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America and Settlement Support Center, LLC.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

TANYA ANDERSEN,

Case No. 3:07-CV-934-BR

Plaintiff,

v.

**ANSWER TO PLAINTIFF'S
FOURTH AMENDED
COMPLAINT**

**ATLANTIC RECORDING
CORPORATION, et al.,**

Defendants.

By Defendants Atlantic Recording
Corporation, Priority Records LLC,
Capitol Records, LLC, UMG
Recordings, Inc. BMG Music,
Recording Industry Association of
America and Settlement Support
Center, LLC

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Defendants Atlantic Recording Corporation, Priority Records LLC, Capitol Records, LLC, UMG Recordings, Inc. BMG Music (“Record Company Defendants”), Recording Industry Association of America (“RIAA”) and Settlement Support Center, LLC (collectively “Defendants”), by and through their undersigned counsel, respectfully submit this Answer to Plaintiff’s Fourth Amended Complaint (“Complaint”).

ANSWER TO PLAINTIFF’S INTRODUCTION ALLEGATIONS

1.1 Paragraph 1.1 of the Complaint does not require a response. To the extent that a response is deemed required, the allegations of Paragraph 1.1 are denied.

1.2 To the extent that Paragraph 1.2 of the Complaint contains Plaintiff’s legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

1.3 Defendants deny the allegations of Paragraph 1.3 of the Complaint.

1.4 Defendants admit that the quoted statement has been attributed to an RIAA employee. Defendants deny the remaining allegations of Paragraph 1.4 of the Complaint.

1.5 Defendants deny the allegations of Paragraph 1.5 of the Complaint.

1.6 Defendants state that the cited opinion speaks for itself, and, to the extent that the allegations of Paragraph 1.6 of the Complaint are inconsistent with the opinion, such allegations are denied. Defendants further note that this opinion is inconsistent with the opinions rendered by various other federal district court judges, which Plaintiff does not cite. To the extent that Paragraph 1.6 of the Complaint contains Plaintiff’s legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied. Defendants deny the remaining allegations of Paragraph 1.6 of the Complaint.

1.7 Defendants state that the cited opinion speaks for itself, and, to the extent that the allegations of Paragraph 1.7 of the Complaint are inconsistent with the opinion, such allegations are denied. Defendants further note that this one judge’s position is inconsistent with literally hundreds of other court opinions and, indeed, stands alone among thousands of lawsuits. To the

extent that Paragraph 1.7 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied, and Defendants specifically deny Plaintiff's false suggestion that this opinion referred to sham lawsuits.

1.8 Defendants state that the cited opinion speaks for itself, and, to the extent that the allegations of Paragraph 1.8 of the Complaint are inconsistent with the opinion, such allegations are denied. Defendants further note that this opinion was rendered without giving the recording companies any chance to brief the issue and, in any event, is directly inconsistent with numerous other courts that have found that the recording companies' lawsuits state viable claims. To the extent that Paragraph 1.8 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied, and Defendants specifically deny Plaintiff's false suggestion that this opinion referred to sham lawsuits.

1.9 Defendants state that the cited opinion speaks for itself, and, to the extent that the allegations of Paragraph 1.9 of the Complaint are inconsistent with the opinion, such allegations are denied. Defendants further note that this judge's opinion, which related to the issue of joinder, is inconsistent with the decisions of numerous other courts around the country that have found the recording companies' joinder of Doe defendants to be proper. To the extent that Paragraph 1.9 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

1.10 Defendants admit that Judge Ashmanskas' opinion speaks for itself, and, to the extent that the allegations of Paragraph 1.10 of the Complaint are inconsistent with the opinion, such allegations are denied. To the extent that Paragraph 1.10 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied, and Defendants specifically deny Plaintiff's false statement

that Magistrate Judge Ashmanskas or any other Oregon court has found that the courts were abused by Defendants in order to threaten, harass, or intimidate Plaintiff or anyone else.

