

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CAPITOL RECORDS, LLC, CAPITOL :
CHRISTIAN MUSIC GROUP, INC. and :
VIRGIN RECORDS IR HOLDINGS, INC., :
 :
Plaintiffs, :
 :
-against- :
 :
REDIGI INC., JOHN OSSENMACHER and :
LARRY RUDOLPH a/k/a LAWRENCE S. :
ROGEL, :
 :
Defendants. :
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12 Civ. 0095 (RJS)

**DECLARATION OF
RICHARD S. MANDEL, ESQ.**

RICHARD S. MANDEL, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a shareholder in the firm of Cowan, Liebowitz & Latman, P.C., which represents Plaintiffs in this action. I submit this declaration in support of Plaintiffs’ Memorandum of Law Regarding the Application of Res Judicata to the Individual Defendants’ Affirmative Defenses. I have personal knowledge of the facts set forth herein.

2. Attached hereto as Exhibit A is a true and correct copy of ReDigi’s initial disclosures in this action. Mr. Ossenmacher and Mr. Rudolph were the only witnesses identified by ReDigi. They were also the only witnesses who submitted declarations in opposition to Capitol’s motion for a preliminary injunction and the principal witnesses who submitted declarations in opposition to Capitol’s motion for summary judgment. They were present at every deposition in the case as well as the preliminary injunction, summary judgment and mediation hearings in the case.

3. Attached hereto as Exhibit B are true and correct copies of excerpts from the depositions of John Ossenmacher and Larry Rudolph.

4. Attached hereto as Exhibit C are true and correct copies of excerpts from the

transcript of the December 2, 2013 conference before the Court regarding the parties' discovery disputes.

5. Attached hereto as Exhibit D are true and correct copies of excerpts from the transcript of the November 7, 2014 conference before the Court regarding the parties' discovery disputes.

6. Attached hereto as Exhibit E is a true and correct copy of a printout from the Copyright Office website of excerpts from the directory of service providers that have filed designations of agents for notification of claims of infringement pursuant to Section 512(c) of the Copyright Act. The printout includes the first page of entities beginning with the letter "R" and the relevant page where ReDigi, Inc. would have appeared had it filed such a designation. Neither ReDigi, Inc. nor Messrs. Ossenmacher and Rudloph appear in the Copyright Office's directory.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON DECEMBER 18, 2014 AT NEW YORK, NEW YORK.


RICHARD S. MANDEL