

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CAPITOL RECORDS, LLC,

Plaintiff,

Civil Action No: 12 CIV 0095  
(RJS)

- against -

REDIGI, INC. ,

Defendant.

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**DECLARATION LARRY RUDOLPH (aka Lawrence S. Rogel)  
IN SUPPORT OF DEFENDANT'S MOTION FOR A PROTECTIVE ORDER**

I, **LARRY RUDOLPH** (aka Lawrence S. Rogel), pursuant to 28 U.S.C. § 1746, declare under the penalty of perjury, as follows:

1. I am Chief Technical Officer and a founder of ReDigi Inc. and as such I have personal knowledge of the facts set forth herein.
2. I submit this declaration in support of ReDigi's motion for an order permitting the continued sealing of the following documents to be conditionally filed under seal by ReDigi and Plaintiff Capitol Records, LLC ("Capitol") pursuant to the Court's July 12, 2012 endorsed letter order: (1) Deposition Excerpts of Rudolph Rogel Deposition taken on June 18, 2012, attached to Capitol's Motion for summary judgment; (2) Deposition Excerpts of Rudolph Rogel Deposition taken on June 18, 2012, attached to ReDigi's Motion for summary judgment; (3) Deposition Excerpts of Ossenmacher Deposition, taken on June 19, 2012, attached to Capitol's Motion for summary judgment; (4) Deposition Excerpts of Ossenmacher Deposition, taken on June 19, 2012, attached to ReDigi's Motion for summary judgment; (5) Exhibits "K", "L" and "M" attached to the Declaration of Richard Mandel in support of Capitol's Motion for summary judgment; (6) Capitol's 56.1 Statement of Uncontested Facts, attached to Plaintiff's Motion; (7)

ReDigi's 56.1 Statement Of Uncontested Facts, attached to ReDigi's Motion; (8) Capitol's Memorandum of Law, dated July 20, 2012, in support of its motion for summary judgment; (9) ReDigi's Memorandum of Law, dated July 20, 2012 in support of its motion for summary judgment; (10). Declaration of Gary Adelman dated July 20, 2012, in support of ReDigi's Motion for summary judgment; (11) Declaration of Larry Rudolph (aka Lawrence S. Rogel), dated July 20, 2012, in support of the ReDigi Motion; (12) Declaration of Colin Worth, dated July 20, 2012, in support of the ReDigi Motion for summary judgment; (13) Declaration of Jonathan Lin, dated July 20, 2012, in support of the ReDigi Motion for summary judgment.

3. Capitol's and ReDigi's papers contain documents and information that ReDigi would prefer remain confidential as they disclose certain business and technical information about the systems and services of the company, which if known by its competitors or others, would give those third parties competitive and other advantages that ReDigi would like to prevent.

4. Attached hereto as Exhibit "A" is a list of all the documents submitted by Plaintiff and Defendant in Support of their respective motions for Summary Judgment and below each document is an itemized list of the sections of that document that ReDigi is requesting be kept sealed under this Order.

5. Protection from public disclosure is particularly important in connection with documents and information filed with motions of this nature that contain highly confidential and sensitive information which is not generally available to the public, including details concerning ReDigi's raising of finances, structure, operation of its proprietary software, information gathered and Redigi's private interactions with potential business partners.

6. ReDigi has and continues to invest substantial efforts to protect the confidentiality of this information. However, in order to comply with its discovery obligations ReDigi has produced a significant volume of confidential and sensitive information in each of these areas, some of which was filed under seal in connection with ReDigi's motion for Summary Judgment and was filed by the Plaintiff in support of its motion for partial Summary Judgment. That information should remain under seal.

7. The information that should be protected can be separated into two (2) basic categories.

8. First category. These items are identified in Exhibit "A" as Proprietary details of ReDigi Software trade secrets.

9. ReDigi does not want users or the public to know what it's underlying software is doing, since such disclosure could increase the risk of compromising the security of ReDigi's system and expose it to attacks by hackers. All standard computer protocols have evolved over time to defend against unexpected "attacks" and, currently, most are highly resilient. Some of these, however, involve making copies of files and are useless to ReDigi.

