

# EXHIBIT B

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
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5 CAPITOL RECORDS, LLC, )  
 )  
6 Plaintiff, ) 12 Civ. 0095 (RJS)  
 )  
7 vs. )  
 )  
8 REDIGI INC., )  
 )  
9 Defendant. )  
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12 \* CONFIDENTIAL - ATTORNEYS' EYES ONLY \*

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14 \* CONTAINS OUTSIDE COUNSEL ONLY PORTIONS \*  
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17 DEPOSITION OF JOHN MARK OSSENMACHER  
18 New York, New York  
19 Tuesday, June 19, 2012  
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23 Reported by: KRISTIN KOCH, RPR, RMR, CRR, CLR

24  
25 JOB NO. 50450

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13 Q. In any of these discussions with any  
14 of the labels, did anyone raise the possible  
15 question of the legality of what you were doing  
16 if you didn't do it in some sort of contractual  
17 arrangement with the labels?

18 A. I am going to say this absolutely  
19 not, and so, therefore, when we were sued by  
20 EMI, we honestly were very, very disappointed  
21 and surprised. Nobody had ever said don't do  
22 this, it's illegal, it's unlawful. There was  
23 lots of discussion about what their  
24 participation should be or how should it work  
25 or what are we doing or how are we doing it,

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2 but we were never told it was illegal to be  
3 doing it.

4 Q. You had received a letter before EMI  
5 sued you from the RIAA in which they had  
6 indicated it was illegal; correct?

7 A. The RIAA -- I don't have the letter  
8 in front of me, so I don't recall exactly what  
9 it said, but I can look at it.

10 Q. Go ahead.

11 A. No, I would rather look at it if you  
12 want to ask me something about it. Then I  
13 won't be guessing.

14 MR. MANDEL: Let's mark as 21 a copy  
15 of a November 10th, 2011 letter from  
16 Jennifer Pariser at the RIAA to  
17 Mr. Ossenmacher.

18 (Plaintiff's Exhibit 21, letter  
19 dated November 10, 2011, marked for  
20 identification.)

21 Q. Is Plaintiff's Exhibit 21 a copy of  
22 a letter sent by the RIAA to you in around  
23 November -- on or around November 10, 2011?

24 A. Yes, it is.

25 Q. And in the letter Miss Pariser

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2 indicates that she is writing on behalf of  
3 Universal, Sony, Warner and EMI; correct?

4 A. Correct.

5 Q. Is it correct that the position as  
6 articulated in this letter is that the  
7 activities that ReDigi is engaged in are  
8 unlawful under the Copyright Act?

9 MR. ADELMAN: Objection to form.

10 You can answer.

11 A. It is her opinion in this paper that  
12 she appears to be making that statement,  
13 however, she is also incorrect in her statement  
14 of facts.

15 Q. And what are you saying is incorrect  
16 in her statement of facts?

17 A. You can look at our response letter  
18 to her and that might explain it. I mean,  
19 things she is expressing that we do at ReDigi  
20 we did not do. We believe our system was  
21 absolutely lawful and is not doing the things  
22 she is saying, and I think we expressed that in  
23 a response letter to her.

24 Q. But certainly as of November 2011  
25 you were aware that there was a potential

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2 difference of opinion with the labels about the  
3 legality; correct?

4 MR. ADELMAN: Objection to form.

5 You can answer.

6 A. That's actually -- I hope it's okay,  
7 but that's a very interesting question, because  
8 once we got this letter, we did a couple of  
9 things. One, we called some of the people at  
10 the labels we had been dealing with and,  
11 surprisingly, the labels did a hands-off, "the  
12 RIAA operates autonomously from us, they do the  
13 things they want to do under our name,"  
14 et cetera, "we are not directly involved" and  
15 blah-blah-blah, because we continued even after  
16 this letter to have discussions with people at  
17 the record labels, and I think one thing that  
18 is really important to note, we didn't shy away  
19 from this letter, we did write a response, but  
20 we also called the RIAA and we spoke to an  
21 executive at the RIAA, and I am just having  
22 trouble with names today, Steve -- I want to  
23 say Steve Warner, but I can get the actual  
24 name, a vice president at the RIAA who we  
25 called, told him we had the letter, we

