

EXHIBIT 1

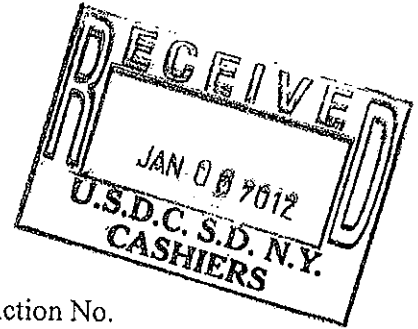
JUDGE SULLIVAN

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Attorneys for Plaintiff
CAPITOL RECORDS, LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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 CAPITOL RECORDS, LLC, :
 :
 Plaintiff, :
 :
 -against- :
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 REDIGI INC., :
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 Defendant. :
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Civil Action No.

COMPLAINT

Plaintiff Capitol Records, LLC ("Plaintiff"), by and through its undersigned attorneys, as and for its Complaint, alleges as follows:

INTRODUCTION

1. This action is for copyright infringement, contributory copyright infringement, vicarious copyright infringement, and inducement of copyright infringement under the United States Copyright Act, as well as common law copyright infringement under the law of the State of New York, all arising from Defendant's willful and systematic infringement of Plaintiff's sound recordings.

2. Defendant owns and operates the "ReDigi" music service, which holds itself out as the first online marketplace for "used" or "recycled" digital music files. With a stated purpose of helping consumers buy and sell "used" digital music files, ReDigi makes and assists its users in making systematic, repeated and unauthorized reproductions and distributions of Plaintiff's

copyrighted sound recordings. ReDigi's website states that it uploads copies of those recordings to its service for interested "sellers," and then downloads copies for and to interested buyers. During this process, ReDigi builds a user base and earns profit from its infringing conduct.

3. ReDigi additionally streams 30 second clips of each recording to interested shoppers and allows them to store those clips on their hard drives, all without Plaintiff's authorization or approval. ReDigi also displays throughout its site unauthorized copies of cover artwork Plaintiff owns and uses in connection with its sound recordings.

4. While ReDigi touts its service as the equivalent of a used record store, that analogy is inapplicable: used record stores do not make copies to fill their shelves. ReDigi is actually a clearinghouse for copyright infringement and a business model built on widespread, unauthorized copying of sound recordings owned by Plaintiff and others. Plaintiff brings this lawsuit to halt Defendant's ongoing infringement of Plaintiff's copyrighted works and to recover damages for the harm caused by Defendant's activities.

THE PARTIES

5. Plaintiff Capitol Records, LLC ("Capitol") is a Delaware limited liability company with its principal place of business at 150 Fifth Avenue, New York, New York 10011.

6. Upon information and belief, Defendant ReDigi Inc. ("Defendant" or "ReDigi") is a Delaware corporation with its principal place of business at Cambridge Innovation Ctr., 14th Floor, 1 Broadway, Cambridge, MA 02142.

JURISDICTION AND VENUE

7. This civil action seeks injunctive relief and damages for copyright infringement under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and for common law copyright infringement under New York law with respect to Plaintiff's sound recordings fixed prior to February 15,

1972.

8. This Court has subject matter jurisdiction over the federal copyright claims under 28 U.S.C. §§ 1331 and 1338(a), and has supplemental jurisdiction over the related state law cause of action under 28 U.S.C. § 1367(a), inasmuch as that claim is so related to the federal claims as to form part of the same case or controversy.

9. This Court has personal jurisdiction over ReDigi because, on information and belief, ReDigi transacts business in New York State and has committed tortious acts both within and outside New York causing injury in New York.

10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) and 1400(a).

FACTS

Plaintiff's Business

11. Plaintiff is a well known record company engaged in the business of producing, manufacturing, distributing, selling, licensing and facilitating the distribution and sale of sound recordings in the United States. Plaintiff's reputation as a producer of sound recordings of high artistic and technical quality is known in New York, and throughout both the United States and the world.

12. Plaintiff is the copyright owner or owner of exclusive rights (by way of agreement) with respect to an extensive and diverse catalog of sound recordings, including those of such famous recording artists as Coldplay, Norah Jones, Katy Perry and Lily Allen, to name just some. Under the Copyright Act, Plaintiff has the exclusive rights, among other things, to "reproduce the copyrighted work[s]," "distribute copies or phonorecords of the copyrighted work[s] to the public," and "perform the copyrighted work[s] publicly by means of a digital

audio transmission,” as well as to authorize or license others to engage in such activities. 17 U.S.C. § 106.

13. Additionally, Plaintiff has entered into various agreements by which it obtained the common law copyrights in sound recordings embodying certain performances that were initially “fixed” prior to February 15, 1972 (the “Pre-1972 Recordings”). These performances are subject to protection under state law rather than federal copyright law, and the Copyright Act cannot be used to “annul[] or limit[]” those rights “until February 15, 2067.” 17 U.S.C. § 301(c). Pursuant to these agreements and New York common law, Plaintiff possesses, among other things, the exclusive and complete rights to manufacture, reproduce, distribute, sell and perform the Pre-1972 Recordings.

14. In addition to manufacturing, distributing, selling and licensing phonorecords in the form of CDs, cassettes and other tangible media, Plaintiff also distributes and licenses its sound recordings in the form of digital audio files, which are marketed and distributed online, and delivered to the consumer via the Internet. Legitimate avenues for the digital distribution of music exist through authorized services, such as Apple’s iTunes and Amazon’s MP3 Music Service, which provide these sound recordings for consumers pursuant to agreements that the services negotiated with Plaintiff.

15. Plaintiff has invested and continues to invest significant money, time, effort and creative talent to discover and develop recording artists, and to create, manufacture, advertise, promote, sell and license sound recordings embodying the performances of its exclusive recording artists. Plaintiff, its recording artists and others in the music industry are compensated for their creative efforts and monetary investments largely from the sale and distribution of their sound recordings to the public, and from other exploitation of such sound recordings.

16. A non-exhaustive, illustrative list of Plaintiff's federally copyrighted sound recordings and associated artwork that have been illegally reproduced, distributed and/or performed or displayed by or for users of Defendant's ReDigi service is attached hereto as Exhibit A. Plaintiff has received Certificates of Copyright Registration from the Register of Copyrights for these copyrighted sound recordings.

17. A non-exhaustive, illustrative list of Pre-1972 Recordings in which Plaintiff holds exclusive rights under New York and other state laws and which have been illegally reproduced, distributed and/or performed by or for users of Defendant's ReDigi service is attached hereto as Exhibit B.

Defendant and its Illegal Business

18. Upon information and belief, Defendant owns and operates the ReDigi website and service located at www.redigi.com. Newly launched and apparently still in a test and "inventory build" phase, ReDigi styles itself as "the world's first and only online marketplace for used digital music" and boasts that its service allows users to "buy used digital music from others at a fraction of the price currently available on iTunes."

19. Although the ReDigi website cryptically claims that its "genius" is "to facilitate the transfer of a digital music file from one user to another without copying or file sharing," the entire service and business model are predicated upon making and assisting users in making multiple, unauthorized copies, distributions, and performances of sound recordings owned by Plaintiff and others.

20. ReDigi's pre-launch press release reveals how selling digital music via its service necessarily entails making multiple copies of sound recordings. According to the press release, after downloading ReDigi's proprietary "Music Manager" software, users designate the songs

they wish to sell from their desktop computers. “Eligible” tracks are then allegedly removed from the user’s computer and “synced” devices, “stored in the ReDigi cloud and offered for sale on ReDigi’s website.”

21. The track “stored” in and offered to consumers from ReDigi’s “cloud” is necessarily a *copy* of the user’s original file, which ReDigi purportedly deletes from the user’s hard-drive. No tangible, material object is transferred to the ReDigi “cloud”; rather, the user’s original file is duplicated and then stored by the ReDigi service, regardless of whether the user’s original file remains on his or her computer or is deleted.

22. A second copy is then made when a ReDigi transaction is consummated. As the press release continues, “When the song is purchased, the track and license will be instantly transferred to its new owner.” The so-called sale, in other words, can only be accomplished by the creation and transfer of yet another copy of what was once the original user’s digital file.

23. The tutorial video on ReDigi’s website homepage similarly highlights the multiple copies that must be made of any sound recording ReDigi either stores or distributes. The video encourages users first to download the “ReDigi Desktop Client” to open a ReDigi account and begin selling “used” digital files. After the user then chooses and confirms the tracks he or she wishes to sell using the software, “ReDigi will *upload your songs for sale* and clean all of those unwanted files off your computer.” Uploading, by its very nature, can only be accomplished by making an unauthorized copy of the original user’s track. The user does not “sell” that original track but merely agrees to its deletion after it has been copied.

24. The video then continues that interested purchasers can designate songs they wish to buy from any computer, after which those songs are “safely stored in the ReDigi Cloud.” Users are urged, “you’ll be able to buy a song from any computer, and *download* it later to your

computer.” Both storage and downloading again presuppose the making of additional copies of the file that resided on the original user’s computer.

25. The video betrays another infringing act as well. In promoting the ease of shopping on ReDigi, the tutorial tells users, “To listen to a 30 second clip of a song, drag it to your playbox or click the song. We’ll store it in your memory bank, so you know which songs you listened to.” In so doing, ReDigi first makes an unauthorized public performance via digital audio transmission and then, upon information and belief, apparently makes yet another copy to “store” in individual users’ “memory banks.”

26. Throughout its website, ReDigi also displays numerous unauthorized copies of the cover artwork Plaintiff owns and uses in connection with its sound recordings. In so doing, ReDigi further violates Plaintiff’s rights of reproduction and display.

27. ReDigi offers its users various incentives to encourage and induce them to participate in the unauthorized reproduction and distribution of Plaintiff’s sound recordings. For example, the video tutorial explains that for each song uploaded, a user earns “ReDigi coupons” which can be used to buy additional songs for a “discounted price.” Likewise, when those uploaded songs sell, the original user earns ReDigi “credits” that can be applied to the purchase of new songs.

