ 99-101.) In addition, RMG  
8 intentionally interfered with the contractual relationships between Ticketmaster and  
9 RMG's customers who accessed Ticketmaster's website through RMG's automated  
10 devices. (FAC ¶¶ 109-111.)

11 RMG is liable to Ticketmaster for damages resulting from this conduct.  
12 Because the Terms of Use contain a liquidated damages clause, RMG is liable for  
13 the liquidated damages resulting from its inducement to breach contract and its  
14 interference with contractual relations. *See GHK Assoc. v. Mayer Group, Inc.*, 224  
15 Cal. App. 3d 856, 877 (1990) (measure of damages for inducement to breach  
16 contract is the measure of damages applicable to the breach of contract); *Seaboard*  
17 *Music Co. v. Germano*, 24 Cal. App. 3d 618, 622 (1972) (same); *see also Western*  
18 *Oil & Fuel Co. v. Kemp*, 245 F.2d 633, 644-45 (8th Cir. 1957) (damages for  
19 inducement to breach contract measured by liquidated damages clause in contract).

20  
21  
22 for Abusive Use of the Site are difficult to ascertain and  
23 that proof of monetary damages for Abusive Use would  
24 be costly and inconvenient to calculate. Accordingly you  
25 agree that liquidated damages are warranted for Abusive  
26 Use. Therefore, you agree that if you, or others acting in  
27 concert with you, alone or collectively request more than  
28 1000 pages of the Site in any twenty-four hour period,  
you, and those acting in concert with you, will be jointly  
and severally liable for liquidated damages in the amount  
of ten dollars (\$10.00) per page request each time that a  
page request is made after that first 1000 during that  
twenty-four hour period.  
(FAC ¶ 90.)

1           The liquidated damages clause at issue here provides for damages to  
2 the full extent of each customer's request for web pages in excess of the 1000-page  
3 limit for each 24-hour period. (*FAC* ¶¶ 102-03, 112-13.) Without waiving any  
4 right to recover damages for all of the times that RMG induced its customers to  
5 breach the Terms of Use or interfered with that contract, Ticketmaster is only  
6 seeking damages for two such instances.

7           As described above and in Ticketmaster's motion for preliminary  
8 injunction, Thomas Prior used RMG's automated devices on May 26, 2007 to make  
9 approximately 600,000 requests on Ticketmaster's website. (*August 24, 2007*  
10 *McLain Decl.* ¶ 24; *October 5, 2007 McLain Decl.*) As further clarified in the  
11 attached McLain Declaration, the precise number of page requests on that day was  
12 600,569. (*June 3, 2008 McLain Decl.* ¶ 3.)

13           Similarly, Gary Bonner used RMG's automated devices on May 21,  
14 2007 to make approximately 425,000 requests on Ticketmaster's website. (*August*  
15 *24, 2007 McLain Decl.* ¶ 24; *October 5, 2007 McLain Decl.*) As further clarified in  
16 the attached McLain Declaration, the precise number of page requests on that day  
17 was 425,451. (*June 3, 2008 McLain Decl.* ¶ 4.)

18           At \$10 per page request after the first 1000 requests, the total damage  
19 figure for these two incidents alone is \$10,237,200.

20           **B. Ticketmaster is Also Entitled to Disgorgement of the Profits RMG**  
21           **Derived By Infringing Ticketmaster's Copyrights.**

22           RMG is liable for direct and contributory copyright infringement under  
23 Ticketmaster's First Claim for Relief. This infringement was integral both to  
24 RMG's development of the automated devices and the use of those devices by  
25 RMG's customers. Whenever one of RMG's automated devices copied a webpage  
26 from Ticketmaster's website, a copyright infringement occurred.

27           Under 17 U.S.C. Sections 504(a)(1) and (b), Ticketmaster can recover  
28 the profits that RMG obtained through its direct and contributory infringement of

1 Ticketmaster’s copyrights. RMG’s revenues from its infringing activity are at least  
2 \$8 million, as discussed above. Ticketmaster is entitled to damages in that amount,  
3 except insofar as RMG can establish any offsetting costs. *See* 17 U.S.C. § 504(b).