1.11 To the extent that Paragraph 1.11 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

ANSWER TO PLAINTIFF'S RELATED ACTION ALLEGATIONS

2.1 Defendants admit that, following Magistrate Judge Ashmanskas' recent retirement, *Atlantic Recording Corp., et al v. Andersen*, No. CV 05-933 AS (D. Or) was transferred to Magistrate Judge Acosta for the purpose of issuing a report and recommendation with regard to the amount of attorneys' fees, if any, to be paid by the plaintiffs in that action. To the extent that Paragraph 2.1 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

2.2 Defendants admit that Plaintiff was served with a complaint filed by the Record Company Defendants in this matter on August 26, 2005. Defendants deny that either the RIAA or the Record Company Defendants filed a sham lawsuit against Plaintiff, or that either the RIAA or the Record Company Defendants claimed that Plaintiff owed them hundreds of thousands of dollars. The RIAA filed no lawsuit at all against Plaintiff. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 2.2 of the Complaint and, therefore, deny said allegations.

2.3 Defendants admit that Tanya Andersen answered the complaint filed by the Record Company Defendants and asserted counterclaims seeking damages. Defendants further admit that the Record Company Defendants ultimately dismissed their complaint with prejudice, and that Magistrate Judge Ashmanskas dismissed Plaintiffs' counterclaims without prejudice. Defendants note that this Court dismissed and/or struck many of the same counterclaims when they were re-filed as affirmative claims in this case. Defendants deny the remaining allegations of Paragraph 2.3 of the Complaint.

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ANSWER TO PLAINTIFF'S NATURE OF THE CASE ALLEGATIONS

3.1 Paragraph 3.1 of the Complaint does not require a response. To the extent that a response is deemed required, the allegations of Paragraph 3.1 are denied.

ANSWER TO PLAINTIFF'S PARTIES ALLEGATIONS

4.1 Defendants admit the allegations of Paragraph 4.1 of the Complaint.

4.2 Defendants admit that Atlantic Recording Corporation, a Delaware corporation; Priority Records, LLC, a California limited liability company; UMG Recordings, Inc., a Delaware corporation and BMG Music, a New York general partnership are members of the RIAA. Plaintiffs state that Capitol Records, Inc. is now known as Capitol Records, LLC, a New York limited liability company, and is a member of the RIAA. Defendants further admit that the Record Company Defendants filed a lawsuit against Tanya Andersen, *Atlantic Recording Corp. et al. v. Andersen*, No. CV 05-933 AS (D. Or.), which remains pending in this Court. Defendants deny the remaining allegations of Paragraph 4.2 of the Complaint.

4.3 Defendants admit that the RIAA is a New York non-profit corporation headquartered in Washington, D.C. Defendants further admit that the RIAA is a trade group that represents the U.S. recording industry. Defendants deny the remaining allegations of Paragraph 4.3 of the Complaint.

4.4 To the extent that Paragraph 4.4 of the Complaint contains Plaintiff's legal conclusions, no response is required. Defendants deny that MediaSentry engaged in any conspiracy or that it has devised or conducts any illegal, flawed or negligent investigations. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 4.4 of the Complaint and, therefore, deny said allegations.

4.5 To the extent that Paragraph 4.5 of the Complaint contains Plaintiff's legal conclusions, no response is required. Defendants admit that the Settlement Support Center was a Washington limited liability company. Defendants deny the remaining allegations of Paragraph 4.5 of the Complaint.

ANSWER TO PLAINTIFF'S JURISDICTION AND VENUE ALLEGATIONS

5.1 To the extent that Paragraph 5.1 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

5.2 Defendants admit that the parties are citizens of different states. Defendants deny the remaining allegations of Paragraph 5.2 of the Complaint and specifically deny that Plaintiff has suffered any damages.