28. Further encouraging infringement, the ReDigi website homepage offers contests and incentives urging users to avail themselves of the service. The homepage promises, “Store or Sell at Least 10 MP3s on the ReDigi Cloud and be Entered to Win” prizes ranging from a Fiat sports car to headphones. Moreover, by simply storing those 10 songs for purposes of later resale, the user is promised, “Get 5 FREE songs just for storing 10 songs on ReDigi.”

29. Upon information and belief, in making and encouraging these various

unauthorized reproductions, distributions and performances, ReDigi hopes to build a large user-base and corresponding profits. According to a ReDigi spokeswoman quoted in a November 14, 2011 New York Times article, ReDigi sells tracks for approximately 79 cents, and earns a fee of “5 to 15 percent.”

30. In short, ReDigi’s business model is to build a customer base and earn profits by infringing and encouraging its users to infringe copyrighted sound recordings, including those owned by Plaintiff. Without these infringing acts, ReDigi would have no service to offer.

31. ReDigi seeks to excuse its activities legally in various public statements, but none justify its infringing conduct.

32. ReDigi promises, for example, that its “Verification Engine” analyzes each file uploaded for sale to ensure that the track was “legally downloaded” by the user in the first instance and thus “eligible for sale.” Given the widespread piracy of sound recordings on the internet, it is questionable whether ReDigi can effectively determine whether files were lawfully obtained in the first instance.

33. Regardless, many such files, even if lawfully obtained, are restricted from resale, duplication or redistribution by the original vendor. For example, Amazon.com – a common source and likely the origin of many ReDigi uploads – expressly prohibits users of its MP3 Music Service from any redistribution, transfer, or sale of recordings downloaded via that service. Whenever it urges users of this popular vendor to upload their content for resale, ReDigi is encouraging those users to breach their agreements and infringe copyrights.

34. ReDigi’s website also boasts that after a file is “verified” for eligibility, ReDigi ensures that the original user will not “willfully use/possess any copies of the sold item,” presumably by deleting the original source file from the user’s computer and synchronized

devices. But even ReDigi's founder has acknowledged publicly that there is no way to ensure absolutely that users are not retaining copies of the files they upload to ReDigi's service, perhaps on other devices or media that ReDigi's software cannot reach. Regardless, even if the source file is effectively deleted from a user's computer, multiple infringing copies of that file must be uploaded and downloaded – copied – for the ReDigi service to function.

35. Finally, ReDigi protests on its website that its service is protected by the "First Sale Doctrine" codified at 17 U.S.C. § 109, which permits "owners of a particular copy or phonorecord lawfully made under this title ... to sell" that copy or phonorecord. ReDigi, however, is not an "owner" of any such lawfully made copy, nor is ReDigi disposing of the actual "particular copy" purchased by a user. Rather, ReDigi and its users are making and distributing unauthorized copies of that original file.

36. The Copyright Act defines "copy" and "phonorecord" as material objects in which a work or sounds are fixed, respectively. Neither ReDigi nor its users resell the original material object that resided on the original user's computer. Rather, in violation of Plaintiff's rights of reproduction, ReDigi and its users duplicate digital files both in uploading and downloading discrete copies distinct from the original file that originally resided on a user's computer.

37. ReDigi compounds that infringement by also performing the digital file publicly via its sound clip feature, storing that sound clip on users' computers, and making unauthorized copies and displays of artwork Plaintiff owns and uses in connection with its sound recordings.

38. Beyond its own infringing conduct, ReDigi materially contributes to and induces infringing conduct by its users. ReDigi knowingly and willfully offers them financial incentives for participating in unauthorized reproductions and distributions of Plaintiff's sound recordings.

It encourages those users to violate the terms of certain of their original vendor agreements, such as those imposed by Amazon.com, and essentially creates a marketplace where users engage in widespread infringement.

39. ReDigi's aggressive promotion of its service has resulted in many of Plaintiff's best-selling, most valuable sound recordings being infringed via ReDigi. For instance, many of Billboard's "top 100" songs listed as available from ReDigi are owned by Plaintiff.

40. More generally, inspection of ReDigi's website reveals that it is currently offering for "sale" countless sound recordings owned or controlled by Plaintiff, as well as reproducing certain of Plaintiff's copyrighted artwork associated with those recordings. A representative list of some of those federally registered, copyrighted sound recordings and the associated artwork is attached as Exhibit A. A corresponding list of Pre-1972 sound recordings owned by Plaintiff and infringed on ReDigi is attached as Exhibit B.

41. The Recording Industry Association of America ("RIAA"), a trade association whose members, including Plaintiff, create, manufacture and distribute sound recordings legitimately sold in the United States, notified ReDigi in November 2011 that its service violated Plaintiff's and other RIAA members' copyrights and demanded that ReDigi cease and desist from any further infringement.

42. ReDigi has to date refused to halt its infringing conduct.

43. As a result of ReDigi's unlawful actions, Plaintiff has been damaged and has suffered, and continues to suffer, irreparable injury for which it has no adequate remedy at law.

COUNT 1
(Copyright Infringement)

44. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-43 above with the same force and effect as if set forth fully herein.

45. ReDigi has engaged and continues to engage in the unauthorized reproduction, distribution and public performance of Plaintiff's copyrighted sound recordings and distribution and public display of Plaintiff's associated artwork, including but not limited to those recordings and the associated artwork listed in Exhibit A. As a result, ReDigi is liable for copyright infringement of Plaintiff's exclusive rights of reproduction, distribution and performance under 17 U.S.C. § 106.

46. The infringement of Plaintiff's rights in each of its copyrighted sound recordings and the associated artwork constitutes a separate and distinct act of infringement.

47. ReDigi's acts of infringement are willful, intentional and purposeful, in disregard of Plaintiff's rights.

48. As a direct and proximate result of ReDigi's infringement of Plaintiff's copyrights, Plaintiff is entitled to its actual damages as well as ReDigi's profits from the infringements, as will be proven at trial pursuant to 17 U.S.C. § 504(b). Alternatively, Plaintiff is entitled to maximum statutory damages, in the amount of \$150,000 per infringement, pursuant to 17 U.S.C. § 504(c), or for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

49. Unless and until ReDigi's conduct is enjoined by this Court, it will continue to cause irreparable injury that cannot fully be compensated for or measured in money, and Plaintiff is accordingly also entitled to an injunction pursuant to 17 U.S.C. § 502 prohibiting further infringement of its exclusive rights under copyright.

50. Plaintiff is further entitled to attorneys' fees and costs pursuant to 17 U.S.C. § 505.

COUNT II
(Inducement of Copyright Infringement)

51. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-50 above

with the same force and effect as if set forth fully herein.

52. ReDigi users have engaged and continue to engage in the unauthorized reproduction and distribution of Plaintiff's copyrighted sound recordings and distribution and public display of Plaintiff's associated artwork, including but not limited to those recordings and the associated artwork listed in Exhibit A. As a result, such users are liable for direct copyright infringement of Plaintiff's exclusive rights of reproduction and distribution under 17 U.S.C. § 106.

53. Each one of these users' infringing acts has been encouraged and made possible by ReDigi, whose object is to promote the unlawful reproduction and distribution of Plaintiff's and others' sound recordings.

54. ReDigi's inducement of copyright infringement is apparent from its active promotion of its ability to assist users in making unauthorized copies and sales of Plaintiff's and others' sound recordings and associated artwork, and ReDigi's adoption of a business model that depends upon a high volume of infringement to create a user base and generate sales commissions.

55. As a result of the foregoing, ReDigi is liable under the Copyright Act for inducing the infringing acts of its users, in violation of Sections 106 and 501 of the Copyright Act.

56. The infringement of Plaintiff's rights in each of its copyrighted sound recordings and associated artwork constitutes a separate and distinct act of infringement.

57. Defendant's acts of infringement are willful, intentional and purposeful, in disregard of Plaintiff's rights.

58. As a direct and proximate result of ReDigi's infringement of Plaintiff's copyrights, Plaintiff is entitled to actual damages as well as Defendant's profits from the

infringements, as will be proven at trial pursuant to 17 U.S.C. § 504(b). Alternatively, Plaintiff is entitled to maximum statutory damages, in the amount of \$150,000 per infringement, pursuant to 17 U.S.C. § 504(c), or for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

59. Unless and until ReDigi's conduct is enjoined by this Court, it will continue to cause irreparable injury that cannot fully be compensated for or measured in money, and Plaintiff is accordingly also entitled to an injunction pursuant to 17 U.S.C. § 502 prohibiting further infringement of its exclusive rights under copyright.

60. Plaintiff is further entitled to attorneys' fees and costs pursuant to 17 U.S.C. § 505.

COUNT III
(Contributory Copyright Infringement)

61. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-60 above with the same force and effect as if set forth fully herein.

62. ReDigi users have and continue to engage in the unauthorized reproduction and distribution of Plaintiff's copyrighted sound recordings and distribution and public display of Plaintiff's associated artwork, including but not limited to those recordings and the associated artwork listed in Exhibit A. As a result, such users are liable for direct copyright infringement of Plaintiff's exclusive rights of reproduction and distribution under 17 U.S.C. § 106.

63. ReDigi has actual and constructive knowledge of its users' infringing activity and materially contributes to that activity by promoting its ability to help users make and sell unauthorized copies of sound recordings and artwork, including those owned by Plaintiff. ReDigi provides its users with software to facilitate unauthorized copying, and awards users "coupons" or "credits" towards future purchases every time they upload a song for "sale" or succeed in distributing a track, thus urging and contributing to infringing conduct.

64. Moreover, ReDigi was notified of such infringing conduct by the RIAA, but refused to take the necessary action to halt that conduct.

65. As a result of the foregoing, Defendant is liable under the Copyright Act for contributorily infringing Plaintiff's copyrights, in violation of Sections 106 and 501 of the Copyright Act.

