

MANDEL DECLARATION

COWAN, LIEBOWITZ & LATMAN, P.C.
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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,	:	12 Civ. 0095 (RJS)
	:	
Plaintiff,	:	
	:	
-against-	:	DECLARATION OF
	:	<u>RICHARD S. MANDEL, ESQ.</u>
REDIGI INC.,	:	
	:	
Defendant.	:	
----- X	:	

RICHARD S. MANDEL, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a shareholder in the firm of Cowan, Leibowitz & Latman, P.C., which represents Plaintiff Capitol Records, LLC in this matter (“Plaintiff” or “Capitol”). I submit this declaration in support of Plaintiff’s application by order to show cause for an expedited hearing on its motion for a preliminary injunction.

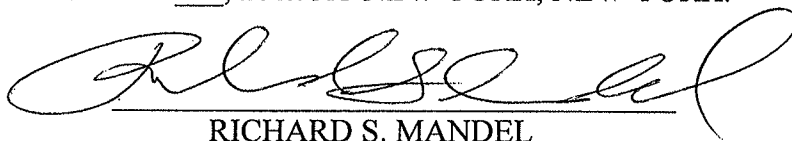
2. As set forth in the annexed Memorandum for a Preliminary Injunction and Declaration of Alasdair McMullan, Capitol is suffering daily infringement of numerous of its copyrighted sound recordings and associated artwork via an online “marketplace” for digital files made available by defendant ReDigi, Inc. As Mr. McMullan explains, the infringement is widespread, impossible to monitor or measure in scope, and causing irreparable harm to Capitol’s intellectual property and the market it has spent years developing for legitimate online distribution of sound recordings.

3. Capitol proceeds by order to show cause, rather than by notice of motion, to ensure that it will be able to obtain an expedited hearing on its motion for a preliminary injunction to remedy this ongoing, damaging infringement. In the absence of such relief, a hearing would be significantly delayed by requirements set forth in Judge Sullivan's Individual Rule for motions brought in the ordinary course, including the mandatory exchange of pre-motion conference letters and the scheduling of a pre-motion conference. Judge Sullivan's Rules state that this procedure is not required for motions brought by order to show cause, such as the instant motion seeking interlocutory relief on the grounds of irreparable harm.

4. Plaintiff has not made a previous application for similar relief.

5. On January 19, 2012, I notified counsel for ReDigi, Ray Beckerman, Esq., of Ray Beckerman, P.C., that Capitol would be presenting the instant application to the Court the next day. Because Mr. Beckerman was unavailable in the morning, we agreed to meet at Court at 2:00 p.m. on Friday, January 20, 2012.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON JANUARY 19, 2012 AT NEW YORK, NEW YORK.


RICHARD S. MANDEL