

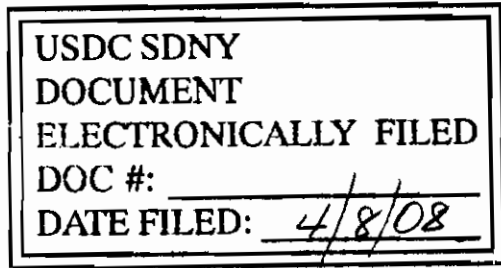
The Law Office of David S. Hammer

99 Park Avenue, Suite 1600 • New York, New York 10016 • (212) 941-8118 • (fax) (212) 557-0565

April 8, 2008

By Fax

Honorable Robert P. Patterson
 United States District Court
 Southern District of New York
 United States Courthouse
 500 Pearl Street
 New York, New York 10007



Re: Warner Bros. Entertainment, Inc. et. al. v. RDR Books, 07 Cv. 9667 (RPP)

Dear Judge Patterson:

Last night, at 11:30 pm, plaintiffs emailed me their proposed joint pre-trial order. This proposal contained their exhibit list, which runs to 12 pages, and contains dozens of exhibits that have never been produced or even mentioned so far in this litigation. The list of new exhibits includes video games, charts, and guidelines for academic research; it also includes pages and pages of books, many of which have no apparent connection to any issue in this case (including for example plaintiffs Exhibit 197, The Best of Cannabis Culture Magazine #3 Presents Hairy PotHead and the Marijuana Stone.)

I object to plaintiffs' 11th hour announcement of dozens of new exhibits, many of which they must have chosen to use weeks ago. It will be very difficult for me to review and absorb these new materials in time for next week's trial, unless they are produced immediately for my review. I therefore ask Your Honor to order plaintiffs to produce copies of their exhibits at my office by tomorrow at 10 am, so that I can review them for authenticity and relevance. I further ask that my time to list objections to plaintiffs' exhibit list be extended until Friday at 5 pm.

I attach plaintiff's proposed exhibit list to this letter for the Court's convenience.

Sincerely yours,

David S. Hammer
 David S. Hammer

Attorney for Defendant RDR Books

cc: Dale M. Cendali, Esq.

MEMO ENDORSED

*Application granted
 so ordered
 Judge P. Patterson
 4/8/08*

2. Bruce Harris
3. David Harris
4. Shawn Malhotra
5. Steven Vander Ark
6. Diana Birchall

IX. Deposition Testimony Designations

No depositions have been taken in this matter and therefore the parties have not designated any deposition testimony. The parties have agreed, however, that all of the declarations, with their exhibits, submitted by the parties in connection with Plaintiffs' Motion for Preliminary Injunction shall be submitted as part of the record before the Court.

X. Exhibits

A. Plaintiffs

Plaintiffs intend to produce the following exhibits in their chase in chief:

Document	Plaintiffs' Exhibit #
The Harry Potter Lexicon Manuscript	1
Quidditch Through the Ages	2
Fantastic Beasts and Where to Find Them	3
Harry Potter and the Sorcerer's Stone	4
Harry Potter and the Chamber of Secrets	5
Harry Potter and the Prisoner of Azkaban	6
Harry Potter and the Goblet of Fire	7
Harry Potter and the Order of the Phoenix	8
Harry Potter and the Half-Blood Prince	9