66. The infringement of Plaintiff's rights in each of its copyrighted sound recordings and associated artwork constitutes a separate and distinct act of infringement.

67. ReDigi's acts of infringement are willful, intentional and purposeful, in disregard of Plaintiff's rights.

68. As a direct and proximate result of ReDigi's infringement of Plaintiff's copyrights, Plaintiff is entitled to actual damages as well as ReDigi's profits from the infringements, as will be proven at trial pursuant to 17 U.S.C. § 504(b). Alternatively, Plaintiff is entitled to maximum statutory damages, in the amount of \$150,000 per infringement, pursuant to 17 U.S.C. § 504(c), or for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

69. Unless and until ReDigi's conduct is enjoined by this Court, it will continue to cause irreparable injury that cannot fully be compensated for or measured in money, and Plaintiff is accordingly also entitled to an injunction pursuant to 17 U.S.C. § 502 prohibiting further infringement of its exclusive rights under copyright.

70. Plaintiff is further entitled to attorneys' fees and costs pursuant to 17 U.S.C. § 505.

COUNT IV
(Vicarious Copyright Infringement)

71. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-70 above with the same force and effect as if set forth fully herein.

72. ReDigi users have and continue to engage in the unauthorized reproduction and distribution of Plaintiff's copyrighted sound recordings and distribution and public display of Plaintiff's associated artwork, including but not limited to those recordings and the associated artwork listed in Exhibit A. As a result, such users are liable for direct copyright infringement of Plaintiff's exclusive rights of reproduction and distribution under 17 U.S.C. § 106.

73. ReDigi has the legal right and actual ability to supervise and control the infringing activities that occur through its site and service. Its website notes that if users are uncertain about the legal origins of their songs, "... don't sweat it. If you aren't sure where it [the user's music file] came from, we'll help you figure it out." ReDigi also insists that it can identify and take action against repeat infringers, and explains that it will terminate the account of those who retain files ReDigi believes it has "cleaned" out of sellers' computers.

74. ReDigi has nevertheless refused to exercise any control over the illegal reproduction of copyrighted music or associated artwork, and as a direct and proximate result of such failure, ReDigi users have infringed and continue to infringe Plaintiff's copyrighted sound recordings and artwork, including those listed in Exhibit A.

75. ReDigi has derived direct and substantial financial benefits from the infringements of Plaintiff's copyrighted sound recordings and artwork occurring via its service. In addition to attracting a user base, the ReDigi service charges a percentage sales commission when unauthorized recordings are sold and downloaded via the ReDigi site.

76. As a result of the foregoing, ReDigi is liable under the Copyright Act for vicariously infringing Plaintiff's copyrights, in violation of Sections 106 and 501 of the Copyright Act.

77. The infringement of Plaintiff's rights in each of its copyrighted sound recordings

and associated artwork constitutes a separate and distinct act of infringement.

78. ReDigi's acts of infringement are willful, intentional and purposeful, in disregard of Plaintiff's rights.

79. As a direct and proximate result of ReDigi's infringement of Plaintiff's copyrights, Plaintiff is entitled to actual damages as well as ReDigi's profits from the infringements, as will be proven at trial pursuant to 17 U.S.C. § 504(b). Alternatively, Plaintiff is entitled to maximum statutory damages, in the amount of \$150,000 per infringement, pursuant to 17 U.S.C. § 504(c), or for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

80. Unless and until ReDigi's conduct is enjoined by this Court, it will continue to cause irreparable injury that cannot fully be compensated for or measured in money, and Plaintiff is accordingly also entitled to an injunction pursuant to 17 U.S.C. § 502 prohibiting further infringement of its exclusive rights under copyright.

81. Plaintiff is further entitled to attorneys' fees and costs pursuant to 17 U.S.C. § 505.

COUNT V
(Common Law Copyright Infringement)

82. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-81 above with the same force and effect as if set forth fully herein.

83. The Pre-1972 Recordings are subject to common law copyright protection under New York law. As the owner of valid common law copyrights in the Pre-1972 Recordings, Plaintiff possesses the exclusive rights to sell, copy, distribute and perform these recordings.

84. Plaintiff has not granted or licensed ReDigi the right to copy, distribute or perform the Pre-1972 Recordings in any manner, including by digital transmission. ReDigi's conduct as described above constitutes infringement of Plaintiff's common law copyrights in the

Pre-1972 Recordings, including without limitation, those recordings listed in Exhibit B hereto.

85. The infringement of Plaintiff's rights in each of its Pre-1972 Recordings constitutes a separate and distinct act of infringement.

86. As a direct and proximate result of ReDigi's violation of Plaintiff's rights in and to the Pre-1972 Recordings, Plaintiff has suffered damages in an amount to be proven at trial. Plaintiff is entitled to recover all proceeds and other compensation received or to be received by ReDigi arising from its infringement of Plaintiff's Pre-1972 Recordings, and is entitled to an accounting to ascertain the amount of such profits and compensation.

87. ReDigi's acts of infringement are willful, intentional and purposeful, in disregard of Plaintiff's rights, and Plaintiff is entitled to punitive damages in addition to actual damages.

88. Unless and until ReDigi's conduct is enjoined by this Court, it will continue to cause irreparable injury that cannot fully be compensated for or measured in money, and Plaintiff is accordingly also entitled to an injunction prohibiting ReDigi from further violating Plaintiff's rights in the Pre-1972 Recordings.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and against the Defendant as follows:

A. On all Counts, for such preliminary and permanent injunctive relief as is necessary to prevent or restrain infringement of Plaintiff's copyrights, including a preliminary and permanent injunction requiring that ReDigi and its agents, servants, employees, officers, directors, attorneys, successors, assigns, licensees and all others in active concert or participation with any of them, cease infringing, or causing, aiding, enabling, facilitating, encouraging, promoting, inducing or materially contributing to or participating in the infringement of any of Plaintiff's copyrights or exclusive rights protected by the Copyright Act or common law

(whether now in existence or hereafter created), including without limitation the recordings and associated artwork listed in Exhibits A and B.

B. On Counts I-IV, for ReDigi's profits attributable to the infringement of Plaintiff's copyrights, including without limitation the recordings and associated artwork listed in Exhibit A, and for Plaintiff's actual damages sustained by reason of ReDigi's wrongful acts in an amount to be proven at trial, or alternatively, at Plaintiff's election, for maximum statutory damages in the amount of \$150,000 with respect to each copyrighted work infringed, or for such other amount as may be proper pursuant to 17 U.S.C. § 504(c).

C. On Count V, for compensatory damages, an accounting for all gains, profits and advantages derived from ReDigi's wrongful acts and punitive damages in amounts to be proven at trial.

D. For Plaintiff's attorneys' fees, costs and disbursements in this action.

E. For prejudgment and post-judgment interest.

F. For such other and further relief as the Court may deem just and proper.

Dated: New York, New York
January 5, 2012

COWAN, LIEBOWITZ & LATMAN, P.C.

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Capitol Records, LLC

EXHIBIT A

EXHIBIT A

Title	Artist	Album	SR
ATTACK			
Was it A Dream?	30 Seconds To Mars	A Beautiful Lie	SR 377-457
A Beautiful Lie	30 Seconds To Mars	A Beautiful Lie	SR 377-457
The Kill (Bury Me)	30 Seconds To Mars	A Beautiful Lie	SR 377-457
The Fantasy	30 Seconds To Mars	A Beautiful Lie	SR 377-457
Savior	30 Seconds To Mars	A Beautiful Lie	SR 377-457
From Yesterday	30 Seconds To Mars	A Beautiful Lie	SR 377-457
R-Evolve	30 Seconds To Mars	A Beautiful Lie	SR 377-457
The Story	30 Seconds To Mars	A Beautiful Lie	SR 377-457
A Modern Myth	30 Seconds To Mars	A Beautiful Lie	SR 377-457
Hunter	30 Seconds To Mars	A Beautiful Lie	SR 377-457
Dedication	Beastie Boys	Hello Nasty	SR 377-457
Flowin' Prose	Beastie Boys	Hello Nasty	SR 277-731
Unitel	Beastie Boys	Hello Nasty	SR 277-731
Just A Test	Beastie Boys	Hello Nasty	SR 277-731
Body Movin'	Beastie Boys	Hello Nasty	SR 277-731
Song For the Man	Beastie Boys	Hello Nasty	SR 277-731
Song For Junior	Beastie Boys	Hello Nasty	SR 277-731
The Move	Beastie Boys	Hello Nasty	SR 277-731
Sneakin' Out The Hospital	Beastie Boys	Hello Nasty	SR 277-731
Three MC's And One DJ	Beastie Boys	Hello Nasty	SR 277-731
The Grasshopper Unit (Keep Movin')	Beastie Boys	Hello Nasty	SR 277-731
Electrify	Beastie Boys	Hello Nasty	SR 277-731
Putting Shame In Your Game	Beastie Boys	Hello Nasty	SR 277-731
Picture This	Beastie Boys	Hello Nasty	SR 277-731
Dr. Lee, PhD	Beastie Boys	Hello Nasty	SR 277-731
Instant Death	Beastie Boys	Hello Nasty	SR 277-731
Shazam	Beastie Boys	Hello Nasty	SR 277-731
Ch-Check It Out	Beastie Boys	To The 5 Boroughs	SR 360-352
3 The Hard Way	Beastie Boys	To The 5 Boroughs	SR 360-352
Oh, Word?	Beastie Boys	To The 5 Boroughs	SR 360-352
The Brouhaha	Beastie Boys	To The 5 Boroughs	SR 360-352
Against The Wind	Bob Seger & The Silver Bullet Band	Harley-Davidson Cycles (Road Songs)	SR 17-910