5.3 To the extent that Paragraph 5.1 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

ANSWER TO PLAINTIFF'S CLASS ACTION ALLEGATIONS

6.1 Defendants deny the allegations of Paragraph 6.1 of the Complaint.

6.2 Paragraph 6.2 of the Complaint does not require a response. To the extent that a response is deemed required, the allegations of Paragraph 6.2 are denied.

6.3 Defendants deny the allegations of Paragraph 6.3 of the Complaint.

6.4 Defendants deny the allegations of Paragraph 6.4 of the Complaint.

6.5 Defendants deny the allegations of Paragraph 6.5 of the Complaint and affirmatively state that the factual issues in this case are wholly unique to this case, rendering class certification inappropriate.

6.6 Defendants deny the allegations of Paragraph 6.6 of the Complaint.

6.7 Defendants deny the allegations of Paragraph 6.7 of the Complaint.

6.8 Defendants deny the allegations of Paragraph 6.8 of the Complaint.

ANSWER TO PLAINTIFF'S
SUMMARY OF CONDUCT SUPPORTING CLAIMS ALLEGATIONS

7.1 Defendants deny the allegations of Paragraph 7.1 of the Complaint.

7.2 Defendants deny that MediaSentry conducts illegal, flawed and personally invasive private investigations of private citizens. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.2 of the Complaint and, therefore, deny said allegations.

7.3 Defendants deny that the RIAA and its member record companies use illegally obtained information in protecting the copyrights belonging to the member record companies. Defendants further deny that the RIAA ever publicly announced that it would begin a campaign that would involve thousands of threats and sham lawsuits against individuals or that it has engaged in criminal conduct. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.3 of the Complaint and, therefore, deny said allegations.

7.4 To the extent that Paragraph 7.4 of the Complaint contains Plaintiff's legal conclusions, no response is required. Defendants deny that MediaSentry's conduct was illegal in any way. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.4 of the Complaint and, therefore, deny said allegations.

7.5 Defendants deny the allegations of Paragraph 7.5 of the Complaint.

7.6 Defendants deny the allegations of Paragraph 7.6 of the Complaint.

7.7 Defendants state that the referenced documents speak for themselves and that, to the extent that the allegations of Paragraph 7.7 of the Complaint are inconsistent with such documents, those allegations are denied. Defendants are without sufficient information to permit them either to admit or deny the allegations of Paragraph 7.7 of the Complaint and, therefore, deny said allegations.

7.8 Defendants deny the allegations of Paragraph 7.8 of the Complaint.

7.9 Defendants state that the opinion in *Brein et al v. UPC Nederland B.V. et al.*, No 194741/KGZA-05-462/BL/EV at 4.30-31 speaks for itself, and, to the extent that the allegations of Paragraph 7.9 of the Complaint are inconsistent with the opinion, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.9 of the Complaint.

7.10 Defendants state that the opinion in *BMG Canada, Inc. v. John Doe*, 2005 FCA 193 (2005) speaks for itself, and, to the extent that the allegations of Paragraph 7.10 of the Complaint are inconsistent with the opinion, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.10 of the Complaint.

7.11 Defendants state that the orders referenced in Paragraph 7.11 of the Complaint speak for themselves, and, to the extent that the allegations of Paragraph 7.11 of the Complaint are inconsistent with such orders, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.11 of the Complaint.

7.12 Defendants deny the allegations of Paragraph 7.12 of the Complaint.

7.13 Defendants admit that Mitchell Silberberg & Knupp, LLP sent Plaintiff a letter in February 2005 and state that the letter speaks for itself, and, to the extent that the allegations of Paragraph 7.13 of the Complaint are inconsistent with the letter, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.13 of the Complaint.

7.14 Defendants are without sufficient information to permit them either to admit or deny the allegations of Paragraph 7.14 of the Complaint and, therefore, deny said allegations. Defendants deny the remaining allegations of Paragraph 7.14 of the Complaint.

