

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, LLC,

Plaintiff,

-v-

REDIGI INC., JOHN OSSENMACHER, and
LARRY RUDOLPH,

Defendants.

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12-cv-95 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

On September 16, 2014, Defendants John Ossenmacher and Larry Rudolph (the “Individual Defendants”) filed a motion for reconsideration (Doc. No. 150) of the Court’s September 2, 2014 Opinion and Order (Doc. No. 148) (the “Order”) denying the Individual Defendants’ motion to dismiss Plaintiff’s claims for copyright infringement. For the reasons discussed below, the Individual Defendants’ motion is denied.

“A motion for reconsideration . . . ‘will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked – matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.’” *Atl. Recording Corp. v. BCD Music Grp., Inc.*, No. 08 Civ. 5201 (WHP), 2009 WL 2046036, at *1 (S.D.N.Y. July 15, 2009) (quoting *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995)). “Alternatively, a motion for reconsideration may be granted to ‘correct a clear error or prevent manifest injustice.’” *Banco de Seguros Del Estado v. Mut. Marine Offices, Inc.*, 230 F. Supp. 2d 427, 428 (S.D.N.Y. 2002) (quoting *Griffin Indus., Inc. v. Petroiam, Ltd.*, 72 F. Supp. 2d 365, 368 (S.D.N.Y. 1999)).

“The standard for reconsideration is strict and the decision is ‘within the sound discretion of the district court.’” *Atl. Recording*, 2009 WL 2046036, at *1 (quoting *Colodney v. Continuum Health Partners, Inc.*, No. 03 Civ. 7276 (DLC), 2004 WL 185768, at *1 (S.D.N.Y. Aug. 18, 2004)). Moreover, importantly, a motion for reconsideration “may not be used to advance new facts, issues[,] or arguments not previously presented to the Court, nor may it be used as a vehicle for re-litigating issues already decided by the Court.” *Am. ORT, Inc. v. ORT Israel*, No. 07 Civ. 2332 (RJS), 2009 WL 233950, at *3 (S.D.N.Y. Jan. 22, 2009) (quotation marks omitted); *accord Kahala Corp. v. Holtzman*, No. 10 Civ. 4259 (DLC), 2011 WL 1118679, at *1 (S.D.N.Y. Mar. 24, 2011) (citing *Nat’l Union Fire Ins. Co. of Pittsburgh v. Stroh Cos., Inc.*, 265 F.3d 97, 115 (2d Cir. 2001)).

Here, the Individual Defendants argue that Plaintiff inadequately pled facts to support the elements of copyright infringement. But the Individual Defendants point to no authority or data that the Court overlooked in denying their original motion. Instead, the Individual Defendants simply restate their conclusion that Plaintiff has failed to meet the pleading standards pursuant to *Iqbal* and *Twombly* while continuing to misstate the elements of direct and secondary copyright infringement. The Individual Defendants also baldly assert that the Court impermissibly relied on materials outside the pleadings in reaching its conclusion. Yet the Court’s Order cites exclusively to the First Amended Complaint for its factual representations, and the Individual Defendants cannot point to anything to suggest to the contrary, other than their own incredulity that the Court disagreed with them.

Because the Individual Defendants simply rehash the same arguments advanced in their briefing in support of their motion to dismiss, IT IS HEREBY ORDERED THAT the Individual Defendants’ motion is DENIED. As stated in the Court’s September 22, 2014 Order, the parties

are to submit a joint letter detailing the status of any remaining discovery disputes by October 22, 2014.

SO ORDERED.

Dated: October 15, 2014
 New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE