

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CAPITOL RECORDS, LLC,

Plaintiff,

Civil Action No: 12 CIV 0095
(RJS)

- against -

REDIGI, INC. ,

Defendant.
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**DECLARATION LARRY RUDOLPH (aka Lawrence S. Rogel)
IN SUPPORT OF DEFENDANT'S MOTION FOR A PROTECTIVE ORDER**

I, **LARRY RUDOLPH** (aka Lawrence S. Rogel), pursuant to 28 U.S.C. § 1746, declare under the penalty of perjury, as follows:

1. I am Chief Technical Officer and a founder of ReDigi Inc. and as such I have personal knowledge of the facts set forth herein.

2. I submit this declaration in support of ReDigi's motion for an order permitting the continued sealing of the following documents to be conditionally filed under seal by ReDigi and Plaintiff Capitol Records, LLC ("Capitol") pursuant to the Court's August 2, 2012 endorsed letter order:

3. (1) Deposition Excerpts of Rudolph Rogel Deposition taken on June 18, 2012, attached to the Declaration of Gary Adelman dated August 14, 2012 ("8/14/12 Adelman Decl.") as Exhibit 1; (2) Deposition Excerpts from the Ossenmacher Deposition taken on June 19, 2012, attached to the 8/14/12 Adelman Declaration as Exhibit 2; (3) Deposition Excerpts from the Ossenmacher Deposition taken on June 19, 2012, attached to the Declaration of Richard Mandel dated August 9, 2012, as Exhibit 1; (4) the Declaration of Doug Jacobson dated August 9, 2012; (5) Capitol's Response to Defendant's Statement of Undisputed Facts Pursuant to Local Rule

5.61; (6) ReDigi's Counter Statement Pursuant to Local Rule 56.1; (7) Capitol's Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment dated August 14, 2012; (8) Reply Memorandum of Law in Further Support of Plaintiff's Motion for Partial Summary Judgment dated August 24, 2012; (9) Reply Declaration of Richard Mandel dated August 21, 2012; (10) Exhibit 2 attached to the Reply Declaration of Richard Mandel dated August 21, 2012; (11) Memorandum of Law In Opposition to Capitol Records LLC's Motion for Partial Summary Judgment dated August 14, 2012; (12) Memorandum of Law in Further Support of ReDigi's Summary Judgment Motion dated August 24, 2012; (13) Declaration of Larry Rudolph In Support of Defendant's Opposition to Plaintiff's Motion for Summary Judgment dated August 14, 2012; and (14) Declaration of Larry Rudolph in Further Support of ReDigi's Motion for Summary Judgment dated August 23, 2012.

4. Capitol's and ReDigi's papers contain documents and information that ReDigi would prefer remain confidential as they disclose certain business and technical information about the systems and services of the company, which if known by its competitors or others, would give those third parties competitive and other advantages that ReDigi would like to prevent.

5. Attached hereto as Exhibit "A" is a list of all the documents submitted by Plaintiff and Defendant in Support of their respective oppositions and replies in connection with their motions for Summary Judgment and below each document is an itemized list of the sections of that document that ReDigi is requesting be kept sealed under this Order.

6. Protection from public disclosure is particularly important in connection with documents and information filed with motions of this nature that contain highly confidential and sensitive information which is not generally available to the public, including details concerning

ReDigi's raising of finances, structure, operation of its proprietary software, information gathered and ReDigi's private interactions with potential business partners.

7. ReDigi has and continues to invest substantial efforts to protect the confidentiality of this information. However, in order to comply with its discovery obligations ReDigi has produced a significant volume of confidential and sensitive information in each of these areas, some of which was filed under seal in connection with ReDigi's motion for Summary Judgment and was filed by the Plaintiff in support of its motion for partial Summary Judgment. That information should remain under seal.

8. The information that should be protected can be separated into two (2) basic categories.

9. First category. These items are identified in Exhibit "A" as Proprietary details of ReDigi Software trade secrets.

10. ReDigi does not want users or the public to know what ReDigi is doing, since such disclosure could increase the risk of compromising the security of ReDigi's system and expose it to attacks by hackers. All standard computer protocols have evolved over time to defend against unexpected "attacks" and, currently, most are highly resilient. Some of these, however, involve making copies of files and are useless to ReDigi.

11. ReDigi therefore has developed some non-standard protocols that do not involve making copies. Although their functionality has been tested, they too must evolve to be resilient to unexpected attacks. While trade secret is not a reliable defense against attacks, it does slow down the rate while the attackers probe for weaknesses. This gives ReDigi the time to prepare new ways to parry these attempts.

12. ReDigi has invested heavily in its technology that ensures no copies are made, only legally acquired music files are eligible, and to monitor the user's storage devices for songs sold or offered for sale. We do not want competitors to understand exactly how ReDigi Software works, as this is our competitive advantage.

13. Second Category. These items are identified in Exhibit "A" as Investors, Business Plans and Finances.

14. All of the documents listed under this category were provided under confidentiality to any individual or company that received them and ReDigi would like to respect those agreements.