7.15 Defendants deny the allegations of Paragraph 7.15 of the Complaint.

7.16 Defendants admit that Tanya Andersen wrote one letter to the Settlement Support Center in March 2005. That the letter speaks for itself, and, to the extent that the allegations of Paragraph 7.16 of the Complaint are inconsistent with the letter, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.16 of the Complaint.

7.17 Defendants admit that the Record Company Defendants filed a federal lawsuit against Tanya Andersen on June 24, 2005. Defendants deny the remaining allegations of Paragraph 7.17 of the Complaint.

7.18 Defendants state that the complaint filed by the Record Company Defendants against Tanya Andersen speaks for itself, and, to the extent that the allegations of Paragraph 7.18 of the Complaint are inconsistent with that complaint, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.18 of the Complaint.

7.19 Defendants are without sufficient information to permit them either to admit or deny the allegations of Paragraph 7.19 of the Complaint and, therefore, deny said allegations.

7.20 Defendants deny having any knowledge that Plaintiff was not engaged in copyright infringement. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.20 of the Complaint and, therefore, deny said allegations.

7.21 Defendants deny the allegations of Paragraph 7.21 of the Complaint and specifically deny that Plaintiff provided the identified man's name, location or phone number to the Record Company Defendants.

7.22 Defendants state that the email sent in September 2006 speaks for itself, and, to the extent that the allegations of Paragraph 7.22 of the Complaint are inconsistent with that complaint, such allegations are denied. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.22 of the Complaint and, therefore, deny said allegations.

7.23 Defendants state that the complaint filed by the Record Company Defendants against Plaintiff speaks for itself, and, to the extent that the allegations of Paragraph 7.23 of the Complaint are inconsistent with that complaint, such allegations are denied. Defendants admit that the September 26, 2002 press release speaks for itself, and, to the extent that the allegations of Paragraph 7.23 of the Complaint are inconsistent with that press release, such allegations are

denied. Defendants also admit that the September 17, 2007 broadcast speaks for itself, and, to the extent that the allegations of Paragraph 7.23 of the Complaint are inconsistent with that broadcast, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.23 of the Complaint.

7.24 Defendants deny that they knew that Plaintiff listens to only country music and soft rock. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.24 of the Complaint, and, therefore, deny said allegations.

7.25 Defendants deny that they were aware that the lawsuit filed by the Record Company Defendants was damaging to Plaintiff. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.25 of the Complaint and, therefore, deny said allegations.

7.26 Defendants deny having knowledge of the allegedly deleterious effects that any of their acts had on Plaintiff's physical or psychological condition. Defendants are without sufficient information to permit them either to admit or deny the remaining allegations of Paragraph 7.26 of the Complaint and, therefore, deny said allegations.

7.27 Defendants state that the declaration filed by the Record Company Defendants' expert speaks for itself, and, to the extent that the allegations of Paragraph 7.27 of the Complaint are inconsistent with that declaration, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.27 of the Complaint and specifically deny that they refused to disclose the results of their forensic inspection.

7.28 Defendants deny the allegations of Paragraph 7.28 of the Complaint.

7.29 Defendants deny the allegations of Paragraph 7.29 of the Complaint.

7.30 Defendants admit that the Record Company Defendants deposed Kylee Andersen, with the Court's permission, after Plaintiff listed her as a witness in her initial disclosures. Defendants deny the remaining allegations of Paragraph 7.30 of the Complaint.

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7.31 Defendants deny the allegations of Paragraph 7.31 of the Complaint and specifically deny Plaintiff's false suggestion that they had anything to do with the alleged phone call in which someone purportedly claimed to be Kylee's grandmother, if any such phone call actually occurred.

7.32 Defendants state that the March 27, 2007 order speaks for itself, and, to the extent that the allegations of Paragraph 7.32 of the Complaint are inconsistent with that order, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.32 of the Complaint.