Document	Plaintiffs' Exhibit #
Harry Potter and the Deathly Hallows	10
Diana Birchall Declaration	11
Birchall Exhibit A: <i>Harry Potter</i> entry from the Lexicon	11-A
Birchall Exhibit B : Voldemort entry from the Lexicon	11-B
Birchall Exhibit C: "Severus Snape" entry from the Lexicon	11-C
Birchall Exhibit D: Comparison chart	11-D
Birchall Exhibit E: "Hogwarts' School Song" entry from the Lexicon	11-E
Birchall Exhibit F: "Sorting Hat" entry from the Lexicon	11-F
Birchall Exhibit G: "His Eyes Are as Green as Fresh Pickled Toad" entry from the Lexicon	11-G
Birchall Exhibit H: "Dementors" entry from the Lexicon	11-H
Birchall Exhibit I: "Hair-Care Products" entry from the Lexicon	11-I
Birchall Exhibit J : "Entrance Hall" entry from the Lexicon	11-J
Birchall Exhibit K : "Marcus Belby" entry from the Lexicon	11-K
Birchall Exhibit L : "Gobbledegook" entry from the Lexicon	11-L
Birchall Exhibit M : Two charts comparing the language from the Lexicon to the text from the <i>Fantastic Beast and Where to Find Them</i> and <i>Quiddich Through the Ages</i>	11-M
Neil Blair Declaration	12
Blair Exhibit A: Copyright registrations for those works, namely, <i>Harry Potter and the Sorcerer's Stone</i> , Serial No. TX 4-465-397; <i>Harry Potter and the Chamber of Secrets</i> , Serial No. TX 4-465-398; <i>Harry Potter and the Prisoner of Azkaban</i> , Serial No. TX 4-465-399; <i>Harry Potter and the Goblet of Fire</i> , Serial No. TX 5-122-771; <i>Harry Potter and the Order of the Phoenix</i> , Serial No. TX-5-705-321; <i>Harry Potter and the Half-Blood Prince</i> , Serial No. TX-6-179-388; <i>Harry Potter and the Deathly Hallows</i> , Serial No. TX-6-578-062; <i>Quidditch through the Ages</i> , TX-5-374-649; and <i>Fantastic Beasts and Where to Find Them</i> , TX-5-374-653	12-A
Blair Exhibit B : Email exchange between Mr. Vander Ark and the Christopher Little Agency relating to the removal of infringing material from the <i>Lexicon</i> Website.	12-B
Blair Exhibit C : Email string between Mr. Vander Ark and the Christopher Little Literary Agency	12-C
Blair Exhibit D " Advertisement from the website www.PublishersMarketplace.com .	12-D
Emily Blumsack Declaration	13
Blumsack Exhibit A: Section of the Infringing Book covering entries for letters A-D - - as formatted for publication -- produced by RDR Books pursuant to the Court's Expedited Discovery Order	13-A
Blumsack Exhibit B: Section of the Infringing Book containing letters E-Z as produced by Defendant without formatting and typesetting for publication	13-B
Blumsack Exhibit C: Color copy of the cover of the Infringing Book that was originally produced pursuant to Court's Order	13-C
Blumsack Exhibit D: Color copy of the revised cover of the Infringing Book that was subsequently produced pursuant by Defendant	13-D
Blumsack Exhibit E: Front and back covers and illustrative pages from <i>Muggles and Magic: An Unofficial Guide of J. K. Rowlings and the Harry Potter Phenomenon</i>	13-E
Blumsack Exhibit F: Front and back covers and illustrative pages from <i>Beacham's Sourcebooks for Teaching Young Adult Fiction: Exploring Harry Potter</i>	13-F

Document	Plaintiffs' Exhibit #
Blumsack Exhibit G: Front and back covers and illustrative pages from <i>If Harry Potter Ran General Electric</i>	13-G
Blumsack Exhibit H: Front and back covers and illustrative pages from <i>Mugglenet.com's What Will Happen in Harry Potter 7</i>	13-H
Blumsack Exhibit I: Front and back covers and illustrative pages from <i>The Complete Idiot's Guide to the World of Harry Potter</i>	13-I
Melanie Bradley Declaration	14
Bradley Exhibit A: Illustrative printouts from the Lexicon Website	14-A
Bradley Exhibit B: Illustrative pages from the <i>Infringing Book</i>	14-B
Bradley Exhibit C: Illustrative printouts from the Lexicon Website showing these topical listings	14-C
Bradley Exhibit D: Copies of the FAQs and "Statement of Editorial Policy" from the Lexicon Website	14-D
Bradley Exhibit E: Copies of the "About the Harry Potter Lexicon section of the Lexicon Website"	14-E
Bradley Exhibit F: Printout of the main page form the Lexicon Website's "Bestiary" section	14-F
Bradley Exhibit G: Copy of the "screen shot" showing the copyright notice	14-G
Bradley Exhibit H: Cease and desist e-mail that Defendant sent to Warner Bros	14-H
Bradley Exhibit I: Representative examples of articles in which Ms. Rowling is quoted as intending to author such a book	14-I
Bradley Exhibit J: Letter agreement dated August 23, 2007 between Defendant and Vander Ark	14-J
Bradley Exhibit K: 2 e-mails from Roger Rappoport of RDR to a foreign publishing agent instructing them to avoid Mrs. Rowlings' publishers	14-K
Bradley Exhibit L: Email in which Defendant's marketing person is instructed to contact children's bookstores and book buyers about the <i>Infringing Book</i>	14-L
Bradley Exhibit M: Copies of Defendant's marketing materials	14-M
Bradley Exhibit N: Email string between Defendant and its publisher in Canada	14-N
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Cendali Exhibit A: September 18, 2007 letter to RDR Books	15-A
Cendali Exhibit B: September 19, 2007 email from RDR Books	15-B
Cendali Exhibit C: October 3, 2007 letter to RDR Books	15-C
Cendali Exhibit D: October 3, 2007 email from RDR Books	15-D
Cendali Exhibit E: October 3, 2007 email to RDR Books	15-E
Cendali Exhibit F: October 19, 2007 letter to RDR Books	15-F
Cendali Exhibit G: October 21, 2007 email from RDR Books	15-G
Cendali Exhibit H: October 24, 2007 letter to RDR Books	15-H
Cendali Exhibit I: October 24, 2007 email from RDR Books	15-I
Myron J. Helfgott, PH. D Declaration	16
Helfgott Exhibit A: The Results of a False Endorsement Survey Concerning "The Unofficial Harry Potter Lexicon"	16-A
Jeri Johnson Declaration	17
Cheryl Klein Declaration	18
Klein Exhibit A: Sample pages from Scholastic internal Harry Potter index	18-A
William Landes Declaration	19