4 **V. TICKETMASTER IS ENTITLED TO ATTORNEYS’ FEES**

5 Ticketmaster seeks an award of attorneys’ fees pursuant to 17 U.S.C.  
6 Section 505 based on its First Claim for Relief for copyright infringement, 17  
7 U.S.C. Section 1203(a)(5) based on its Second Claim for Relief for violation of the  
8 Digital Millennium Copyright Act, California Penal Code Section 502(e) based on  
9 its Fourth Claim for Relief for violation of the California Penal Code Section 502;  
10 and 18 U.S.C. Section 1964 based on its Fifth and Sixth Claims for Relief for  
11 violation of RICO.

12 In this application, Ticketmaster only seeks fees in accordance with the  
13 fee schedule in Local Rule 55-3, which first requires a determination of  
14 Ticketmaster’s compensatory damages. Based on the compensatory damages  
15 requested by Ticketmaster, the award of fees under the fee schedule would be  
16 \$368,344.<sup>6</sup>

17 **VI. THERE IS NO NEED FOR AN EVIDENTIARY HEARING.**

18 The Court need not conduct an evidentiary hearing to enter a default  
19 judgment. “If, in order to enable the court to enter judgment or to carry it into  
20 effect, it is necessary . . . to establish the truth of any averment by evidence . . . the  
21 court may conduct such hearings or other such references as it deems necessary.”  
22 F.R.C.P. 55(b)(2) (emphasis added); *see also Dundee Cement Co. v. Howard Pipe*  
23 *& Concrete Prod., Inc.*, 722 F.2d 1319, 1323 (7th Cir. 1983) (“district court did not  
24 abuse its discretion in determining that a hearing on the truth of any allegation  
25 relating to liability was unnecessary”).

26  
27 <sup>6</sup> Ticketmaster respectfully reserves its right under Local Rule 55-3 to seek  
28 actual attorneys’ fees upon entry of a default judgment (which, depending on the  
amount of compensatory damages awarded, may turn out to be unnecessary).

1 In light of the detailed pleadings and substantial evidence relating to  
2 this motion for default judgment, there is ample evidence—and certainty—to enter  
3 the requested default judgment without an evidentiary hearing.

4 **VII. TICKETMASTER AND IAC HAVE PROVIDED NOTICE OF THIS**  
5 **APPLICATION.**

6 Pursuant to F.R.C.P. Rule 55(b)(2) and Local Rule 55-2, Ticketmaster  
7 and IAC have given notice of this application to RMG by mailing a copy of this  
8 Notice and Application to the address for RMG that was set forth in the Proof of  
9 Service attached to the motion of RMG's former counsel to withdraw as counsel.  
10 (*Brown Decl.* ¶ 2.)

11 **VIII. CONCLUSION**

12 Ticketmaster and IAC respectfully request that the Court enter a  
13 default judgment in their favor and against RMG on Ticketmaster's First Amended  
14 Complaint and RMG's Second Amended Counterclaims. As part of that judgment,  
15 Ticketmaster respectfully requests that the Court enter a permanent injunction in the  
16 form incorporated into the proposed judgment, and that the Court award  
17 Ticketmaster damages in the amount of \$18,237,200, attorneys' fees in the amount  
18 of \$368,344, and allowable costs.

19 Dated: June 3, 2008

ROBERT H. PLATT  
MARK S. LEE  
DONALD R. BROWN  
MANATT, PHELPS & PHILLIPS, LLP

22  
23 By: 

Donald R. Brown  
Attorneys for Plaintiff and Counter-  
Defendant TICKETMASTER L.L.C. and  
Counter-Defendant  
IAC/INTERACTIVECORP

**DECLARATION**



**DECLARATION OF DONALD R. BROWN**

I, Donald R. Brown, declare:

1. I am an attorney admitted to practice before this Court and am a member of the firm of Manatt, Phelps & Phillips, LLP, counsel for plaintiff and counterclaim-defendant Ticketmaster L.L.C. ("Ticketmaster") and counterclaim-defendant IAC/InterActiveCorp ("IAC") in this action.