EXHIBIT A

God Put A Smile Upon Your Face	Coldplay	A Rush Of Blood To The Head	SR 322-958
Clocks	Coldplay	A Rush Of Blood To The Head	SR 322-958
The Scientist	Coldplay	A Rush Of Blood To The Head	SR 322-958
Don't Panic	Coldplay	Parachutes	SR 328-762
Yellow	Coldplay	Parachutes	SR 328-762
Trouble	Coldplay	Parachutes	SR 328-762
Shiver	Coldplay	Parachutes	SR 328-762
Spies	Coldplay	Parachutes	SR 328-762
Parachutes	Coldplay	Parachutes	SR 328-762
High Speed	Coldplay	Parachutes	SR 328-762
We Never Change	Coldplay	Parachutes	SR 328-762
Sparks	Coldplay	Parachutes	SR 328-762
Everything's Not Lost	Coldplay	Parachutes	SR 328-762
Viva La Vida	Coldplay	Viva La Vida Or Death And All His Friends	SR 652-909
Speed Of Sound	Coldplay	X&Y	SR 376-828
Fix You	Coldplay	X&Y	SR 376-828
Drink In My Hand	Eric Church	Chief	SR 681-019
Waking Up In Vegas	Katy Perry	One Of The Boys	SR 638-214
Thinking Of You	Katy Perry	One Of The Boys	SR 638-214
Mannequin	Katy Perry	One Of The Boys	SR 638-214
Ur So Gay	Katy Perry	One Of The Boys	SR 638-214
Self Inflicted	Katy Perry	One Of The Boys	SR 638-214
I'm Still Breathing	Katy Perry	One Of The Boys	SR 638-214
One Of The Boys	Katy Perry	One Of The Boys	SR 638-214
I Kissed A Girl	Katy Perry	One Of The Boys	SR 638-214
Hot 'N Cold	Katy Perry	One Of The Boys	SR 638-214
If You Can Afford Me	Katy Perry	One Of The Boys	SR 638-214
Teenage Dream	Katy Perry	Teenage Dream	SR 662-268
Last Friday Night (T.G.I.F.)	Katy Perry	Teenage Dream	SR 662-268
California Gurls ft. Snoop Dogg	Katy Perry	Teenage Dream	SR 662-268
Peacock	Katy Perry	Teenage Dream	SR 662-268
Circle The Drain	Katy Perry	Teenage Dream	SR 662-268
The One That Got Away	Katy Perry	Teenage Dream	SR 662-268
Who Am I Living For?	Katy Perry	Teenage Dream	SR 662-268

EXHIBIT A

Hummingbird Heartbeat	Katy Perry	Teenage Dream	SR 662-268
Firework	Katy Perry	Teenage Dream	SR 662-268
Not Like The Movies	Katy Perry	Teenage Dream	SR 662-268
I Told You So	Keith Urban	Love, Pain & the whole crazy thing	SR 398-619
Just A Kiss	Lady Antebellum	Just A Kiss	SR 679-267
Long Gone	Lady Antebellum	Lady Antebellum	SR 656-386
Love Don't Live Here	Lady Antebellum	Lady Antebellum	SR 656-388
Lookin' For A Good Time	Lady Antebellum	Lady Antebellum	SR 656-386
All We'd Ever Need	Lady Antebellum	Lady Antebellum	SR 656-386
Love's Lookin' Good On You	Lady Antebellum	Lady Antebellum	SR 656-386
Home Is Where The Heart Is	Lady Antebellum	Lady Antebellum	SR 656-386
Things People Say	Lady Antebellum	Lady Antebellum	SR 656-386
Slow Down Sister	Lady Antebellum	Lady Antebellum	SR 656-386
One Day You Will	Lady Antebellum	Lady Antebellum	SR 656-386
Need You Now	Lady Antebellum	Need You Now	SR 644-543
When You Got A Good Thing	Lady Antebellum	Need You Now	SR 644-543
Stars Tonight	Lady Antebellum	Need You Now	SR 644-546
Our Kind Of Love	Lady Antebellum	Need You Now	SR 644-546
American Honey	Lady Antebellum	Need You Now	SR 644-544
Perfect Day	Lady Antebellum	Need You Now	SR 644-543
Love This Pain	Lady Antebellum	Need You Now	SR 644-542
If I Knew Then	Lady Antebellum	Need You Now	SR 644-543
Something 'Bout A Woman	Lady Antebellum	Need You Now	SR 644-543
Ready To Love Again	Lady Antebellum	Need You Now	SR 644-543
LDN	Lily Allen	Alright, Still	SR 392-060
Smile	Lily Allen	Alright, Still	SR 392-059
Knock 'Em Out	Lily Allen	Alright, Still	SR 392-060
Everything's Just Wonderful	Lily Allen	Alright, Still	SR 392-058
Friday Night	Lily Allen	Alright, Still	SR 392-058
Alfie	Lily Allen	Alright, Still	SR 392-058
Take What You Take	Lily Allen	Alright, Still	SR 392-058
Turn Me On	Norah Jones	Come Away With Me	SR 320-120
Windows Are Rolled Down	Amos Lee	Windows Are Rolled Down	SR 671-434
Draw Me A Map	Dierks Bentley	Up On The Ridge	SR 663-139

EXHIBIT A

Suddenly I See
Black Horse And A Cherry Tree
Under The Weather
Super Duper Love
Fell In Love With A Boy
Baby Baby Baby
More (2004 Digital Remaster)

KT Tunstall
KT Tunstall
KT Tunstall
Joss Stone
Joss Stone
Joss Stone
Bobby Darin

Eye To The Telescope
Eye To The Telescope
Eye To The Telescope
The Soul Sessions
The Soul Sessions
Introducing J
The Legendary Bobby Darin

SR 388-462
SR 388-462
SR 388-462
SR 343-788
SR 343-788
SR 642-089
SR 367-404

EXHIBIT B

EXHIBIT B

Title	Artist	Album
What A Little Moonlight Can Do	Peggy Lee	Ridin' High: The Complete Record Releases 1957-1959
The Christmas Song (Merry Christmas To You)	Nat King Cole	

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
CAPITOL RECORDS, LLC,

No. 12-cv-0095 (RJS) (AJP)

Plaintiff,

-against-

REDIGI INC.,

ANSWER

Defendant.
-----x

Defendant ReDigi Inc. ("ReDigi"), by its attorneys, Ray Beckerman, P.C., as and for its answer to the complaint (the "Complaint") of plaintiff Capitol Records, LLC ("Plaintiff"), alleges as follows:

1. Denies the allegations in paragraph 1 of the Complaint, except admits that Plaintiff has brought the within action against ReDigi.
2. Denies the allegations in paragraph 2 of the Complaint, except admits that ReDigi owns and operates the "ReDigi" music service, which is a cloud-based music storage service as well as, upon information and belief, the first online marketplace for used or recycled music files.
3. Denies the allegations in paragraph 3 of the Complaint, except admits that 30 second clips of music tracks can be streamed through links which appear on the ReDigi website, that the streaming of such clips is provided by, and licensed from, an authorized provider thereof, that such clips are stored on the servers of said authorized provider and not on the ReDigi service or on the hard drives of ReDigi users, and that the

cover artwork displayed on the ReDigi website is likewise provided by, and licensed from, the authorized provider.

4. Denies the allegations in paragraph 4 of the Complaint.
5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Complaint.
6. Admits the allegations in paragraph 6 of the Complaint.
7. Denies the allegations in paragraph 7 of the Complaint, except admits that Plaintiff has brought the within action against ReDigi.
8. Admits the allegations in paragraph 8 of the Complaint.
9. Denies the allegations in paragraphs 9 and 10 of the Complaint.
10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 11 through 15 of the Complaint.
11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 16 and 17 of the Complaint, except denies those allegations to the extent that they allege that sound recordings and artwork have been illegally reproduced, distributed and or performed or displayed.
12. Denies the allegations in paragraph 18 of the Complaint, except admits that ReDigi owns and operates the ReDigi website and service located at www.redigi.com, that the website and service was launched in October 2011 and is in a "Beta" testing and "inventory build" phase, that ReDigi has referred to its service as "the world's first online marketplace for used digital music," and has stated that its service allows users to "buy used digital music from others at a fraction of the price currently available on iTunes."

13. Denies the allegations in paragraph 19 of the Complaint, except admits that the ReDigi site makes possible the sale of a digital music file from one user to another without copying or file sharing.

14. Denies the allegations in paragraph 20 of the Complaint, except admits that ReDigi issued a press release before the launch of its service and respectfully refers the Court to said document for its content.

15. Denies the allegations in paragraph 21 of the Complaint, except admits that the track stored in the user's personal storage locker is the file which had been stored on the user's computer, and that ReDigi software automatically requires the user to delete all instances of the file from the user's hard-drive and attached devices upon the upload of the file to the user's personal storage locker.

16. Denies the allegations in paragraph 22 of the Complaint, except admits that ReDigi issued a press release before the launch of its service and respectfully refers the Court to said document for its content.

17. Denies the allegations in paragraphs 23 through 25 of the Complaint, except admits that ReDigi has a tutorial video on its website and respectfully refers the Court to said video for its content.

18. Denies the allegations in paragraph 26 of the Complaint, except admits that cover artwork from a third-party source is displayed on ReDigi's website pursuant to license.

19. Denies the allegations in paragraph 27 of the Complaint, except admits that ReDigi users can earn "ReDigi coupons" and credits which can be applied to the purchase of music files.

20. Denies the allegations in paragraph 28 of the Complaint, except admits that the ReDigi website offers contests.

21. Denies the allegations in paragraph 29 of the Complaint, except admits that ReDigi was mentioned in a New York Times article dated November 14, 2011.

22. Denies the allegations in paragraph 30 of the Complaint, except admits that the ReDigi earns a transaction fee from the sale of music by one user to another through the ReDigi website.

23. Denies the allegations in paragraph 31 of the Complaint, except admits that ReDigi has made public statements and issued press releases.

24. Denies the allegations in paragraph 32 of the Complaint, except admits that the "Verification Engine" in ReDigi's proprietary "Music Manager" software ("Music Manager") analyzes each file that a user seeks to upload to determine that it was legally downloaded from iTunes by the user and eligible to be uploaded to the user's personal storage locker.