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Landes Exhibit A: Curriculum Vitae	19-A
Jessica Lares Declaration	20
Lares Exhibit A: Mr. Vander Ark's e-mail dated May 15, 2005	20-A
Matthew Lawlis Declaration	21
Lawlis Exhibit A: Mr. Vander Ark's e-mail dated May 15, 2005	21-A
Suzanne Murphy Declaration	22
Murphy Exhibit A: Copy of page one of RDR Books' catalogue and the flyer produced by Defendant	22-A
Sarah Odedina Declaration	23
Odedina Exhibit A: Sample Pages of the HP Bible	23-A
Deon Perry Declaration	24
J.K. Rowling Declaration	25
Jeremy Williams Declaration	26
Supplemental Emily Blumsack Declaration	27
Supplemental Blumsack Exhibit A : Front and back covers and illustrative pages from <i>The Magical Worlds of Harry Potter: A Treasury of Myths, Legends, and Fascinating Facts</i>	27-A
Supplemental Blumsack Exhibit B: Nielsen BookScan United States Consumer Market ("BookScan") panel data for <i>Harry Potter A-Z</i> , by Kristina Benson	27-B
Supplemental Blumsack Exhibit C: BookScan panel data as of Feb. 22, 2008 for <i>An Unofficial Muggle's Guide to the Wizarding World</i> , by Fiona Boyle	27-C
Supplemental Blumsack Exhibit D: Letter sent by Mr. Hammer to the Court on February 25, 2008	27-D
Supplemental Blumsack Exhibit E: Emails between Mr. Rapoport and Mr. Vander Ark dated September 9, 2007	27-E
Supplemental Blumsack Exhibit F: The posting made by Mr. Vander Ark to the public Internet forum "Harry Potter for Grown Ups," dated July 26, 2000	27-F
Supplemental Blumsack Exhibit G : Mr. Vander Ark's posting to the Yahoo Group "Harry Potter for Grown Ups" dated December 14, 2000	27-G
Supplemental Blumsack Exhibit H : Email sent by Roger Rapoport to Peter Tummies dated August 21, 2007 referenced by Bates Number RDR0941-RDR0942	27-H
Supplemental Blumsack Exhibit I : Website brochure for Harry Potter Tours' summer event entitled "The Ultimate Tour with Steve Vander Ark," slated to take place from July 14-23, 2008	27-I
Supplemental Blumsack Exhibit J : Website advertisement for the program of an event in Manhattan sponsored by the New York Public Library entitled "Meet Steve Vander Ark, Author of The Harry Potter Lexicon" where, Mr. Vander Ark was speaking. Event was on the same day Plaintiff's filed their Amended Complaint	27-J
Supplemental Blumsack Exhibit K: Email between Roger Rapoport and employees of Barnes and Noble dated October 18, 2007 representing Bates numbers RDR0492-RDR0493	27-K
Supplemental Blumsack Exhibit L: The forum posting from "The Leaky Cauldron" by user "dresdenfiles.fan"	27-L
Supplemental Blumsack Exhibit M: The forum posting from "The Leaky Cauldron" by user "cbm" dated February 20, 2008	27-M