2. Notice of the application by Ticketmaster and IAC for entry of a default judgment and permanent injunction was sent under my direction by regular mail on June 3, 2008 to the address for RMG Technologies, Inc. ("RMG") that was set forth in the Proof of Service attached to the motion of RMG's former counsel to withdraw as counsel. This is the same address for RMG that our firm has used for other transmissions to RMG in the time since RMG's counsel withdrew from the case.

3. Thomas Prior is a defendant in a related action before this Court, Case No. CV07-2535 ABC (JCx). A copy of Mr. Prior's interrogatory responses from that action, dated January 16, 2008, is attached hereto as Exhibit 1. In his responses to Interrogatory Nos. 12 and 13, Mr. Prior stated that he only uses automated devices from RMG. These responses have not been changed by any supplemental responses by Mr. Prior.

4. Attached hereto as Exhibit 2 is a copy of an article dated March 26, 2008, in a ticketing industry periodical called TicketNews. The article is entitled "RMG Technologies claims they are not the bad guys." In the article, the author explains that he had conducted an "exclusive interview" with "C.J. Garibay, President of RMG Technologies." The article states that RMG was "generating more than \$12 million in annual revenues."

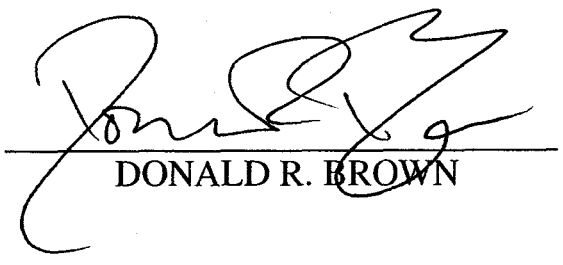
5. Attached hereto as Exhibit 3 is a transcript prepared by my firm's word processing department of portions of a videotaped interview of C.J. Garibay that was broadcasted on May 13, 2008 on an ESPN news program.

1 During this interview, Mr. Garibay said that RMG's gross sales from ticketing  
2 automated devices for the previous year (2007) were \$2 million.

3 6. Attached hereto as Exhibit 4—but not in the electronically filed  
4 copy of this Declaration—is a disc with a copy of the actual footage from the  
5 videotaped interview described above in paragraph 5. The disc contains the same  
6 portions that are transcribed in Exhibit 3 hereto.

7 7. Because RMG has defaulted in this action, we have not had the  
8 opportunity to obtain revenue figures from RMG in discovery.

9  
10 I declare under penalty of perjury under the laws of the United States  
11 of America that the forgoing is true and correct. Executed on June 3, 2008 in Los  
12 Angeles, California.

13  
14   
15 DONALD R. BROWN  
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06307-156  
A clip  
TM/Prior

1 Caryn Brottman Sanders, SBN 175378  
2 LAW OFFICES OF CARYN SANDERS  
3 27240 Turnberry Lane, Suite 200  
4 Valencia, California 91355  
5 (661) 362-0788  
6 Fax (661) 362-0789

7 Attorney for Defendant Thomas Prior dba  
8 USA Entertainment

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11 TICKETMASTER L.L.C., Virginia  
12 limited liability company,

13 Plaintiff,

14 vs.

15 THOMAS PRIOR and USA  
16 ENTERTAINMENT,

17 Defendants.  
18

CASE NO.: CV07-2535ABC (JCx)  
Honorable Audrey B. Collins

RESPONSE TO  
INTERROGATORIES

19  
20 PROPOUNDING PARTY:

PLAINTIFF TICKETMASTER

21 RESPONDING PARTY:

DEFENDANT THOMAS PRIOR dba USA  
ENTERTAINMENT

22  
23 SET NO:

ONE

24  
25 It should be noted that these responding parties have not fully completed the  
26 investigation of the facts relating to this case, have not fully completed discovery  
27 in this action and have not completed preparation for the trial. All of the  
28 responses contained herein are based only upon such information and documents

1 which are presently available to and specifically known to these responding parties  
2 and disclose only those contentions which presently occur to such responding  
3 parties. It is anticipated that further discovery, independent investigation, legal  
4 research and analysis will supply additional facts, add meaning to the known facts,  
5 as well as establish entirely new factual conclusions and legal contentions, and  
6 may discover new or additional documents, all of which may lead to substantial  
7 additions to or changes in these responses.