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2 discussed the letter with him to the point  
3 where he actually said, "look, what you guys  
4 are working on is really interesting, let me  
5 try to help you," and he then made subsequently  
6 additional introductions to people at the  
7 labels and the licensing group saying "I think  
8 you should be talking to these people, this is  
9 the way to get this deal done," and he actually  
10 opened the door for us at the record labels  
11 with people we hadn't been talking to.

12 Q. And by that you are talking about  
13 people at EMI?

14 A. Including EMI, but EMI refused to  
15 meet with us. EMI was -- of all the labels the  
16 RIAA opened the door for we met with all of  
17 them physically and verbally after this RIAA  
18 letter. EMI refused to meet with us.

19 Q. Prior to the letter?

20 A. I don't -- prior to -- I won't use  
21 the word "refuse to" prior to the letter. They  
22 were just too busy. The guy we were talking to  
23 was Ron Werre. He had been changed, you know,  
24 moved out. I don't really know exactly what  
25 happened to him. And then subsequent to the

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2 letter, yes, we could not get a meeting with  
3 anybody at EMI, but we met with all of the  
4 other record labels, and they got a more  
5 detailed understanding of how our technology  
6 works.

7 Q. Are you still in discussions with  
8 other record labels?

9 A. I think EMI effectively shut that  
10 down when they sued us.

11 Q. Well, I assume other record labels  
12 are free to make their own decisions; correct?

13 A. I don't know that that's true or  
14 not. The industry seems very close.

15 Q. So I take it you are not in  
16 discussions anymore with any of the other  
17 record labels then from your answer?

18 MR. ADELMAN: To the extent that it  
19 doesn't violate privilege, you may answer.

20 A. I wouldn't characterize that. There  
21 are still open doors with -- we believe with  
22 the labels and there is actually some open  
23 questions and things we are going back and  
24 forth with with one of the labels, but it's all  
25 been hampered significantly as a result of this



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2 as even admitted by those labels.

3 Q. It's fair to say EMI took a more  
4 aggressive position than the other record  
5 labels; correct?

6 A. I don't like the word "aggressive."  
7 I think EMI took an uneducated position towards  
8 us rather than learning what our system could  
9 do to help prevent piracy, to help legal users,  
10 you know, want to buy more music because they  
11 have the right to then resell it, to do the  
12 things that are good about ReDigi, EMI didn't  
13 want to hear it and I don't know why. They  
14 wouldn't open the door for us. So aggressive  
15 is not right. I think it's uneducated. They  
16 took an uneducated approach and hopefully now  
17 we can educate them, and I know they have gone  
18 through a lot of turmoil with their  
19 bankruptcies and other things that they have  
20 been fighting, but now maybe there is people in  
21 place where we can do something different.

22 Q. Well, whether you call it uneducated  
23 or not, they had a different view, it's fair to  
24 say, in terms of their approach toward what  
25 ReDigi was doing; correct?

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2 MR. ADELMAN: Different than the  
3 other labels?

4 MR. MANDEL: Than the other labels.

5 A. Yes, it was different than the other  
6 labels.

7 Q. And they didn't accept your  
8 explanation as to why they should think that  
9 what you are doing is legal or should be  
10 allowed?

11 A. We don't believe we ever had a  
12 real forum to be able to discuss it. When  
13 people are too busy to meet with someone for  
14 an hour -- we offered many times to come  
15 from Boston to New York and when we couldn't  
16 even get a meeting but they would rather  
17 spend money on litigation and suing us rather  
18 than understanding, we don't understand why  
19 they did it. We still don't understand why  
20 they did it.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CAPITOL RECORDS, LLC,  
Plaintiff,  
vs. 12 Civ 0095 (RJS)  
REDIGI INC.,  
Defendant.

