

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
 CAPITOL RECORDS, LLC, :
 :
 Plaintiff, :
 :
 -against- :
 REDIGI INC., :
 :
 Defendant. :
 :
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12 Civ. 0095 (RJS)

**DECLARATION OF
ALASDAIR J. McMULLAN
IN SUPPORT OF PLAINTIFF'S
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

ALASDAIR J. McMULLAN, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am Executive Vice-President of Legal Affairs for EMI Music North America (“EMI”), where I have been employed since 1995. I supervise litigation for EMI and its record label affiliates, including Plaintiff Capitol Records, LLC (formerly Capitol Records, Inc.) (“Capitol”). I make this declaration in support of Capitol’s motion for partial summary judgment. I have knowledge of the facts set forth herein based on my personal knowledge as well as review of EMI’s and Capitol’s books and records. If called upon to do so, I could and would testify competently to the matters stated herein.

2. Capitol is a global rights management company which is engaged, among other things, in producing, manufacturing, distributing, selling, licensing and facilitating the distribution and sale of sound recordings.

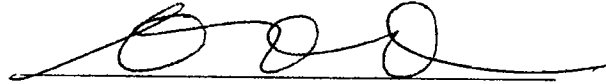
3. Capitol is the copyright owner or owner of exclusive rights (by way of agreement) with respect to an extensive and diverse catalog of sound recordings first fixed after February 15, 1972, including those of such famous recording artists as Coldplay, Norah Jones, Katy Perry and Lily Allen, to name just some. An illustrative, non-exhaustive list of some of these recordings (the “Copyrighted Recordings”) is attached hereto as Exhibit 1. The list was compiled by

including recordings that were purchased on the ReDigi website by Capitol's paralegal, Colleen Hall, prior to the filing of the Complaint (Exhibit A to the Complaint in this action), as well as four additional representative recordings identified by ReDigi in discovery as having been sold via the ReDigi website, as set forth in the attached Declaration of Colleen Hall.

4. Each of the Copyrighted Recordings has been registered with the U.S. Copyright Office before or within five years after first publication of the works reflected in such certificates. The copyright registration number for each such certificate is included in the list set forth in Exhibit 1. The registrations for the Copyrighted Recordings identify as copyright claimant either (i) Capitol or a "division" of Capitol; (ii) Capitol Records, Inc. or a division of Capitol Records, Inc. (the name under which Capitol was known until it was converted into an LLC and changed to its present name on April 1, 2008); (iii) a fictitious name or d/b/a under which Capitol conducts business, such as Blue Note Records or EMI Records Nashville; (iv) a foreign affiliate of Capitol, such as EMI Records Ltd. or Jaydone Ltd., which has granted Capitol an exclusive license to its sound recordings in the United States; or (v) Virgin Records America, Inc., an entity which merged into Capitol on August 15, 2011.

5. Additionally, Capitol has entered into various agreements by which it obtained the common law copyrights in sound recordings embodying performances initially "fixed" prior to February 15, 1972. Among such recordings owned by Capitol are "What A Little Moonlight Can Do" by Peggy Lee and "The Christmas Song (Merry Christmas To You)" by Nat King Cole (collectively, the "Pre-1972 Recordings"). The Pre-1972 Recordings are protected under state law rather than federal copyright law.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT. EXECUTED ON JULY 19, 2012 IN LOS ANGELES, CALIFORNIA.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke at the end.

ALASDAIR J. McMULLAN