8         The following responses are given without prejudice to responding parties'  
9 right to produce evidence of any subsequently discovered fact or facts which this  
10 responding parties may later recall, or to produce any subsequently discovered  
11 documents. Responding parties accordingly reserve the right to change any and  
12 all responses herein as additional facts and documents are ascertained or  
13 discovered, analyses are made, legal research is completed and contentions are  
14 made.

15         The responses contained herein are made in a good faith effort to supply as  
16 much factual information and documents as are presently known, but should in no  
17 way be to the prejudice of these responding parties in relation to further discovery,  
18 research, or analysis.

### 19   RESPONSES TO INTERROGATORIES

20 Interrogatory 1: Identify all persons who acted at your direction or on your behalf  
21 in the purchase of any tickets.

22 Response: None

23

24 Interrogatory 2: Identify all persons who acted at your direction or on your behalf  
25 in the sale or transfer of any tickets.

26 Response: None

27

28 Interrogatory 3: Identify every person, including but not limited to brokers or

1 resellers, with whom you communicated regarding Ticketmaster or Tickets

2 Response: See document production. No such list is maintained.

3

4 Interrogatory 4: Describe how you decided which events to purchase tickets for.

5 Response: Defendant buys what he thinks will sell.

6

7 Interrogatory 5: Describe how you decided how many tickets to purchase for a  
8 particular event.

9 Response: If an event is selling out all over the country I buy as many as I can, if  
10 an event is only selling out half the venue I buy a select few.

11

12 Interrogatory 6: Identify every occasion on which you purchased tickets, and for  
13 each such occasion state the date of purchase, the number of tickets purchased, the  
14 purchase price and the name of the event.

15 Response: Records are not kept in this manner. See Production responses for  
16 related information.

17

18 Interrogatory 7: Identify every occasion on which you sold tickets to third parties,  
19 and for each occasion state the date of sale, the number of tickets sold, the sale  
20 price, and the name of the person.

21 Response: Records are not kept in this manner. See Production responses for  
22 related information.

23

24 Interrogatory 8: Describe what you did with the monies received from tickets you  
25 sold to third parties, including identifying bank accounts to which such funds have  
26 been deposited.

27 Response: All credit cards, cash and checks get deposited in the Citizens Bank-  
28 Massachuttes.

1 Interrogatory 9: Describe your method for accessing Ticketmaster's website and  
2 purchasing tickets.

3 Response: Purchase methods are only: Usually manual purchasing, that on certain  
4 occasions.

5

6 Interrogatory 10: Describe all software and/or automated devices you, or anyone  
7 acting on your behalf, use or have used to purchase tickets.

8 Response: Tbat.

9

10 Interrogatory 11: Identify all persons from whom you, or anyone acting on your  
11 behalf, obtained automated devices or software for the purpose of purchasing  
12 tickets from Ticketmaster.

13 Response: RMG

14

15 Interrogatory 12: Identify the manufacturer of all automated devices and/or  
16 software you, or anyone acting on your behalf have used or considered using that  
17 can be used to purchase tickets from Ticketmaster.

18 Response: RMG

19

20 Interrogatory 13: Identify all persons to whom you transferred automated devices  
21 and/or software which can be used to purchase tickets from Ticketmaster or other  
22 websites.

23 Response: None

24

25 Interrogatory 14: Identify the make model and serial number of all computers and  
26 other hardware used to purchase tickets.