10. ReDigi therefore has developed some non-standard protocols that do not involve making copies. Although their functionality has been tested, they too must evolve to be resilient to unexpected attacks. While trade secret is not a reliable defense against attacks, it does slow down the rate while the attackers probe for weaknesses. This gives ReDigi the time to prepare new ways to parry these attempts.

11. ReDigi has invested heavily in its technology that ensures no copies are made, only legally acquired music files are eligible, and to monitor the user's storage devices for songs

sold or offered for sale. We do not want competitors to understand exactly how ReDigi Software works, as this is our competitive advantage.

12. Second Category. These items are identified in Exhibit "A" as Investors, Business Plans and Finances.


13. All of the documents listed under this category were provided under confidentiality to any individual or company that received them and ReDigi would like to respect those agreements.

14. Without the ability to guarantee confidentiality, it will be difficult for ReDigi to enter into business agreements in the future.

15. ReDigi would like to protect its proprietary information both in its software and systems, its marketing and business plans.

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

Executed on July 27, 2012 in Cambridge, Massachusetts.

  
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**LARRY RUDOLPH** (aka Lawrence S. Rogel)

July 27, 2012

Exhibit "A"

The "Redacted Documents"

Deposition Excerpts of Rudolph Rogel Deposition attached to Plaintiffs Motion

1. Page 58 lines 18 – 25 – Proprietary details of ReDigi Software trade secrets.
2. Page 60 lines 1-25 - Proprietary details of ReDigi Software trade secrets.
3. Page 67 line 1 through Page 70 line 25 - Proprietary details of ReDigi Software trade secrets.
4. Page 89 line 22 through Page 90 line 20 - Proprietary details of ReDigi Software trade secrets.
5. Page 92 line 15 through Page 93 line 21 - Proprietary details of ReDigi Software trade secrets.
6. Page 100 lines 1-22 - Proprietary details of ReDigi Software trade secrets.
7. Page 109 line 1 through Page 110 line 15 - Proprietary details of ReDigi Software trade secrets.
8. Page 123 lines 20-25 - Proprietary details of ReDigi Software trade secrets.
9. Page 204 line through Page 210 line 25 - Proprietary details of ReDigi Software trade secrets and Proprietary information and statistics within the ReDigi System.

Deposition Excerpts of Rudolph Rogel Deposition attached to ReDigi's Motion

1. Page 58 line 10 through Page 69 line 25 - Proprietary details of ReDigi Software trade secrets.
2. Page 110 lines 1-16 - Proprietary details of ReDigi Software trade secrets.
3. Page 186 lines 14-18 – Name of ReDigi's Engineer
4. Page 189 line 1 through Page 193 - Proprietary details of ReDigi Software trade secrets.

Deposition Excerpts of Ossenmacher Deposition attached to Plaintiffs Motion

1. Page 142 line 1 through Page 144 line 25 - Business & Financial plans (Subscription Agreement) Confidentiality Agreement.
2. Page 183 line 1 through Page 194 line 25 – Investors, Business & Financial plans –
3. Page 215 lines 1-13 - Business & Financial plans
4. Page 235 lines 1-25 - Business & Financial plans
5. Page 247 lines 1-14 – Business contracts
6. Page 266 line 1 through Page 268 line 25 - Proprietary details of ReDigi Software trade secrets and discussions with potential partners.

Deposition Excerpts of Ossenmacher Deposition attached to Redigi's Motion

1. Page 50 line 22 through Page 61 line 25 – Attorney-Client Privilege

2. Page 66 lines 2-22 – Attorney-Client discussion
3. Page 80 line 1 through Page 85 line 25 - Proprietary details of ReDigi Software trade secrets
4. Page 88 line 1 through Page 89 line 23 - Proprietary details of ReDigi Software trade secrets.