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DEPOSITION OF JOHN MARK OSSENMACHER  
New York, New York  
July 11, 2013

Reported by:  
Bonnie Pruszynski, RMR  
JOB NO. 63341

1 J. M. Ossenmacher  
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10 Q Now, you made reference to  
11 preferred shares. Are there also common  
12 shares of the company?

13 A Yes.

14 Q And have any of the common shares  
15 of the company been sold?

16 A No.

17 Q Who holds the common shares of the  
18 company? Or at least -- well, let me --  
19 let's do it this way.

20 Do you own any interest in the  
21 company?

22 A I do.

23 Q Okay. And what percentage interest  
24 do you own?

25 A I don't know the exact amount.

1 J. M. Ossenmacher

2 Q Approximately?

3 A 50 percent.

4 Q And does Mr. Rudolph own any  
5 percentage ownership of the company?

6 A He does.

7 Q Do you know approximately what  
8 percent?

9 A I think somewhere around ten.

10 Q And are the remaining percentages  
11 of the company owned by investors?

12 A Correct.

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1 J. M. Ossenmacher  
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19 Q Is it fair to say that most of the  
20 decisions of the company have been undertaken  
21 jointly between you and Larry?

22 A Yes.

23 Q I know you had made reference  
24 earlier to other investors that own the  
25 remaining 40 percent of the company. Do any

1 J. M. Ossenmacher  
2 of those investors play any role with respect  
3 to decisions concerning the day-to-day  
4 operations of the company?

5 A No.

6 Q So that function and responsibility  
7 rests with you and Larry alone?

8 A Yes. Primarily me.

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MR. MANDEL: Okay. Obviously, if

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CAPITOL RECORDS, LLC

Plaintiff,

v. No. 12 Civ. 0095 (RJS)

REDIGI INC.,

Defendant.

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RULE 30(b)(6)  
DEPOSITION OF LAWRENCE S. RUDOLPH ROGEL  
New York, New York  
Monday, June 18, 2012

Reported by:  
ANNETTE ARLEQUIN, CCR, RPR  
JOB NO. 50449



1 L. Rudolph

2 I don't know what level you want me  
3 to answer that question.

4 Q. That's sufficient. We may return to  
5 it.

6 A. I can talk about it for hours,  
7 years.

8 Q. How long were you at VMware?  
9 Is it V-N --

10 A. V-M, virtual machine. VMware.

11 Q. Okay.

12 A. Two-and-a-half years.

13 Q. Okay. What was your next step?

14 A. After that I went and I formed  
15 ReDigi. I left VMware and John and I started a  
16 company.

17 Q. Okay. And that would be ReDigi, the  
18 defendant in this lawsuit?

19 A. ReDigi was formed a bit later. Two  
20 years ago?

21 Q. Okay.

22 A. Something like that.

23 Q. So when you say you met John and you  
24 formed a company, did you form a company before  
25 ReDigi?

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CAPITOL RECORDS, LLC,  
Plaintiff,  
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REDIGI INC.,  
Defendant.

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DEPOSITION OF LARRY RUDOLPH  
New York, New York  
July 12, 2013

Reported by:  
Bonnie Pruszynski, RMR  
JOB NO. 63342

1 L. Rudolph

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6 Q Did you participate in that  
7 decision to continue with the service after  
8 the RAA letter?

9 MR. ADELMAN: Objection to form.

10 You can answer.

11 A Yes.

12 Q Who else made that decision? Was  
13 it just you?

14 MR. ADELMAN: Objection.

15 A No.

16 Q Who else participated in it?

17 A John.

18 Q So, it was you and John?

19 A Yes.

20 Q Okay. And then after Capitol  
21 Records brought this lawsuit, ReDigi,  
22 notwithstanding the claims in the lawsuit,  
23 made a determination to continue with the  
24 service; correct?

25 MR. ADELMAN: Objection to form.

1 L. Rudolph

2 A Yes.

3 Q And was it, again, you and Mr.

4 Ossenmacher who made that decision?

5 A Yes.

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