

EXHIBIT 4

C26TCAPA
1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK
2 -----x

3 CAPITOL RECORDS, LLC,
3
4 Plaintiff,

5 v. 12 CV 95 (RJS)

6 REDIGI INC.,
6
7 Defendant.

8 -----x

New York, N.Y.
February 6, 2012
3:30 p.m.

10 Before:

11 HON. RICHARD J. SULLIVAN,
12
12 District Judge

13 APPEARANCES

14 COWAN, LIEBOWITZ & LATMAN
15 Attorneys for Plaintiff
15 BY: RICHARD MANDEL
16 JONATHAN KING

16
17 RAY BECKERMAN, PC
17 Attorneys for Defendant
18 BY: RAY BECKERMAN
18 M. TY ROGERS

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1 you look at fair use, their whole defense on fair use basically
2 presupposes that we're challenging just the mere act of
3 storage.

4 THE COURT: That's my question to you. So if someone
5 just decided to store digital recordings that they purchased
6 through iTunes, they wanted to store it in a cloud, that
7 requires copying, according to your papers. Right?

8 MR. MANDEL: Yes. And that's not what we're
9 challenging here.

10 THE COURT: But why not? So what is the difference
11 between what is going on here that you are challenging and the
12 hypothetical I just supposed?

13 MR. MANDEL: Because what is really going on, what
14 their entire Web site talks about, their Facebook page,
15 everything, is a resale market, the ability not to store it,
16 but to sell it. It's stored in the cloud for the purpose of
17 resale.

18 THE COURT: But well, it's stored in the cloud, and
19 the process of storage requires a copying. And that process
20 you're saying -- I think you're conceding is not a violation of
21 the Copyright Act.

22 MR. MANDEL: For purposes of this case, we're not
23 making that claim. We're not challenging that. What we're
24 saying is that you can't subdivide what they're doing. And
25 they're really saying essentially user A starts out, and he can

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