#### Exhibits “K”, “L” and “M” attached to Plaintiffs Motion

1. Exhibit “K” – ReDigi, Inc. Business Plan – Confidential.
2. Exhibit “L” – ReDigi, Inc. Subscription Agreement – Confidential.
3. Exhibit “M” – Spreadsheets containing information on EMI tracks sold on the ReDigi System - Proprietary details of ReDigi Software trade secrets and Proprietary information and statistics within the ReDigi System. Do not want competitors and others to know what tracks have been sold and how many.

#### Plaintiff’s 56.1 Statement attached to Plaintiff’s Motion

1. Paragraphs 24, 32, 35, 39, 51, 55, 61, 63, - Proprietary details of ReDigi Software trade secrets
2. Paragraph 65 – Subscription Agreement – Subject to confidentiality.
3. Paragraphs 70, 71, 72, 73 – Exhibit “M” Spreadsheets containing information on EMI tracks sold on the ReDigi System - Proprietary details of ReDigi Software trade secrets and Proprietary information and statistics within the ReDigi System. Do not want competitors and others to know what tracks have been sold and how many.

#### ReDigi’s 56.1 Statement attached to ReDigi’s Motion

1. Paragraphs 8 (partial) , 10, 11, 19, 20, 21, 22, 23, 24, 25, 26, 28, 30, 33, 34, 35, 37 (partial), 39, 40, 42, 43, 44, 45, 46, 47, 50, 53 (partial), 55, 66, 79 (partial) - Proprietary details of ReDigi Software trade secrets.

#### Plaintiff’s Memorandum of Law

1. Page 1, paragraph 1 - Proprietary details of ReDigi Software trade secrets.
2. Page 6, paragraph 2 - Proprietary details of ReDigi Software trade secrets.
2. Page 13, paragraph 2 - Proprietary details of ReDigi Software trade secrets.
3. Page 14, paragraph 2 – Proprietary details of ReDigi Software trade secrets
4. Page 16, paragraph 3 - Investor Subscription Agreement.
5. Page 17, paragraph 2 - Proprietary details of ReDigi Software trade secrets
6. Page 18, paragraph 3 - Proprietary details of ReDigi Software trade secrets

#### ReDigi’s Memorandum of Law

1. Page i, paragraph A, B, C, I - Proprietary details of ReDigi Software trade secrets.

2. Page 3, paragraphs 2, 3 and footnote 3 - Proprietary details of ReDigi Software trade secrets.
3. Page 4, whole page - Proprietary details of ReDigi Software trade secrets.
4. Page 5, whole page - Proprietary details of ReDigi Software trade secrets
5. Page 6, whole page except for D. 2 lines - Proprietary details of ReDigi Software trade secrets
6. Page 7, first 2 lines and one word in the middle of E. - Proprietary details of ReDigi Software trade secrets.
7. Page 11, paragraph 3, 4 and footnote 4 - Proprietary details of ReDigi Software trade secrets.
8. Page 13, paragraph 2, sentences 2-5 - Proprietary details of ReDigi Software trade secrets.
9. Page 14, paragraph 1, one word - Proprietary details of ReDigi Software trade secrets
10. Page 25, sentences 2-6 and 1 word in sentence s 8, 9 - Proprietary details of ReDigi Software trade secrets

Declaration of Gary Adelman in support of the ReDigi Motion

1. Page 2, paragraph 11 – 7 Digital Agreement as stated above in Exhibit “9” of Redigi

Declaration of Larry Rudolph (aka Lawrence S. Rogel) in support of the ReDigi Motion

1. Redactions on pages 2-10 – All redactions describe in specific detail ReDigi proprietary software and internal workings of the Redigi Software and are trade secrets.

Declaration of Colin Worth in support of the ReDigi Motion

1. Redactions on pages 2-6 – All redactions describe in specific detail ReDigi proprietary software and internal workings of the Redigi Software and are trade secrets.

Declaration of Jonathan Lin in support of the ReDigi Motion

1. Redactions on pages 2-6 – All redactions describe in specific detail ReDigi proprietary software and internal workings of the Redigi Software and are trade secrets.