7.33 Defendants admit that the Record Company Defendants deposed certain of those individuals identified by Plaintiff as potential witnesses. Defendants deny the remaining allegations of Paragraph 7.33 of the Complaint.

7.34 Defendants state that the motion for summary judgment filed by Plaintiff in May 2007 and the stipulation filed on June 1, 2007 speak for themselves, and, to the extent that the allegations of Paragraph 7.34 of the Complaint are inconsistent with those documents, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.34 of the Complaint.

7.35 Defendants admit that the September 21, 2007 and January 18, 2008 orders speak for themselves, and, to the extent that the allegations of Paragraph 7.35 of the Complaint are inconsistent with those orders, such allegations are denied. Defendants deny the remaining allegations of Paragraph 7.35 of the Complaint.

7.36 Defendants are without sufficient information to permit them either to admit or deny the allegations of Paragraph 7.36 of the Complaint and, therefore, deny said allegations.

ANSWER TO PLAINTIFF'S FIRST CLAIM FOR RELIEF
(CIVIL CONSPIRACY)
(All Defendants)

8.1 Defendants incorporate by reference their responses set forth above, as if said responses were set forth fully herein.

8.2 To the extent that Paragraph 8.2 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.3 Defendants admit that the RIAA is a trade group that represents the U.S. recording industry. Defendants admit that EMI, Sony BMG, Universal Music and Warner Music Group each has subsidiary member companies. Defendants deny the remaining allegations of Paragraph 8.3 of the Complaint.

8.4 Defendants deny the allegations of Paragraph 8.4 of the Complaint.

8.5 Defendants deny the allegations of Paragraph 8.5 of the Complaint.

ANSWER TO PLAINTIFF'S SECOND CLAIM FOR RELIEF
(WRONGFUL INITIATION OF CIVIL PROCEEDINGS)
(Defendants RIAA and Record Companies)

8.6 Defendants incorporate by reference their responses set forth above, as if said responses were set forth fully herein.

8.7 Defendants deny the allegations of Paragraph 8.7 of the Complaint.

8.8 Defendants deny the allegations of Paragraph 8.8 of the Complaint.

8.9 Defendants admit that Plaintiff's computer hard drive was inspected in September and October 2006. Defendants deny the remaining allegations of Paragraph 8.9 of the Complaint and specifically deny that they refused to disclose the results of the inspection.

8.10 Defendants deny the allegations of Paragraph 8.10 of the Complaint.

8.11 Defendants admit that, as of September 2006, the Recording Company Defendants had knowledge of a 30 year-old man who used the name "gotenkito" on a single

website. Defendants deny the remaining allegations of Paragraph 8.11 of the Complaint and specifically deny that Plaintiff provided this man's contact information to Defendants.

8.12 Defendants deny the allegations of Paragraph 8.12 of the Complaint.

8.13 Defendants state that the stipulation filed on June 1, 2007 speaks for itself, and, to the extent that the allegations of Paragraph 8.13 of the Complaint are inconsistent with that stipulation, such allegations are denied. Defendants deny the remaining allegations of Paragraph 8.13 of the Complaint.

8.14 Defendants state that the orders dated September 21, 2007 and January 2008 speak for themselves, and, to the extent that the allegations of Paragraph 8.14 of the Complaint are inconsistent with those orders, such allegations are denied. Defendants deny the remaining allegations of Paragraph 8.14 of the Complaint.

8.15 To the extent that the allegations of Paragraph 8.15 contain Plaintiff's legal conclusions, no response is required. Defendants deny the remaining allegations of Paragraph 8.15 of the Complaint.

8.16 To the extent that the allegations of Paragraph 8.16 contain Plaintiff's legal conclusions, no response is required. Defendants deny the remaining allegations of Paragraph 8.16 of the Complaint.

ANSWER TO PLAINTIFF'S THIRD CLAIM FOR RELIEF

(ABUSE OF LEGAL PROCESS)

(Defendants RIAA and Record Companies)

8.17 Defendants incorporate by reference their responses set forth above, as if said responses were set forth fully herein.