15. Without the ability to guarantee confidentiality, it will be difficult for ReDigi to enter into business agreements in the future.

16. ReDigi would like to protect its proprietary information both in its software and systems, its marketing and business plans.

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

Executed on August 31, 2012 in Cambridge, Massachusetts.



LARRY RUDOLPH (aka Lawrence S. Rogel)

8/31/12

Exhibit "A"

The "Redacted Documents"

Deposition Excerpts of Rudolph Rogel attached to 8/14/12 Adelman Decl.

1. Page 73 line 1 through Page 73 line 25 - Proprietary details of ReDigi Software trade secrets.
2. Page 90 line 1 through Page 93 line 25 - Proprietary details of ReDigi Software trade secrets.
3. Page 106 line 13 through Page 110 line 15 - Proprietary details of ReDigi Software trade secrets.
4. Page 122 lines 1-25 - Proprietary details of ReDigi Software trade secrets.
5. Page 123 line 6 through Page 125 line 22 - Proprietary details of ReDigi Software trade secrets.
6. Page 155 lines 5-25 - Proprietary details of ReDigi Software trade secrets.
7. Page 156 lines 1-10 - Proprietary details of ReDigi Software trade secrets.

Deposition Excerpts of Ossenmacher Deposition attached to 8/9/12 Mandel Decl.

1. Page 66 line 1-22 - Business & Financial plans and Privilege.
2. Page 201 line 1 through page 204 line 25 - Proprietary details of ReDigi Software trade secrets.
3. Page 243 line 1 to page 244 line 25 - Proprietary details of ReDigi Software trade secrets and discussion of ReDigi vendors.

Deposition Excerpts of Ossenmacher attached to 8/14/12 Adelman Decl. Exhibit 2.

1. Page 55 line 11 through Page 57 line 25 – Proprietary details of ReDigi Software trade secrets
2. Page 66 lines 2-25 – Attorney-Client privilege discussion
3. Page 80 line 1 through Page 81 line 25 - Proprietary details of ReDigi Software trade secrets
4. Page 96 line 2 through Page 105 line 25 - Proprietary details of ReDigi Software trade secrets.
5. Page 134 line 2 through Page 137 line 25 – Business & Financial plans - Investor Discussions.
6. Page 174 line 2 through Page 175 line 2 – Proprietary details of ReDigi Software trade secrets.
7. Page 190 line 2 through Page 193 line 25 – Proprietary details of ReDigi Software trade secrets and Business Plans.

8. Page 206 line 2 through Page 210 line 25 – Proprietary details of ReDigi Software trade secrets.
9. Page 213 lines 8-25 – Proprietary details of ReDigi Software trade secrets and agreements with vendors.
10. Page 230 line 2 through Page 233 line 25 – Proprietary details of ReDigi Software trade secrets and negotiations with vendors and agreements with vendors.
11. Page 266 line 2 through Page 269 line 25 – Proprietary details of ReDigi Software trade secrets and negotiations with vendors and agreements with vendors.

Doug Jacobson Decl. dated August 9, 2-12, attached to Plaintiffs Opposition Motion

1. Paragraphs 6-17 - Proprietary details of ReDigi Software trade secrets.

Plaintiff's Response to ReDigi's 56.1 Statement attached to Plaintiff's Opposition papers.

1. Paragraphs 11, 14, 20, 21, 22, 23, 25, 26, 27, 28, 30, 33-36, 38, 39, 40-45, 53, 54, 64, 68, 72-76, 79 (all partials in the paragraphs), - Proprietary details of ReDigi Software trade secrets.

ReDigi's 56.1 Couter-Statement attached to ReDigi's reply in support of its motion

1. Paragraphs 22, 29, 30 (partial) , 32, 34-36, 37 (Partial), 39 (partial), 42 (partial), 55, 66, 79 (partial), 44, - Proprietary details of ReDigi Software trade secrets.
2. Response Paragraphs 14, 19, 23, 58 (partial), 62, 71, 72 - Proprietary details of ReDigi Software trade secrets.

Plaintiff's Memorandum of Law in opposition to ReDigi's Motion for Summary Judgment

1. Table of Contents, paragraphs C&D - Proprietary details of ReDigi Software trade secrets.
2. Preliminary Statements – page 1 (partials) - Proprietary details of ReDigi Software trade secrets.
3. Page 4, paragraph 2 - Proprietary details of ReDigi Software trade secrets.
4. Page 5, paragraphs 1&2 – Proprietary details of ReDigi Software trade secrets
5. Page 7, paragraphs 1-4 - Proprietary details of ReDigi Software trade secrets
6. Page 8, paragraph 1 and footnote 2 - Proprietary details of ReDigi Software trade secrets
7. Page 9, paragraph 2 and footnote 3 - Proprietary details of ReDigi Software trade secrets
8. Page 10, paragraphs 2-3 - Proprietary details of ReDigi Software trade secrets
9. Page 11, paragraphs 1-3 - Proprietary details of ReDigi Software trade secrets
10. Page 12, paragraphs 1-3 - Proprietary details of ReDigi Software trade secrets
11. Page 14, paragraphs 1-2 - Proprietary details of ReDigi Software trade secrets