Document	Plaintiffs' Exhibit #
Supplemental Blumsack Exhibit N: Screen shot showing the entry titled "Something I had to do..." from the Lexicon website posted on May 11, 2007	27-N
Supplemental Blumsack Exhibit O: Email exchange between Mr. Rapoport and Richard Harris dated September 30, 2007	27-O
Supplemental Jeri Johnson Declaration	28
Supplemental Klein Declaration	29
Supplemental Klein Exhibit A: Email chain between Mr. Vander Ark and Klein from early August 2006	29-A
Supplemental William Landes Declaration	30
Supplemental Landes Exhibit A: Copy of the BookScan data	30-A
Supplemental Suzanne Murphy Declaration	31
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The Daily Prophet Newsletters	33
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Harry Potter and the Sorcerer's Stone video game	36
Harry Potter and the Chamber of Secrets video game	37
Harry Potter and the Prisoner of Azkaban video game	38
Harry Potter and the Goblet of Fire video game	39
Harry Potter and the Order of the Phoenix video game	40
Chart of Lexicon source material.	41
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Chart showing text from <i>Quidditch Through the Ages</i> and the Lexicon	43
Chart showing text from <i>Fantastic Beasts</i> and the Lexicon	44
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Annotated Harry Potter Lexicon Manuscript	49
Amazon.com listings for Harry Potter companion books	50
Research Assessment Exercise, RAE 2008 Guidance on Submissions	51
MLA Style Manual and Guide to Scholarly Publishing, by Joseph Gilbaldi	52
Merriam-Webster Online dictionary definition for "smarmy"	53
Encyclopedia Britannica Online entry for "Heinrich Cornelius Agrippa Von Nettesheim"	54
Shakespeare Illustrated, by Charlotte Lennox	55
Pamela Illustrated, by Samuel Richardson	56
Illustrations of the Novels and Tales (of Sir Walter Scott), by William Allan	57
Illustrations of the Author of Waverly, by Robert Chambers	58
On the Track of the Wessex Novels: a Guide to Hardy Country, by William Parker	59
Pynchon's Character Names, A Dictionary, by Patrick Hurley	60
Tolkien and the Lord of the Rings: A Guide To Middle Earth, by Colin Duriez	61
Companion to Narnia, by Paul F. Ford	62
The J.R.R. Tolkien Companion and Guide, by Christina Scull & Wayne G. Hammond	63

Document	Plaintiffs' Exhibit #
The People's Guide to J.R.R. Tolkien, edited by Erica Challis	64
The Way Into Narnia, by Peter J. Schakel	65
Passport to Narnia: A Newcomer's Guide, by George Beahm	66
A Complete Guide to Middle Earth: Tolkien's World from A-Z, by Robert Foster	67
Atlas of Middle Earth, by Karen Fonstad	68
Guide to Tolkien's World, by David Day	69
The Chronicles of Narnia: Beyond the Wardrobe: The Official Guide to Narnia, by E.J. Kirk	70
A Field Guide to Narnia, by Colin Duriez	71
A Guide Through Narnia, by Martha Sammons	72
The Complete Idiot's Guide to the World of Harry Potter, by Tere Stouffer	73
Fact, Fiction & Folklore in Harry Potter's World: An Unofficial Guide, by George Beahm	74
The Magical Worlds of Harry Potter, by David Colbert	75
August 3, 2004 email from Neil Blair to Steven Vander Ark re: posting on the Lexicon website and Daily Prophet Posting on Lexicon website	76
July 21, 2007 article from Muskegon Journal about Vander Ark	77
Video of Steven Vander Ark at Prophecy Convention (August 2007)	78
March 28, 2008 letter from David S. Hammer, Esq. to Melanie Bradley, Esq. and attachment showing revisions to entries about Fantastic Beasts and Where to Find Them	79
February 26, 2001 letter from Dale Cendali to Carroll & Graf Publishers, Inc. JKR000282	80
April 11, 2001 letter from Claudia Ray to Ward & Olivo JKR001849	81
July 26, 2002 letter from Dale Cendali to Presbyterian Publishing JKR000621 - JKR000622	82
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August 8, 2007 e-mail from Roger Rapoport to Peter Tummons RDR 0937	87
August 15, 2007 e-mail from Roger Rapoport to Steve Vander Ark RDR 0516	88
August 16, 2007 e-mail from Roger Rapoport to Peter Tummons RDR 0939 - RDR 0940	89
August 17, 2007 e-mail from Roger Rapoport to Steve Vander Ark VA 013	90
August 17, 2007 e-mail from Roger Rapoport to Steve Vander Ark RDR 0517	91