25. Denies the allegations in paragraph 33 of the Complaint, except admits that Amazon.com, which is not the source of any ReDigi uploads, has terms and conditions on its music store website.

26. Denies the allegations in paragraph 34 of the Complaint, except admits that Music Manager is resident on the user's computer, that Music Manager verifies the eligibility of music files to be uploaded to the user's personal storage locker, that after a file is so verified, Music Manager uploads the file and requires deletion of the file and all copies thereof from the user's computer and from all synchronization and

storage devices attached thereto, that if any storage or synchronization device is connected to the computer subsequent to the upload, Music Manager automatically searches such device or devices for instances of copies of the previously uploaded file, that if a copy of such file is detected, the user is prompted to authorize the deletion of such file from that device, and that if the user fails to provide such authorization, the user's ReDigi account is suspended.

27. Denies the allegations in paragraph 35 of the Complaint, except admits that the First Sale Doctrine of 17 U.S.C. § 109 is one of many defenses to this action.

28. Paragraph 36 of the Complaint calls for legal conclusions, and as such, no response is necessary; to the extent that paragraph 36 contains factual allegations, ReDigi denies same.

29. Denies the allegations in paragraphs 37 and 38 of the Complaint.

30. Denies the allegations in paragraph 39 of the Complaint, upon information and belief denies that Plaintiff owns any of the songs, and denies knowledge or information sufficient to form a belief as to the truth of the allegation that "Billboard's 'top 100' [recordings] listed as available from ReDigi are owned by Plaintiff."

31. Denies the allegations in paragraph 40 of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegation that Plaintiff owns or controls the sound recordings listed in Exhibits A and B to the Complaint.

32. Denies the allegations in paragraph 41 of the Complaint, except admits that the RIAA sent ReDigi a “cease and desist” letter in November 2011, which failed to comply with the Digital Millennium Copyright Act, 17 U.S.C. § 512 (“DMCA”).

33. Denies the allegations in paragraphs 42, 43, 45 through 50, 52 through 60, 62 through 70, and 72 of the Complaint.

34. Denies the allegations in paragraph 73 of the Complaint, except admits that Music Manager determines whether files sought to be uploaded to the ReDigi Cloud are eligible to be uploaded, that it is not necessary for the user to know the source of the file sought to be uploaded since Music Manager will determine whether it is from an eligible source, that ReDigi has adopted and reasonably implemented a policy that provides for the suspension of users’ accounts in the event of repeated infringement and violation of ReDigi’s terms of service, and that ReDigi has informed its users of this policy and they have agreed to same.

35. Denies the allegations in paragraph 74 of the Complaint.

36. Denies the allegations in paragraph 75 of the Complaint, except admits that ReDigi charges a transaction fee on the sale of a used music file.

37. Denies the allegations in paragraphs 76 through 81 of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 83 of the Complaint.

39. Denies the allegations in paragraph 84 of the Complaint, except admits that Plaintiff has not granted ReDigi a license to copy, distribute or perform any pre-1972 recordings.

40. Denies the allegations in paragraphs 85 through 88 of the Complaint.

AFFIRMATIVE DEFENSES

41. After signing up for a ReDigi account, accepting ReDigi's terms of service, downloading and installing ReDigi's proprietary "Music Manager" software ("Music Manager"), and logging into the account using secure login information, a ReDigi user may upload an eligible music file ("Eligible File") from the user's computer to the user's personal storage locker ("Cloud Locker") in ReDigi's cloud-based storage system (the "ReDigi Cloud").

42. A user's Cloud Locker consists of file pointers that associate particular Eligible Files with a particular user's account and indicate in which Cloud Locker those files are located.

43. Only the user associated with a particular Cloud Locker has access to its contents.

44. The only Eligible Files are those originally and legally downloaded from iTunes, thereby excluding music tracks copied from CDs, or downloaded from other online vendors or files sharers, or obtained from any other source.

45. The terms and conditions used by iTunes do not in any way prohibit any part of ReDigi's business model. Plaintiff's citation of the terms and conditions used by Amazon.com is inapposite.

46. Music Manager analyzes each music file that a user seeks to upload to determine that it was legally downloaded from iTunes by the user and eligible to be uploaded. Before a file is accepted for upload, the file is subjected to an initial validation process on the user's computer, which includes analyzing file ownership, source, purchase dates, UITS code if it exists, metadata, and changes and modifications, if any. If the file passes the initial validation stage, the file is uploaded to the user's Cloud Locker where additional and more intensive analysis takes place to confirm eligibility, including validating file source and ownership, and verifying that the file was not modified or tampered with.

47. Music Manager continuously runs in the background on a user's computer. Upon the upload of an Eligible File to a user's Cloud Locker, such file and all copies thereof residing on the user's computer, and on attached synchronization and storage devices, are deleted therefrom.

48. If any storage or synchronization device is connected to the user's computer subsequent to the upload, Music Manager automatically searches such devices for instances of copies of any Eligible File previously uploaded by the user to his or her Cloud Locker.

49. If a copy of such Eligible File is detected, the user is prompted to authorize the deletion of such file from that device, and if the user fails to provide such authorization, the user's ReDigi account is suspended.

50. If a user downloads a file from his or her Cloud Locker, the file in the Cloud Locker is deleted.

51. After the upload of an Eligible File to a user's Cloud Locker, the user can listen to the file by "streaming" it from the user's Cloud Locker to an internet-connected device using the user's secure login to access his or her ReDigi account.

52. No copy of a music file so "streamed" is stored; rather it is loaded into RAM, and disappears when the song stops playing.

53. A user can choose to offer an Eligible File stored in his or her Cloud Locker for resale to other ReDigi users through the ReDigi used music marketplace.

54. No copy of the file in the ReDigi Cloud is made when the Eligible File is sold by one ReDigi user to another ReDigi user.

55. When such a file is purchased by another user, the file pointer associating the Eligible File with the Cloud Locker of the selling user is modified to associate the file with the Cloud Locker of the purchasing user.

56. In such a transaction only the pointer is changed; the Eligible File remains in the same location in the ReDigi Cloud and is not copied.

57. After such a sale, the selling user no longer has any access to the file so sold.

58. After such a sale, the Eligible File remains in the purchasing user's Cloud Locker where he or she can store it, listen to it, offer it for sale, or download it, in which case the file is deleted from the purchasing user's Cloud Locker.

59. ReDigi earns a transaction fee on the sales.

60. ReDigi's website has links to 30-second clips which are streamed by a third-party source and to associated artwork maintained by that source, all pursuant

to license. No copies of such clips are made or stored on ReDigi's website or in the ReDigi Cloud, nor are any of the artwork files which are displayed on the website stored on the website or in the ReDigi Cloud.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

61. The Complaint fails to state a claim upon which relief can be granted, and violates Fed. R. Civ. P. 8 by failing to allege (a) each specific original work that is the subject of Plaintiff's claim, (b) Plaintiff's ownership of each such specific work, (c) specifics of copyright registration of each such specific work, and (d) the acts by which and the times during which ReDigi purportedly infringed each such copyright.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

62. ReDigi's music storage service and used music marketplace are protected by the safe harbor defense of the Digital Millennium Copyright Act, 17 U.S.C. § 512.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

63. Plaintiff failed to comply with the notification requirements of the Digital Millennium Copyright Act, 17 U.S.C. § 512.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

64. ReDigi's music storage service and used music marketplace do not infringe on copyright based on the fair use doctrine.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

65. ReDigi's music storage service and used music marketplace do not infringe on copyright based on the essential step defense of 11 U.S.C. § 117.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

66. ReDigi's music storage service and used music marketplace do not infringe on copyright based on the copyright exhaustion doctrine.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

67. The sale of Eligible Files from one ReDigi user to another ReDigi user does not infringe on copyright based on the first sale doctrine.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

68. The transfer by a ReDigi user of Eligible Files to and/or from the user's own Cloud Locker in the ReDigi Cloud is a non-infringing act protected by the fair use doctrine.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

69. The transfer by a ReDigi user of Eligible Files to and/or from the user's own Cloud Locker in the ReDigi Cloud is a non-infringing act protected by the essential step defense of 11 U.S.C. § 117.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

70. The transfer by a ReDigi user of Eligible Files to and/or from the user's own Cloud Locker in the ReDigi Cloud does not infringe on copyright based on the copyright exhaustion doctrine.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

71. The transfer by a ReDigi user of Eligible Files to and/or from the user's own Cloud Locker in the ReDigi Cloud does not implicate the distribution right of 17 U.S.C. § 106(3).

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

72. The streaming of 30-second clips of music files and associated cover artwork through ReDigi's website is pursuant to licenses.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

73. The distribution right of 17 U.S.C. § 106(3) is limited to the dissemination of material objects.

74. The digital files that are the subject of this action are not material objects.

75. The dissemination of digital files does not infringe the distribution right of 17 U.S.C. § 106(3).

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

76. Alternatively, if digital files are held by the Court to be material objects subject to the distribution right of 17 U.S.C. § 106(3), then they are likewise material objects subject to the first sale exception to 17 U.S.C. § 106(3) created by 17 U.S.C. § 109, and a ReDigi user's sale of a single file to another ReDigi user therefore does not infringe the distribution right of 17 U.S.C. § 106(3), pursuant to 17 U.S.C. § 109.

WHEREFORE ReDigi demands judgment dismissing the Complaint and awarding attorneys' fees, costs, disbursements, and such other and further relief as to the Court seems proper.

Dated: Forest Hills, New York
January 19, 2012

RAY BECKERMAN, P.C.

By: s/Morlan Ty Rogers
Morlan Ty Rogers
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EXHIBIT 3

TERMS AND CONDITIONS

- A. ITUNES STORE, MAC APP STORE, APP STORE, AND IBOOKSTORE TERMS OF SALE
- B. ITUNES STORE TERMS AND CONDITIONS
- C. MAC APP STORE, APP STORE AND IBOOKSTORE TERMS AND CONDITIONS
- D. PRIVACY POLICY

THE LEGAL AGREEMENTS SET OUT BELOW GOVERN YOUR USE OF THE ITUNES STORE, MAC APP STORE, APP STORE, AND IBOOKSTORE SERVICES. TO AGREE TO THESE TERMS, CLICK "AGREE." IF YOU DO NOT AGREE TO THESE TERMS, DO NOT CLICK "AGREE," AND DO NOT USE THE SERVICES.

- A. ITUNES STORE, MAC APP STORE, APP STORE, AND IBOOKSTORE TERMS OF SALE

PAYMENTS, TAXES, AND REFUND POLICY

The iTunes Store, Mac App Store, App Store, and iBookstore services ("Services") accept these forms of payment: credit cards issued by U.S. banks, payments through your PayPal account, iTunes Cards, iTunes Store Gift Certificates, Content Codes, and Allowance Account balances. If a credit card or your PayPal account is being used for a transaction, Apple may obtain preapproval for an amount up to the amount of the order. Billing occurs at the time of or shortly after your transaction. If you are using 1-Click purchasing or your PayPal account, your order may be authorized and billed in increments during one purchasing session, so it may appear as multiple orders on your statement. If an iTunes Card, iTunes Store Gift Certificate, or Allowance Account is used for a transaction, the amount is deducted at the time of your transaction. When making purchases, content credits are used first, followed by Gift Certificate, iTunes Card, or Allowance Account credits; your credit card or PayPal account is then charged for any remaining balance.

You agree that you will pay for all products you purchase through the Services, and that Apple may charge your credit card or PayPal account for any products purchased and for any additional amounts (including any taxes and late fees, as applicable) that may be accrued by or in connection with your Account. YOU ARE RESPONSIBLE FOR THE TIMELY PAYMENT OF ALL FEES AND FOR PROVIDING APPLE WITH A VALID CREDIT CARD OR PAYPAL ACCOUNT DETAILS FOR PAYMENT OF ALL FEES. All fees will be billed to the credit card or PayPal account you designate during the registration process. If you want to designate a different credit card or if there is a change in your credit card or PayPal account status, you must change your information online in the Account Information section of iTunes; this may temporarily disrupt your access to the Services while Apple verifies your new payment information.

Your total price will include the price of the product plus any applicable sales tax; such sales tax is based on the bill-to address and the sales tax rate in effect at the time you download the product. We will charge tax only in states where digital goods are taxable.

All sales and rentals of products are final.

Prices for products offered via the Services may change at any time, and the Services do not provide price protection or refunds in the event of a price reduction or promotional offering.

If a product becomes unavailable following a transaction but prior to download, your sole remedy is a refund. If technical problems prevent or unreasonably delay delivery of your product, your exclusive and sole remedy is either replacement or refund of the price paid, as determined by Apple.

1-Click®

1-Click is a registered service mark of Amazon.com, Inc., used under license. 1-Click is a convenient feature that allows you to make a purchase from the Services with a single click of your mouse or other input device. When accessing the Services on your computer, 1-Click purchasing may be activated via the dialog that appears when you click a Buy button. (You may reset this selection at any time by clicking Reset Warnings in your Account information). When accessing the Services on your Apple-branded products running iOS such as an iPad, iPod touch, or iPhone ("iOS Device"), 1-Click is activated for each transaction by tapping the button showing the price of the product, which reveals the Buy button. When 1-Click is activated, clicking or tapping the Buy button starts the download immediately and completes your transaction without any further steps.

GIFT CERTIFICATES, ITUNES CARDS, ALLOWANCES, AND CONTENT CODES

Gift Certificates, iTunes Cards, and Allowances are issued and managed by Apple Value Services, LLC ("Issuer").

Gift Certificates, iTunes Cards, Content Codes, and Allowances, in addition to unused balances, are not redeemable for cash and cannot be returned for a cash refund (except as required by law); exchanged; resold; used to purchase Gifts, Gift Certificates, or iTunes Cards; used to provide Allowances; used for purchases on the Apple Online Store; or used in Apple Retail Stores. Unused balances are not transferable.

ITUNES STORE - TERMS AND CONDITIONS

Gift Certificates, iTunes Cards, Content Codes, and Allowances purchased in the United States may be redeemed through the Services only in the United States, its territories, and possessions.

The Gift Certificate/iTunes Card cash value is 1/10 of one cent.

Neither Issuer nor Apple is responsible for lost or stolen Gift Certificates, iTunes Cards, Content Codes, or Allowances. Risk of loss and title for Gift Certificates, iTunes Cards, and Allowances transmitted electronically pass to the purchaser in Virginia upon electronic transmission to the recipient. Risk of loss and title for Content Codes transmitted electronically pass in California upon electronic transmission from Apple; for avoidance of doubt, such recipient may not always be you.

Apple reserves the right to close accounts and request alternative forms of payment if a Gift Certificate, iTunes Card, Content Code, or Allowance is fraudulently obtained or used on the Service.

APPLE, ISSUER, AND THEIR LICENSEES, AFFILIATES, AND LICENSORS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO GIFT CERTIFICATES, ITUNES CARDS, CONTENT CODES, ALLOWANCES, OR THE ITUNES STORE, APP STORE, MAC APP STORE, OR IBOOKSTORE, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT THAT A GIFT CERTIFICATE, ITUNES CARD, CONTENT CODE, OR ALLOWANCE IS NONFUNCTIONAL, YOUR SOLE REMEDY, AND OUR SOLE LIABILITY, SHALL BE THE REPLACEMENT OF SUCH GIFT CERTIFICATE, ITUNES CARD, CONTENT CODE, OR ALLOWANCE. THESE LIMITATIONS MAY NOT APPLY TO YOU. CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY ALSO HAVE ADDITIONAL RIGHTS.

GIFTS

Gifts purchased from the Services may be purchased only for, and redeemed only by, persons in the United States, its territories, and possessions. Gift recipients must have compatible hardware and parental control settings to utilize some gifts.

PRE-ORDERS

By pre-ordering products, you are authorizing the Services to automatically charge your account and download the product when it becomes available. You may cancel your pre-order prior to the time the item becomes available.

ELECTRONIC CONTRACTING

Your use of the Services includes the ability to enter into agreements and/or to make transactions electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO ON THIS SITE, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND APPLICATIONS. In order to access and retain your electronic records, you may be required to have certain hardware and software, which are your sole responsibility.

Apple is not responsible for typographic errors.

B. ITUNES STORE TERMS AND CONDITIONS

THIS LEGAL AGREEMENT BETWEEN YOU AND APPLE INC. ("APPLE") GOVERNS YOUR USE OF THE ITUNES STORE SERVICE (THE "ITUNES SERVICE").

THE ITUNES STORE SERVICE

Apple is the provider of the iTunes Service, which permits you to purchase or rent digital content ("iTunes Products") for end user use only under the terms and conditions set forth in this Agreement.

REQUIREMENTS FOR USE OF THE ITUNES SERVICE

This iTunes Service is available for individuals aged 13 years or older. If you are 13 or older but under the age of 18, you should review this Agreement with your parent or guardian to make sure that you and your parent or guardian understand it.

The iTunes Service is available to you only in the United States, its territories, and possessions. You agree not to use or attempt to use the iTunes Service from outside these locations. Apple may use technologies to verify your compliance.

Use of the iTunes Service requires compatible devices, Internet access, and certain software (fees may apply); may require periodic updates; and may be affected by the performance of these factors. High-speed Internet access is strongly recommended for regular use and is required for video. The latest version of required software is recommended to access the iTunes Service and may be required for certain transactions or features and to download iTunes Products previously purchased from the iTunes Service. You agree that meeting these requirements, which may change from time to time, is your responsibility. The iTunes Service is not part of any other product or offering, and no purchase or obtaining of any other product shall be construed to represent or guarantee you access to the iTunes

Service.

YOUR ACCOUNT

As a registered user of the iTunes Service, you may establish an account ("Account"). Don't reveal your Account information to anyone else. You are solely responsible for maintaining the confidentiality and security of your Account and for all activities that occur on or through your Account, and you agree to immediately notify Apple of any security breach of your Account. Apple shall not be responsible for any losses arising out of the unauthorized use of your Account.

In order to purchase and download iTunes Products from the iTunes Service, you must enter your Apple ID and password to authenticate your Account. Once you have authenticated your Account, you will not need to authenticate again for fifteen minutes. During this time, you will be able to purchase and download iTunes Products without re-entering your password. You can turn off the ability to make iTunes Product purchases by adjusting the settings on your computer or iOS Device. For more information, please see <http://support.apple.com/kb/HT1904> or <http://support.apple.com/kb/HT4213>.

You agree to provide accurate and complete information when you register with, and as you use, the iTunes Service ("iTunes Registration Data"), and you agree to update your iTunes Registration Data to keep it accurate and complete. You agree that Apple may store and use the iTunes Registration Data you provide for use in maintaining and billing fees to your Account.

AUTOMATIC DELIVERY AND DOWNLOADING PREVIOUS PURCHASES

When you first acquire music iTunes Products and music video iTunes Products (collectively, "iTunes Auto-Delivery Content"), you may elect to automatically receive ("auto-download") copies of such iTunes Auto-Delivery Content on additional compatible iOS Devices and iTunes-authorized computers with compatible software by associating such iOS Devices and computers subject to the association rules below (each, an "Associated Device"). For each Associated Device, you may specify which type of iTunes Auto-Delivery Content, if any, may be auto-downloaded to it. On an Associated Device that is capable of receiving push notifications ("Push-Enabled"), including iOS Devices, the iTunes Auto-Delivery Content will auto-download to that Associated Device when it has an Internet connection; on an Associated Device that is not Push-Enabled, including those running on the Windows operating system, iTunes Auto-Delivery Content will automatically appear in the download queue and you may manually initiate the download within iTunes.

As an accommodation to you, subsequent to acquiring iTunes Auto-Delivery Content, purchased (i.e. not rented) movies iTunes Products and TV show iTunes Products (each, "iTunes Eligible Content"), you may download certain of such previously-purchased iTunes Eligible Content onto any Associated Device. Some iTunes Eligible Content that you previously purchased may not be available for subsequent download at any given time, and Apple shall have no liability to you in such event. As you may not be able to subsequently download certain previously-purchased iTunes Eligible Content, once you download an item of iTunes Eligible Content, it is your responsibility not to lose, destroy, or damage it, and you may want to back it up.

Association of Associated Devices is subject to the following terms:

(i) You may auto-download iTunes Auto-Delivery Content or download previously-purchased iTunes Eligible Content from an Account on up to 10 Associated Devices, provided no more than 5 are iTunes-authorized computers.

(ii) An Associated Device can be associated with only one Account at any given time.

(iii) You may switch an Associated Device to a different Account only once every 90 days.

(iv) You may download previously-purchased free content onto an unlimited number of devices while it is free on the iTunes Service, but on no more than 5 iTunes-authorized computers.

An Apple TV is not an "Associated Device." However, TV show iTunes Products and purchased (i.e. not rented) movies iTunes Products may be played back on compatible Apple TVs, provided that you may only play back any such TV show or movie on a limited number of Apple TVs at the same time.

Some pieces of iTunes Eligible Content may be large, and significant data charges may result from delivery of such iTunes Eligible Content over a data connection.

ITUNES MATCH

iTunes Match permits you to remotely access your matched or uploaded songs, and music videos you have purchased with your Account, along with related metadata, playlists, and other information about your iTunes Library ("iTunes Match Content").

You may subscribe to iTunes Match for an annual fee. You must have a valid credit card on file with iTunes to subscribe. The subscription is non-refundable (except as required by applicable law), and will automatically renew for one-year periods until you cancel. Your account will be charged no more than 24 hours prior to the expiration of the current subscription period. You may cancel automatic renewal by adjusting the iTunes Store account settings on your computer. You will no longer be able to access your iTunes Match Content from iTunes Match after the end of your subscription period.

ITUNES STORE - TERMS AND CONDITIONS

iTunes Match works with libraries that contain up to 25,000 songs which are either (i) not currently available on the iTunes Service, or (ii) not purchased from the iTunes Service with your Account. Songs with quality less than 96 kbps or that are not authorized for your computer are not eligible for iTunes Match.

iTunes Match will automatically scan the song files and collect other information that may be used to identify media in your iTunes library, such as the names of songs, song artists or song durations. iTunes Match will use this information to match songs to those currently available on the iTunes Store, and will make matched songs available to you in the format then available on the iTunes Store. If the song is not successfully matched, your copy of the song will be uploaded to Apple in the same format or a format determined by Apple. Apple reserves the right to limit types of content uploaded (for example, excessively large files). Matched or uploaded songs and related metadata will be available for access from an Associated Device that has been enabled for iTunes Match. Association of Associated Devices for iTunes Match is subject to the same terms as Automatic Delivery and Downloading Previous Purchases, and uploaded or matched songs and related information are deemed to be "iTunes Eligible Content." You may also access iTunes Match Content from compatible Apple TVs, provided that you may only do so on a limited number of Apple TVs at the same time.

When you use iTunes Match, Genius will begin associating information about the media in your iTunes library with your Account; the association with your Account will continue for a period of time after your subscription ends. Apple will otherwise use this information as described in the Privacy Section of this Agreement. You will not be able to disable Genius while using iTunes Match, so if you prefer that we do not collect and use information from your iTunes library in this manner, you should not use iTunes Match.

You hereby agree to use iTunes Match only for lawfully acquired content. Any use for illegitimate content infringes the rights of others and may subject you to civil and criminal penalties, including possible monetary damages, for copyright infringement.

iTunes Match is provided on an "AS IS" basis and may contain errors or inaccuracies that could cause failures, corruption or loss of data and/or information, including music, playlist, and play history, from your computer or device and from peripherals (including, without limitation, servers and other computers) connected thereto. You should back up all data and information on your computer or device and any peripherals prior to using iTunes Match. You expressly acknowledge and agree that all use of iTunes Match is at your sole risk. To the extent permitted by law, Apple shall have no liability with respect to your use of iTunes Match, including the inability to access matched or uploaded content.

PRIVACY

The iTunes Service is subject to Apple's Privacy Policy at <http://www.apple.com/privacy/>.

When you opt in to the Genius feature, Apple will, from time to time, automatically collect information that can be used to identify media in your iTunes library on this computer, such as your play history and playlists. This includes media purchased through iTunes and media obtained from other sources. This information will be stored anonymously and will not be associated with your name or Account. When you use the Genius feature, Apple will use this information and the contents of your iTunes library, as well as other information, to give personalized recommendations to you.

Apple may only use this information and combine it with aggregated information from the iTunes libraries of other users who also opt in to this feature, your iTunes Store purchase history data, aggregated purchase history data from other iTunes Store users, and other information obtained from third parties, to:

- Create personalized playlists for you from your iTunes library.
- Provide you with recommendations regarding media and other products and services that you may wish to purchase.
- Provide recommendations regarding products and services to other users.

At all times your information will be treated in accordance with Apple's Privacy Policy.

Once you opt in to the Genius feature in iTunes, you will be able to create Genius playlists on Genius-capable devices. To enable the Genius feature on a device, you must sync it with your iTunes library after you have opted in.

If you prefer that we do not collect and use information from your iTunes library in this manner, you should not enable the Genius feature. You can revoke your opt-in choice at any time by turning off the Genius feature from the Store menu in iTunes on your computer. After you opt out, iTunes will no longer send information about your iTunes library to Apple. If you have elected to share your library from multiple computers, you need to turn off the Genius feature from each computer. The Genius feature cannot be enabled or disabled from your device.

By opting in to the Genius feature, you consent to the use of your information as described above and as described in Apple's Privacy Policy.

CONTENT AVAILABILITY

Apple reserves the right to change content options (including eligibility for particular features) without notice.

USE OF PURCHASED OR RENTED CONTENT

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USAGE RULES

(i) You shall be authorized to use iTunes Products only for personal, noncommercial use.

(ii) You shall be authorized to use iTunes Products on five iTunes-authorized devices at any time, except for Content Rentals (see below).

(iii) You shall be able to store iTunes Products from up to five different Accounts at a time on compatible devices, provided that each iPhone may sync one iTunes Product with only a single iTunes-authorized device at a time, and syncing an iPhone with a different iTunes-authorized device will cause one iTunes Product stored on that iPhone to be erased.

(iv) You shall be authorized to burn an audio playlist up to seven times.

(v) You shall not be entitled to burn video iTunes Products or one iTunes Product.

(vi) iTunes Plus Products do not contain security technology that limits your usage of such products, and Usage Rules (ii) – (v) do not apply to iTunes Plus Products. You may copy, store, and burn iTunes Plus Products as reasonably necessary for personal, noncommercial use.

(vii) You shall be able to manually sync a movie from at least one iTunes-authorized device to devices that have manual sync mode, provided that the movie is associated with an Account on the primary iTunes-authorized device, where the primary iTunes-authorized device is the one that was first synced with the device or the one that you subsequently designate as primary using iTunes.

(viii) An HDCP connection is required to view content transmitted over HDMI.

(ix) Content Rentals

(a) Content rentals are viewable on only one device at a time. You must be connected to the iTunes Service when moving rentals, and you may do so only between your computer and other compatible devices. Content rented using your Apple TV, iPad, iPhone 4, or iPod touch (4th generation) may not be moved. If you move a rental to a compatible device and then use the iTunes Service to restore that device, or choose Settings > Reset > Erase all content and settings on that device, the rental will be permanently deleted.

(b) You have thirty (30) days after downloading a rental to begin viewing. Once you begin viewing, you have twenty-four (24) hours to finish viewing a movie. Stopping, pausing, or restarting a rental does not extend the available time for viewing.

Some iTunes Products, including but not limited to Content rentals, may be downloaded only once and cannot be replaced if lost for any reason. It is your responsibility not to lose, destroy, or damage iTunes Products once downloaded, and you may wish to back them up.

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PING

If you opt in to Ping, you can share information with people who have also opted in to Ping, such as your name, your image, and your interests. The name and image provided will also be associated with all reviews posted about an iTunes Product via your Account, including posts prior to opting in. People whom you have permitted to follow you will be able to see your activity on iTunes, such as events you are attending, music that you have indicated that you like, and purchases

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As an accommodation to you, subsequent to acquiring Eligible Content, you may download certain of such previously-purchased Eligible Content onto any Associated Device. Some Eligible Content that you previously purchased may not be available for subsequent download at any given time, and Apple shall have no liability to you in such event. As you may not be able to subsequently download certain previously-purchased Eligible Content, once you download an item of Eligible Content, it is your responsibility not to lose, destroy, or damage it, and you may want to back it up.

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- (i) You may auto-download Eligible Content or download previously-purchased Eligible Content from an Account on up to 10 Associated Devices, provided no more than 5 are iTunes-authorized computers.

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- (ii) An Associated Device can be associated with only one Account at any given time.
- (iii) You may switch an Associated Device to a different Account only once every 90 days.
- (iv) You may download previously-purchased free content onto an unlimited number of devices while it is free on the App and Book Services, but on no more than 5 iTunes-authorized computers.

The above terms (i) to (iv) do not apply to App Store Products.

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- (v) You shall be able to manually sync iBookstore Products from at least one iTunes--authorized device to devices that have manual sync mode, provided that the iBookstore Product is associated with an Account on the primary iTunes--authorized device, where the primary iTunes--authorized device is the one that was first synced with the device or the one that you subsequently designate as primary using iTunes.

