

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

CAPITOL RECORDS, LLC, CAPITOL  
CHRISTIAN MUSIC GROUP, INC., and  
VIRGIN RECORDS IR HOLDINGS, INC.,

Plaintiffs,

v.

REDIGI INC., JOHN OSSENMACHER, and  
LARRY RUDOLPH a/k/a LAWRENCE S.  
ROGEL,

Defendants.

12-CV-00095 (RJS)

**DECLARATION OF JAMES J. PIZZIRUSSO IN SUPPORT OF INDIVIDUAL  
DEFENDANTS' MEMORANDUM OF LAW REGARDING THE APPLICATION OF  
RES JUDICATA, COLLATERAL ESTOPPEL, AND LAW OF THE CASE**

I, James J. Pizzirusso, declare as follows:

1. I am partner in the law firm of Hausfeld LLP, the law firm representing Mr. John Ossenmacher and Prof. Larry Rudolph (the "Individual Defendants").
2. I submit this declaration in support of the Individual Defendants' Memorandum of Law Regarding the Application of *Res Judicata*, Collateral Estoppel, and Law of the Case.
3. Attached as Exhibit 1 are true and correct copies of the August 2, 2013 letter submitted to the Court by counsel for Plaintiff, Capitol Records, LLC ("Capitol") requesting leave to amend its complaint and the August 7, 2013 letter submitted to the Court by counsel for Defendant, ReDigi Inc. ("ReDigi") responding to Capitol's counsel's August 2, 2013 letter to the Court on behalf of ReDigi.

4. Attached as Exhibit 2 is a true and correct copy of excerpts of the transcript of the Court's August 9, 2013 hearing regarding the August 2, 2013 request to amend the complaint.

5. Attached as Exhibit 3 is a true and correct copy of the September 16, 2013 joint letter submitted to the Court by counsel for the Individual Defendants and counsel for Capitol.

6. Attached as Exhibit 4 are true and correct copies of the October 21, 2014 letter submitted by counsel for Capitol requesting leave to amend to add additional plaintiffs to this action and the October 24, 2014 letter submitted by counsel for ReDigi and the Individual Defendants opposing Capitol's October 21, 2014 request to amend.

7. Attached as Exhibit 5 is a true and correct copy of October 28, 2014 email from counsel for Capitol to the Court attaching a redline of the propose second amended complaint.

8. Attached as Exhibit 6 is a true and correct copy of the October 9, 2013 letter from counsel for Individual Defendants to counsel for Capitol.

9. Attached as Exhibit 7 is a true and correct copy of the October 14, 2013 letter from counsel for Capitol opposing Individual Defendants' first set of interrogatories and first set of requests for production of documents and things.

10. Attached as Exhibit 8 is a true and correct copy of October 25, 2013 joint letter from counsel for Individual Defendants and counsel for Capitol to the Court regarding the dispute over Individual Defendants' first set of interrogatories and first set of requests for production of documents and things.

11. Attached as Exhibit 9 are true and correct copies of the pre-summary judgment motion letters and responses thereto submitted by the parties on November 12, 2013 and November 15, 2013.

12. Attached as Exhibit 10 is a true and correct copy of excerpts of the transcript of the Court's December 2, 2013 hearing regarding the discovery dispute between the Individual Defendants and Capitol.

13. Attached as Exhibit 11 is a true and correct copies of Capitol's responses to Individual Defendants' first set of interrogatories and first set of requests for production of documents and things.

14. Attached as Exhibit 12 is a true and correct copy of October 22, 2014 joint letter submitted to the Court by counsel for Individual Defendants and counsel for Capitol concerning the ongoing discovery dispute.

15. Attached as Exhibit 13 are true and correct copies of letters submitted to the Court between November 6, 2013 and November 7, 2013 by counsel for Individual Defendants and counsel for Capitol concerning Individual Defendants' request for an extension in the discovery schedule.

16. Attached as Exhibit 14 are true and correct copies of the deposition notice served by counsel for Individual Defendants on Capitol pursuant to Federal Rule of Civil Procedure 30(b)(6) on October 25, 2013; the deposition notices Individual Defendants attempted to serve on one current Capitol employee and three former Capitol employees pursuant to Federal Rule of Civil Procedure 45 on October 25, 2013; and the deposition notice served on the Recording Industry Association of America pursuant to Federal Rule of Civil Procedure 45 on October 29, 2013.

17. Attached as Exhibit 15 is a true and correct copy of an October 15, 2014 email exchange between counsel for Individual Defendants and counsel for Capitol concerning the parties' discovery dispute.

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

Executed on December 5, 2014



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James J. Pizzirusso  
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