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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CAPITOL RECORDS, LLC,

Plaintiff,

Civil Action No: 12 CIV 0095
(RJS)

- against -

REDIGI, INC. ,

Defendant.

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**DECLARATION OF GARY ADELMAN IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**


GARY ADELMAN, pursuant to 28 U.S.C. § 1746, declares under the penalty of perjury, as follows:

1. I am a partner at the law firm of Meister, Seelig & Fein LLP, attorneys for Defendant Redigi, Inc. ("Defendant"). As such, I am fully familiar with the facts and circumstances herein based upon my personal handling of the file.



2. I make this declaration in support of Defendant's motion for summary judgment granting Defendant judgment as a matter of law and dismissing all of Plaintiff Capitol Records LLC's ("Plaintiff") claims on the grounds that the Plaintiff cannot prove the necessary elements of all of its claims.

3. A true and correct copy of Plaintiffs' Complaint in the instant action is annexed hereto as Exhibit "1".

4. A true and correct copy of Defendants' Answer is annexed hereto as Exhibit "2".
5. A true and correct copy of the relevant portions of the iTunes Store – Terms and Conditions is annexed hereto as Exhibit "3".
6. A true and correct copy of the relevant portions of the transcript of the preliminary injunction hearing, in this matter, before the Hon. Richard J. Sullivan on February 6, 2012 are annexed hereto as Exhibit "4."
7. A true and correct copy of the Redigi Terms of Use as it currently appears on their website, ReDigi.com is annexed hereto as Exhibit "5."



9. A true and correct copy of the web pages of "Apple Press Info", "Icloud", "Google Play" and "Amazon.Com MP3 Downloads" as found on their respective websites on July 12, 2012, is annexed hereto as Exhibit "7."



12. A true and correct copy of relevant pages from the deposition transcript of Lawrence S. Rudolph (Rogel) as taken on June 18, 2012 is annexed hereto as Exhibit "10."

13. A true and correct copy of relevant pages from the deposition transcript of John Mark Ossenmacher as taken on June 19, 2012 is annexed hereto as Exhibit "11."

14. A true and correct copy of relevant pages from the deposition transcript of Alasdair McMullan as taken on June 20, 2012. is annexed hereto as Exhibit "12."

15. A true and correct copy of page 5 of Plaintiff's 1/19/12 memorandum of law in support of its preliminary injunction motion is annexed hereto as Exhibit "13."

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

Executed on July 20, 2012 in New York, New York.



GARY ADELMAN ESQ.