8.18 Defendants deny the allegations of Paragraph 8.18 of the Complaint.

8.19 Defendants deny the allegations of Paragraph 8.19 of the Complaint.

8.20 Defendants admit that Plaintiff's computer hard drive was inspected in September and October 2006. Defendants deny the remaining allegations of Paragraph 8.20 of the

Complaint and specifically deny that they refused to disclose to Plaintiff the results of that inspection.

8.21 Defendants deny the allegations of Paragraph 8.21 of the Complaint.

8.22 Defendants deny the allegations of Paragraph 8.22 of the Complaint.

8.23 Defendants admit that the Record Company Defendants deposed Kylee Andersen, with the Court's permission, after Plaintiff listed her as a witness in her initial disclosures. Defendants deny the remaining allegations of Paragraph 8.23 of the Complaint.

8.24 Defendants deny the allegations of Paragraph 8.24 of the Complaint and specifically state that, contrary to Plaintiff's assertion that the deposition could have been scheduled simply by notifying Plaintiff's counsel, the Record Company Defendants attempted to do so, but Plaintiff's counsel refused to cooperate in any way, necessitating formal attempts to serve a subpoena.

8.25 Defendants deny the allegations of Paragraph 8.25 of the Complaint and specifically deny Plaintiff's false suggestion that they had anything to do with the alleged phone call from someone claiming to be Kylee's grandmother, if such a call ever occurred.

8.26 Defendants admit that, as of September 2006, the Recording Company Defendants had knowledge of a 30-year old man who used the name "gotenkito" on a single website. Defendants deny the remaining allegations of Paragraph 8.29 of the Complaint and specifically deny that Plaintiff provided contact information for this man to Defendants.

8.27 Defendants state that the March 27, 2007 order speaks for itself, and, to the extent that the allegations of Paragraph 8.27 of the Complaint are inconsistent with that order, such allegations are denied. Defendants deny the remaining allegations of Paragraph 8.27 of the Complaint.

8.28 Defendants admit that the Record Company Defendants deposed Kylee Andersen once in May 2007 and deposed other individuals, all of whom were identified by Plaintiff as

potential witnesses. Defendants deny the remaining allegations of Paragraph 8.28 of the Complaint.

8.29 Defendants state that the orders dated September 21, 2007 and January 2008 speak for themselves, and, to the extent that the allegations of Paragraph 8.29 of the Complaint are inconsistent with those orders, such allegations are denied. Defendants deny the remaining allegations of Paragraph 8.29 of the Complaint.

8.30 Defendants deny the allegations of Paragraph 8.3 of the Complaint.

ANSWER TO PLAINTIFF'S FOURTH CLAIM FOR RELIEF
(NEGLIGENCE/NEGLIGENCE *PER SE*)
(Defendants MediaSentry, RIAA and Record Companies)

8.31 Defendants incorporate by reference their responses set forth above, as if said responses were set forth fully herein.

8.32 To the extent that Paragraph 8.32 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.33 Defendants deny the allegations of Paragraph 8.33 of the Complaint.

8.34 To the extent that Paragraph 8.34 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.35 Defendants deny the allegations of Paragraph 8.35 of the Complaint.

8.36 Defendants deny the allegations of Paragraph 8.36 of the Complaint.

8.37 To the extent that Paragraph 8.37 of the Complaint contains Plaintiff's legal conclusions, no response is required. Defendants admit that Cary Sherman is a 1971 graduate of Harvard Law School, that he is one of the top copyright attorneys in the United States, that Defendants and Mr. Sherman are aware of the requirements for filing a copyright action, and that

those requirements were satisfied here. Defendants deny the remaining allegations of Paragraph 8.37 of the Complaint.