Last Updated: May 23, 2012

D. PRIVACY POLICY

Your privacy is important to Apple. So we've developed a Privacy Policy that covers how we collect, use, disclose, transfer, and store your information. Please take a moment to familiarize yourself with our privacy practices and let us know if you have any questions.

Collection and Use of Personal Information

Personal information is data that can be used to uniquely identify or contact a single person.

You may be asked to provide your personal information anytime you are in contact with Apple or an Apple affiliated company. Apple and its affiliates may share this personal information with each other and use it consistent with this Privacy Policy. They may also combine it with other information to provide and improve our products, services, content, and advertising.

Here are some examples of the types of personal information Apple may collect and how we may use it.

What personal information we collect

- When you create an Apple ID, register your products, apply for commercial credit, purchase a product, download a software update, register for a class at an Apple Retail Store, or participate in an online survey, we may collect a variety of information, including your name, mailing address, phone number, email address, contact preferences, and credit card information.
- When you share your content with family and friends using Apple products, send gift certificates and products, or

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invite others to join you on Apple forums, Apple may collect the information you provide about those people such as name, mailing address, email address, and phone number.

- In the U.S., we may ask for your Social Security number (SSN) but only in limited circumstances such as when setting up a wireless account and activating your iPhone or when determining whether to extend commercial credit.

How we use your personal information

- The personal information we collect allows us to keep you posted on Apple's latest product announcements, software updates, and upcoming events. It also helps us to improve our services, content, and advertising. If you don't want to be on our mailing list, you can opt out anytime by updating your preferences.

- We also use personal information to help us develop, deliver, and improve our products, services, content, and advertising.

- From time to time, we may use your personal information to send important notices, such as communications about purchases and changes to our terms, conditions, and policies. Because this information is important to your interaction with Apple, you may not opt out of receiving these communications.

- We may also use personal information for internal purposes such as auditing, data analysis, and research to improve Apple's products, services, and customer communications.

- If you enter into a sweepstake, contest, or similar promotion we may use the information you provide to administer those programs.

Collection and Use of Non-Personal Information

We also collect non-personal information – data in a form that does not permit direct association with any specific individual. We may collect, use, transfer, and disclose non-personal information for any purpose. The following are some examples of non-personal information that we collect and how we may use it:

- We may collect information such as occupation, language, zip code, area code, unique device identifier, location, and the time zone where an Apple product is used so that we can better understand customer behavior and improve our products, services, and advertising.

- We also may collect information regarding customer activities on our website, iCloud and MobileMe services, and iTunes Store and from our other products and services. This information is aggregated and used to help us provide more useful information to our customers and to understand which parts of our website, products, and services are of most interest. Aggregated data is considered non-personal information for the purposes of this Privacy Policy.

If we do combine non-personal information with personal information the combined information will be treated as personal information for as long as it remains combined.

Cookies and Other Technologies

Apple's website, online services, interactive applications, email messages, and advertisements may use "cookies" and other technologies such as pixel tags and web beacons. These technologies help us better understand user behavior, tell us which parts of our website people have visited, and facilitate and measure the effectiveness of advertisements and web searches. We treat information collected by cookies and other technologies as non-personal information. However, to the extent that Internet Protocol (IP) addresses or similar identifiers are considered personal information by local law, we also treat these identifiers as personal information. Similarly, to the extent that non-personal information is combined with personal information, we treat the combined information as personal information for the purposes of this Privacy Policy.

Apple and its partners use cookies and other technologies in mobile advertising services to control the number of times you see a given ad, deliver ads that relate to your interests, and measure the effectiveness of ad campaigns. If you do not want to receive ads with this level of relevance on your mobile device, you can opt out by accessing the following link on your device: <http://oo.apple.com>. If you opt out, you will continue to receive the same number of mobile ads, but they may be less relevant because they will not be based on your interests. You may still see ads related to the content on a web page or in an application or based on other non-personal information. This opt-out applies only to Apple advertising services and does not affect interest-based advertising from other advertising networks.

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As is true of most websites, we gather some information automatically and store it in log files. This information includes Internet Protocol (IP) addresses, browser type and language, Internet service provider (ISP), referring and exit pages, operating system, date/time stamp, and clickstream data.

We use this information to understand and analyze trends, to administer the site, to learn about user behavior on the site, and to gather demographic information about our user base as a whole. Apple may use this information in our marketing and advertising services.

In some of our email messages, we use a "click-through URL" linked to content on the Apple website. When customers click one of these URLs, they pass through a separate web server before arriving at the destination page on our website. We track this click-through data to help us determine interest in particular topics and measure the effectiveness of our customer communications. If you prefer not to be tracked in this way, you should not click text or graphic links in the email messages.

Pixel tags enable us to send email messages in a format customers can read, and they tell us whether mail has been opened. We may use this information to reduce or eliminate messages sent to customers.

Disclosure to Third Parties

At times Apple may make certain personal information available to strategic partners that work with Apple to provide products and services, or that help Apple market to customers. For example, when you purchase and activate your iPhone, you authorize Apple and its carrier to exchange the information you provide during the activation process to carry out service. If you are approved for service, your account will be governed by Apple and its carrier's respective privacy policies. Personal information will only be shared by Apple to provide or improve our products, services and advertising; it will not be shared with third parties for their marketing purposes.

Service Providers

Apple shares personal information with companies who provide services such as information processing, extending credit, fulfilling customer orders, delivering products to you, managing and enhancing customer data, providing customer service, assessing your interest in our products and services, and conducting customer research or satisfaction surveys. These companies are obligated to protect your information and may be located wherever Apple operates.

Others

It may be necessary – by law, legal process, litigation, and/or requests from public and governmental authorities within or outside your country of residence – for Apple to disclose your personal information. We may also disclose information about you if we determine that for purposes of national security, law enforcement, or other issues of public importance, disclosure is necessary or appropriate.

We may also disclose information about you if we determine that disclosure is reasonably necessary to enforce our terms and conditions or protect our operations or users. Additionally, in the event of a reorganization, merger, or sale we may transfer any and all personal information we collect to the relevant third party.

Protection of Personal Information

Apple takes precautions — including administrative, technical, and physical measures — to safeguard your personal information against loss, theft, and misuse, as well as against unauthorized access, disclosure, alteration, and destruction.

Apple online services such as the Apple Online Store and iTunes Store use Secure Sockets Layer (SSL) encryption on all web pages where personal information is collected. To make purchases from these services, you must use an SSL-enabled browser such as Safari, Firefox, or Internet Explorer. Doing so protects the confidentiality of your personal information while it's transmitted over the Internet.

When you use some Apple products, services, or applications or post on an Apple forum, chat room, or social networking service, the personal information you share is visible to other users and can be read, collected, or used by them. You are responsible for the personal information you choose to submit in these instances. For example, if you list your name and email address in a forum posting, that information is public. Please take care when using these features.

Integrity and Retention of Personal Information

Apple makes it easy for you to keep your personal information accurate, complete, and up to date. We will retain your personal information for the period necessary to fulfill the purposes outlined in this Privacy Policy unless a longer retention period is required or permitted by law.

Access to Personal Information

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You can help ensure that your contact information and preferences are accurate, complete, and up to date by logging in to your account at <https://appleid.apple.com/>. For other personal information, we make good faith efforts to provide you with access so you can request that we correct the data if it is inaccurate or delete the data if Apple is not required to retain it by law or for legitimate business purposes. We may decline to process requests that are unreasonably repetitive, require disproportionate technical effort, jeopardize the privacy of others, are extremely impractical, or for which access is not otherwise required by local law. Access, correction, or deletion requests can be made to the regional Privacy email addresses.

Children

We do not knowingly collect personal information from children under 13. If we learn that we have collected the personal information of a child under 13 we will take steps to delete the information as soon as possible.

Location-Based Services

To provide location-based services on Apple products, Apple and our partners and licensees may collect, use, and share precise location data, including the real-time geographic location of your Apple computer or device. This location data is collected anonymously in a form that does not personally identify you and is used by Apple and our partners and licensees to provide and improve location-based products and services. For example, we may share geographic location with application providers when you opt in to their location services.

Some location-based services offered by Apple, such as the "Find My iPhone" feature, require your personal information for the feature to work.

Third-Party Sites and Services

Apple websites, products, applications, and services may contain links to third-party websites, products, and services. Our products and services may also use or offer products or services from third parties – for example, a third-party iPhone app. Information collected by third parties, which may include such things as location data or contact details, is governed by their privacy practices. We encourage you to learn about the privacy practices of those third parties.

International Users

Information you provide may be transferred or accessed by entities around the world as described in this Privacy Policy. Apple abides by the "safe harbor" framework set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personal information collected by organizations in the European Economic Area and Switzerland. Learn more about the U.S. Department of Commerce Safe Harbor Program.

Please note that personal information regarding individuals who reside in a member state of the European Economic Area (EEA) is jointly controlled by Apple Distribution International in Cork, Ireland, and Apple UK Limited in Uxbridge, United Kingdom. Personal information collected in the EEA when using iTunes is controlled by iTunes SARL in Luxembourg.

Our Companywide Commitment to Your Privacy

To make sure your personal information is secure, we communicate our privacy and security guidelines to Apple employees and strictly enforce privacy safeguards within the company.

Privacy Questions

If you have questions or concerns about Apple's Privacy Policy or data processing, please contact us at the appropriate regional email addresses for your local Apple Data Controller listed below.

Country or Region – Contact Information

United States <http://www.apple.com/privacy/contact/>
 Canada <http://www.apple.com/privacy/contact/>
 Latin America <http://www.apple.com/privacy/contact/>
 Europe <http://www.apple.com/privacy/contact/>
 Japan <http://www.apple.com/privacy/contact/>
 Australia <http://www.apple.com/privacy/contact/>
 Asia/Pacific <http://www.apple.com/privacy/contact/>

Apple may update its Privacy Policy from time to time. When we change the policy in a material way, a notice will be posted on our website along with the updated Privacy Policy.

Apple Inc., 1 Infinite Loop, Cupertino, California, USA 95014

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