12. Page 15, paragraph 1-2 and footnote 5 - Proprietary details of ReDigi Software trade secrets
13. Page 16, paragraphs 1-2 - Proprietary details of ReDigi Software trade secrets
14. Page 17, full page - Proprietary details of ReDigi Software trade secrets
15. Page 18, paragraph 1 and footnotes 6&7 - Proprietary details of ReDigi Software trade secrets
16. Page 19, paragraph 2 - Proprietary details of ReDigi Software trade secrets
17. Page 21, paragraph 2 - Proprietary details of ReDigi Software trade secrets
18. Page 24, paragraph 2 - Proprietary details of ReDigi Software trade secrets

Plaintiff's Reply Memorandum of Law in further support

1. Page 2, paragraph 2 - Proprietary details of ReDigi Software trade secrets
2. Page 3, paragraph 3 - Proprietary details of ReDigi Software trade secrets
3. Page 4, paragraph 2 - Proprietary details of ReDigi Software trade secrets
4. Page 8, paragraphs 1-2 - Proprietary details of ReDigi Software trade secrets
5. Page 9, paragraph 2 - Proprietary details of ReDigi Software trade secrets

ReDigi's Memorandum of Law in opposition to plaintiffs motion

1. Page 3, paragraph 3&4 - Proprietary details of ReDigi Software trade secrets.
2. Page 4, paragraph 2 - Proprietary details of ReDigi Software trade secrets.
3. Page 5, paragraphs 2&3 - Proprietary details of ReDigi Software trade secrets.
4. Page 7, paragraph 3 - Proprietary details of ReDigi Software trade secrets
5. Page 8, line 4- Proprietary details of ReDigi Software trade secrets
6. Page 10, line 13 and footnote 7. - Proprietary details of ReDigi Software trade secrets.
7. Page 12, paragraphs 1&2 - Proprietary details of ReDigi Software trade secrets.
8. Page 13, paragraph 2, Proprietary details of ReDigi Software trade secrets.
9. Page 16, paragraphs 1&2 and footnote 11 - Proprietary details of ReDigi Software trade secrets
10. Page 17, lines 4-8 - Proprietary details of ReDigi Software trade secrets
11. Page 18, lines 14 - Proprietary details of ReDigi Software trade secrets
12. Page 20, lines 1-4 and footnote 13 lines 8-10 - Proprietary details of ReDigi Software trade secrets
13. Page 22, paragraphs 2&3 - Proprietary details of ReDigi Software trade secrets
14. Page 23, lines 1-2 - Proprietary details of ReDigi Software trade secrets
15. Page 24, lines 11- Proprietary details of ReDigi Software trade secrets
16. Page 25, lines 8-9 - Proprietary details of ReDigi Software trade secrets

ReDigi's Reply Memorandum of Law in support of its motion

1. Page 1, lines 6, 7& 12 - Proprietary details of ReDigi Software trade secrets.
2. Page 2, lines 1, 3, 8, 11 - Proprietary details of ReDigi Software trade secrets.
3. Page 3, lines 6, 10, 11, 12, 14-16 and footnote 2 line 12- Proprietary details of ReDigi Software trade secrets.
4. Page 4, line 21 - Proprietary details of ReDigi Software trade secrets
5. Page 5, line 1, 2, 12, 21, 22 - Proprietary details of ReDigi Software trade secrets
6. Page 6, lines 3-22. - Proprietary details of ReDigi Software trade secrets.
7. Page 7, lines 1&2 - Proprietary details of ReDigi Software trade secrets.
8. Page 8, lines 6-25 - Proprietary details of ReDigi Software trade secrets.
9. Page 10, lines 21-23 - Proprietary details of ReDigi Software trade secrets
10. Page 11, lines 1,2,5,10 - Proprietary details of ReDigi Software trade secrets.
11. Page 15, lines 5&7 - Proprietary details of ReDigi Software trade secrets

Declaration of Larry Rudolph (aka Rogel) in support of the opposition to plaintiff's Motion

1. Paragraphs 4, 5 and 8 – All redactions describe in specific detail ReDigi proprietary software and internal workings of the Redigi Software and are trade secrets.

Declaration of Larry Rudolph (aka Rogel) in further support of the ReDigi's Motion

1. Paragraphs 2, 15, 16 (partial), 17 (partial), 18-20, 21 (partial), 22 (partial), 23 (partial), 25 (partial) 26 (partial) and 28 (partial) – All redactions describe in specific detail ReDigi proprietary software and internal workings of the ReDigi Software and are trade secrets.

Reply Declaration of Mandel in further support of Plaintiff's motion

1. Paragraphs 3 and the Entire Exhibit "2" attached thereto. – Attorney-Client Privilege.