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August 20, 2007 e-mail from Roger Rapoport to Steve Vander Ark RDR 0518	94
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August 22, 2007 e-mail chain from Richard Harris to Steve Vander Ark VA 035 - VA 036	98
August 28, 2007 e-mail chain from Marta to Steve Vander Ark VA 106 - VA 109	99
August 29, 2007 e-mail chain from Steve Vander Ark to Roger Rapoport RDR 0069 RDR 0070	100
September 3, 2007 e-mail chain from Lisa Bunker to Steve Vander Ark et.al. VA 174 - VA 175	101
September 7, 2007 e-mail from Steve Vander Ark to Roger Rapoport RDR 0107	102
September 11, 2007 e-mail chain from Clint Hagen to Steve Vander Ark VA 296 - VA 297	103
September 11, 2007 e-mail chain from Roger Rapoport to Hongyan Wu RDR 0621 - RDR 0623	104
September 11, 2007 e-mail chain from Belinda Hobbs to Steve Vander Ark VA 363	105
September 13, 2007 e-mail from Roger Rapoport to Megan Trank RDR 0630	106
September 13, 2007 e-mail from Steve Vander Ark to Roger Rapoport RDR 1048	107
September 17, 2007 e-mail from Hongyan Wu to Roger Rapoport RDR 0360	108
September 17, 2007 e-mail from Steve Vander Ark to Roger Rapoport RDR 148	109
September 18, 2007 e-mail from Roger Rapoport to Cal (geeteebee@adelphia.net) RDR 0678	110
September 19, 2007 e-mail from Roger Rapoport to Chantal Baltussen RDR 0692	111
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September 20, 2007 e-mail from Roger Rapoport to Maria Rutgers RDR 0696	114
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September 26, 2007 e-mail chain from Joao Paulo Riff / Agencia Riff to Roger Rapoport RDR 397- RDR 398	118
September 28, 2007 e-mail chain from Eduard Richter to Roger Rapoport RDR 0406 - RDR 0407	119
October 5, 2007 e-mail chain from Roger Rapoport to Joao Paulo/Agencia Riff RDR 0721	120
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October 9, 2007 e-mail chain from Roger Rapoport to Peter Tummons RDR 0862 - RDR 0863	124
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October 15, 2007 e-mail from Ricciarda Barbieri to Roger Rapoport RDR 0430	126
October 15, 2007 e-mail chain from Roger Rapoport to Tuvia (caduceo2002@hotmail.com) RDR 0739	127
October 15, 2007 e-mail from Roger Rapoport to Almuth Andreae RDR 0740	128
October 16, 2007 e-mail from Roger Rapoport to Rosa Moya RDR 0743	129
October 16, 2007 e-mail from Roger Rapoport to Eduard Richter RDR 0744	130
October 16, 2007 e-mail from Roger Rapoport to Steve Jan Vander Ark RDR 0568	131
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October 18, 2007 e-mail from Roger Rapoport to Susan Aikens RDR 0756	133
October 18, 2007 e-mail chain from Eva Povelko to Rogert Rapoport RDR 0440	134
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October 29, 2007 e-mail from Roger Rapoport to Teresa Pagano RDR 0795	138
October 29, 2007 e-mail chain from Teresa Pagano to Roger Rapoport RDR 0494 - RDR 0496	139
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December 11, 2007 e-mail chain from Steve Vander Ark to Roger Rapoport RDR 2306	143
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The Great Snape Debate: The Case for Snape's Guilt/Innocence	161
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The Mystery of Harry Potter A Catholic Family Guide	165
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Harry Potter: Feminist Friend or Foe?	203
Wizards, Hobbits, and Harry Potter What Your Family Needs to Know	204

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The Magic of Harry Potter Essays Concerning Magic, Literary Devices, and Moral Themes in J. K. Rowling's <i>Harry Potter</i>	205
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B. Defendants

RDR Books intends to produce the following exhibits in its case in chief:

- 501 Declaration of Roger Rapoport
 - 501a Presently proposed cover to the Lexicon
- 502 Declaration of Steven Jan Vander Ark
 - 502a Note to Steven Vander Ark from Cheryl Klein
 - 502b-o Sections of the Lexicon
- 503 Declaration of Janet Sorensen
 - 503a CV of Janet Sorensen
- 504 Declaration of Shawn Malhotra
 - 504a Summary chart of Rowling interviews
 - 504b-e Interviews with J.K. Rowling
- 505 Declaration of David Harris
 - 505a-f Scans of other third party companion books
 - 505g Summary chart of companion books