27 Response: HP ZE4500, Serial CNF3451Y54

28

1 Interrogatory 15: Identify all IP addresses used by you and on your behalf to  
2 purchase tickets.

3 Response: Current IP address - 24.34.108.243

4

5 Interrogatory 16: Identify all email addresses used by you or on your behalf to  
6 purchase tickets.

7 Response: TPRIOR@COMCAST.NET; PRIORC@COMCAST.NET;

8 PRIORTJ@COMCAST.NET; PRIORRT@COMCAST.NET; PRIORKA@COMCAST.NET

9 TOMPRIOR@COMCAST.NET

10

11 Interrogatory 17: Identify all credit cards that have been used by you or on your  
12 behalf to purchase tickets.

13 Response: See attached.

14

15 Interrogatory 18: Identify all persons who are employed by you or who work on  
16 your behalf.

17 Response: None

18

19 Interrogatory 19: Identify and describe your source of funds to buy tickets.

20 Response: Credit cards

21

22 DATED: March 3, 2008

LAW OFFICES OF CARYN SANDERS

23

24

BY:   
Caryn Brotzman Sanders Attorney  
for Thomas Prior dba USA Entertainment

25

26

27

28



**VERIFICATION**

**STATE OF MASSACHUSETTS,**

I have read the foregoing      Responses to Special Interrogatories      and know its contents.

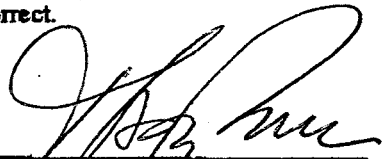
**Check Applicable Lines**

  X   I am a party to this action. The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

     I am      an Officer      a Partner      a      of       
     a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.      I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.      The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Executed on   2/27  , 2008, at Reading, MA.

I declare under penalty of perjury under the laws of the State of MA that the foregoing is true and correct.

  
      
Tom Prior

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA**                    }  
**COUNTY OF LOS ANGELES**        } **ss:**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: **27240 Turnberry Lane, Suite 200, Valencia, California 91355**

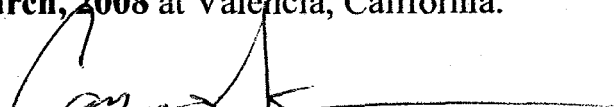
On **March 4, 2008**, I served the foregoing document described as **Response to Interrogatories** on all interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, and addressed as follows:

Alison Sultan, Esq.  
Manatt Phelps & Phillips LLP  
11355 West Olympic Blvd.  
Los Angeles, California 90064

**(X) BY MAIL.** I caused such envelopes to be deposited in the mail. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on the same day with postage thereon, fully prepaid, at Los Angeles, California in the ordinary course of business.

I declare that I am a member of the bar of this court.

Executed on this **4th** day of **March, 2008** at Valencia, California.

  
Caryn Brotzman Sanders

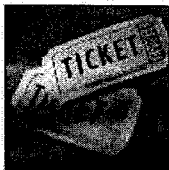


Home

## RMG Technologies claims they are not the bad guys

Wed, Mar 26th 2008 10:32 am EST

By Brian Thompson



In the wake of the Hannah Montana ticket fiasco, fingers have been pointed in various directions as people look for answers. But, one company has emerged as the villain, Pittsburgh-based **RMG Technologies**, whose software gives ticket brokers the ability to quickly navigate the Ticketmaster website and snatch up blocks of tickets as they go on sale.

And, therein lies the problem for some, the ability of brokers to buy lots of tickets at a clip, making it difficult, if not impossible in some cases, for the general public to get a crack at those same tickets. Numerous state politicians and attorneys general are considering legislative action in the wake of the Hannah Montana concert tour to ban the use of RMG's software.

In an exclusive interview with TicketNews, C.J. Garibay, President of RMG Technologies, said that his company is being made a scapegoat for the practices of Ticketmaster and other companies, and that nothing RMG has done has violated the Digital Millennium Copyright Act (DMCA).

"We expected Ticketmaster to adapt their software to lock us out any day after we rolled out our program. But few days turned into a few months, which turned into a years," Garibay said. The two sides are locked in a legal battle, and in October, Ticketmaster won an injunction against RMG to prevent them from using and distributing their software.