8.38 To the extent that Paragraph 8.38 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.39 To the extent that Paragraph 8.39 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.40 To the extent that Paragraph 8.40 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.41 To the extent that Paragraph 8.41 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.42 To the extent that Paragraph 8.42 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.43 To the extent that Paragraph 8.43 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.44 To the extent that Paragraph 8.44 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.45 To the extent that Paragraph 8.45 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

8.46 To the extent that Paragraph 8.46 of the Complaint contains Plaintiff's legal conclusions, no response is required. To the extent that a response is deemed required, the allegations are denied.

ANSWER TO PLAINTIFF'S FIFTH CLAIM FOR RELIEF
(INJUNCTIVE AND DECLARATORY RELIEF)
(All Defendants)

8.47 Paragraph 8.47 of the Complaint does not require a response. To the extent that a response is deemed required, the allegations of Paragraph 8.47 are denied.

8.48 Paragraph 8.48 of the Complaint does not require a response. To the extent that a response is deemed required, the allegations of Paragraph 8.48 are denied.

8.49 Paragraph 8.49 of the Complaint does not require a response. To the extent that a response is deemed required, the allegations of Paragraph 8.49 are denied.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiff's Civil Conspiracy Claim fails to state a claim upon which relief can be granted, because it is based on vague and conclusory allegations which will not support a claim for civil conspiracy, and because Plaintiff cannot establish any damages, for the reasons more fully set forth in Defendants' prior motion to dismiss. (*See* Doc. No. 14 at 40.)

THIRD DEFENSE

Plaintiff's Abuse of Legal Process Claim fails to state a claim upon which relief can be granted because Plaintiff has failed to plead the essential elements of the claim, as more fully set forth in Defendants' prior motion to dismiss. (*See* Doc. No. 14 at 25.) Specifically, Plaintiff has not and cannot allege an actual arrest or a seizure of property or injuries beyond those which are a common burden on parties to litigation, as more fully set forth in Defendants' prior motion to dismiss. (*See id.* at 26.) In addition, Plaintiff cannot establish any damages.

FOURTH DEFENSE

Plaintiff's Negligence/Negligence *Per Se* Claims fail to state claims upon which relief can be granted because Plaintiff has failed to plead the essential elements of those claims, as more fully set forth in Defendants' prior motion to dismiss. (*See* Doc. No. 14 at 19.) Specifically, Plaintiff has not and cannot allege the existence of a duty on the part of Defendants imposed by statute, contract or court made law, and Plaintiff has not and cannot allege the existence of a relationship between Defendants and Plaintiff, as more fully set forth in Defendants' prior motion to dismiss. (*See id.*) Moreover, Plaintiff cannot demonstrate that the investigator licensure statute will support a negligence *per se* claim against MediaSentry or that such a claim could be asserted vicariously against the Record Company Defendants or the RIAA. Finally, Plaintiff cannot establish any damages.

FIFTH DEFENSE

Plaintiff's claims are barred by the doctrines of waiver, laches, estoppel and unclean hands.

SIXTH DEFENSE

Plaintiff failed to mitigate her damages, if any.

SEVENTH DEFENSE

Defendants' actions are protected by the right to petition of the First Amendment of the United States Constitution, as delineated in the *Noerr-Pennington* doctrine.

EIGHTH DEFENSE

Defendants deny each and every allegation of the Complaint, express or implied, not expressly admitted herein.

NINTH DEFENSE

Defendants reserve the right to add affirmative defenses as warranted by ongoing discovery, investigation, or as otherwise permitted by law or court order.

TENTH DEFENSE

Plaintiffs' claims are groundless and frivolous, entitling Plaintiffs to costs and attorney fees.

WHEREFORE, Defendants request judgment in their favor, dismissing Plaintiff's claims with prejudice, awarding Defendants their reasonable costs and attorney fees, and order such other relief as this Court deems just and proper.

Respectfully submitted this 21st day of May, 2008.

LANE POWELL PC

By /s/ William T. Patton

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