Garibay is confident that RMG will be triumphant in court, if not in the mind of the public. "Once all of the facts are known, I have no doubt that we will win our lawsuit." To him there was no question, to the best of Garibay's knowledge, RMG has at no point broken any laws.

In the beginning, like a lot of other companies, RMG started on a whim. About six years ago, Garibay was turning in his rent to his landlord, and noticed that the landlord's office was also being used to run a ticket brokerage. Sensing an opportunity, he developed software to enable ticket brokers to more easily navigate Ticketmaster's website. This simple idea would lead to RMG growing, at its peak, to become a 12 person team generating more than \$12 million in annual revenues.

Garibay created a unique web browser to circumvent the cookies on Ticketmaster's website, cookies that prevented a broker from monitoring multiple events in multiple browsers. When Ticketmaster countered this solution with captchas which forced individuals browsing the website to enter in letters from an image to browse a page, RMG found a new solution.

Rather than create software "bots" which could enter the required captchas, RMG outsourced the captcha typing to workers in India. Thus, a single broker using RMG's software could not purchase an infinite number of tickets, but could realistically "browse the website as fast as perhaps 15-20 users. This is fair because plenty of people ask their friends to log on to Ticketmaster to help them make sure they are able to buy tickets to an event."

Garibay expected Ticketmaster to realize what RMG was doing and adapt their code to keep the company's software from working, but they didn't. RMG provided its services to brokers for \$1,000 per month. They did not go into business as ticket brokers themselves, Garibay said, because RMG was a technology company, not a ticket brokerage. Its software is not the instant cash machine that Ticketmaster alleges.

In fact, Garibay feels that Ticketmaster is using them as a scapegoat to cover for their own activities in the secondary ticket market. Front row seats to the Hannah Montana concert went directly to Ticketmaster's resale service, and as prices soared for Hannah Montana tickets, Ticketmaster actually put a halt to one of its own auctions.

While the current injunction blocks RMG only from working on Ticketmaster's website, Garibay said the company is continuing to move forward; RMG is already developing software for the efficient navigation of other ticketing websites besides Ticketmaster.

When asked about the future of ticketing, Garibay sees the role of technology will continue to expand. "Technology will be the most important driving force in the ticket industry. Tickets on cell phones, more efficient ticket selling websites technology will continue to get better in the industry."

The "fat, dumb, and lazy" companies of the world like Ticketmaster will be put under pressure to step up their efforts to create technological innovation, as RMG is developing its own ticketing software with which to beat Ticketmaster at its own game.

However, waiting for that to happen could be for quite some time. RMG has filed an appeal against Ticketmaster's primary injunction, and the two sides will have their full trial in October. RMG is confident that it did not violate the DMCA, nor does it have an army of ticket grabbing bots, Garibay claimed. Lacking RMG's solution, Garibay believes that his clients will still browse the website through more than one person; cheap outsourcing options remain in India and Mexico.

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**E: 60-Ticketmaster  
(6.2.08)**

Announcer: This is the hottest ticket in Cleveland. And these are the best seats. And you are not in them. But outside this venue and others across the country this is where you have always been able to buy tickets to sold-out games – for a price.

Scalper 1: Who needs tickets? Anyone need tickets? Need tickets? Anyone got extra tickets?

Announcer: It's scalping. The free market at its finest, some say. Now perfectly legal in 40 states.

Scalper 2: \$350 a piece for 'em.

Announcer: This 3 billion dollar industry has taken a 21st century turn: from the street to the computer. Where scalpers are now called ticket brokers.

Scalper 3: Who needs tickets?

CJ Garabay: It's, you know, somebody who buys and resells tickets. You know, it's a kind of a speculator.

Announcer: 34-year old CJ Garabay, a software engineer and owner of RMG Technologies in Pittsburgh, is a ticket broker's dream.

CJ Garabay: Have you been putting this, uh, data in here?

Announcer: All because four years ago he discovered his landlord was running a scalping operation and he saw an opportunity.

CJ Garabay: [...] Major League Baseball, through Tickets.com.

They were a bit behind the times. They were a bit antiquated. They were still using older technologies and they weren't quite up to the 20th century, so to speak.

Announcer: Like people standing in line, or like what were the methods they were using?

CJ Garabay: That's, that's one method. But having people stand in line or people call in on the phone to get tickets, that's kind of antiquated.

Announcer: Garabay created software that allowed brokers to make up 600,000 ticket requests a day. Ticketmaster, the nation's largest primary seller of tickets, says Garabay's software inundated their computers and prevented ordinary customers from accessing their website, while brokers were buying hundreds of tickets almost immediately after they went on sale. Ticketmaster thought the brokers were cheating, so it found a way to stop automation. It's an on screen code called CAPTCHA.

Announcer: In ballpark figure, how much money you've made from this software?

CJ Garabay: It wasn't that much. I mean, I think in 2007 we broke the two million mark in gross sales.



**CD MANUALLY FILED IN  
ACCORDANCE WITH GENERAL  
ORDER 08-02 AND LOCAL RULE 5-4**



**DECLARATION**

1 DECLARATION OF KEVIN McLAIN

2 I, Kevin McLain, declare:

3 1. I am the Vice President of Applications Support for  
4 Ticketmaster L.L.C. ("Ticketmaster"), and I have worked for Ticketmaster for  
5 approximately eleven years. As Vice President, I am responsible for the day-to-day  
6 uptime, maintenance, performance and availability of Ticketmaster's website,  
7 www.ticketmaster.com. I have personal knowledge of the facts set forth in this  
8 declaration, and if called as a witness, I could and would testify to the facts  
9 contained in this declaration.

10 2. In the time since the preliminary injunction in this case was  
11 entered in October 2007, the volume of automated devices accessing Ticketmaster's  
12 website has declined, but there nonetheless continues to be regular and frequent use  
13 of automated devices on the website. In fact, recently, on May 13, 2008, Thomas  
14 Prior, who is known to be a customer of RMG Technologies, Inc. ("RMG"), made  
15 917 requests on Ticketmaster's website from a single IP address in one hour. From  
16 my knowledge of the Ticketmaster website and user interface, I am confident that  
17 this number of requests could only have been achieved through the use of an  
18 automated device.

19 3. In my previous declarations dated August 24, 2007 and October  
20 5, 2007, I described how I reached the conclusion that, on May 26, 2007, Thomas  
21 Prior had used RMG's automated devices to make approximately 600,000 requests  
22 on Ticketmaster's website. Ticketmaster's records for that day show that the  
23 precise number of page requests made by Mr. Prior on that day was 600,569.

24 4. Similarly, in my previous declarations dated August 24, 2007  
25 and October 5, 2007, I described how I reached the conclusion that, on May 21,  
26 2007, Gary Charles Bonner had used RMG's automated devices to make  
27 approximately 425,000 requests on Ticketmaster's website. Ticketmaster's records  
28

1 for that day show that the precise number of page requests made by Mr. Bonner on  
2 that day was 425,451.

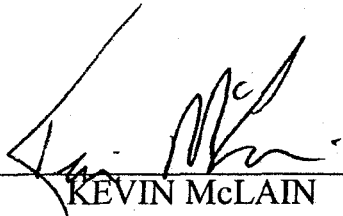
3 5. At the time Ticketmaster moved for a preliminary injunction in  
4 2007, and as described in support of Ticketmaster's motion for preliminary  
5 injunction, Attorneys General in Missouri and Arkansas had launched  
6 investigations into Ticketmaster's distribution of tickets for the Hannah Montana  
7 concerts. I am aware that, since that time, other states have also been in contact  
8 with Ticketmaster regarding possible investigations into ticket distribution issues  
9 created by the use of automated devices.

10

11 I declare under penalty of perjury under the laws of the United States  
12 of America that the forgoing is true and correct. Executed on June 3, 2008 in West  
13 Hollywood, California.

14

15



KEVIN McLAIN

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