

HARDY MYERS  
Attorney General  
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Assistant Attorney General  
Department of Justice  
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Attorneys for University of Oregon

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ARISTA RECORDS, LLC, a Delaware limited liability company; ATLANTIC RECORDING CORPORATION, a Delaware corporation; BMG MUSIC, a New York general partnership; CAPITOL RECORDS, INC., a Delaware corporation; ELEKTRA ENTERTAINMENT GROUP, INC., a Delaware corporation; INTERSCOPE RECORDS, a California general partnership; LaFACE RECORDS, LLC, a Delaware limited liability company; PRIORITY RECORDS, LLC, a California limited liability company; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; UMG RECORDINGS, INC., a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; WARNER BROS. RECORDS, INC., a Delaware corporation,

Plaintiffs,

v.

DOES 1-17,

Defendants.

Case No. 6:07-cv-06197-HC

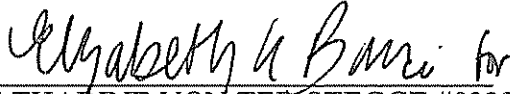
MOTION TO QUASH SUBPOENA  
PURSUANT TO FRCP 45 B(3)(A) BY  
THE UNIVERSITY OF OREGON

The University of Oregon ("University") moves this Court pursuant to Federal Rule of Civil Procedure 45 b(3)(A) to quash the subpoena *duces tecum* for privileged computer records served on the University by Plaintiffs on September 17, 2007 in the above-captioned matter. *Exhibit 101*. This motion is based on the accompanying memorandum of law and affidavits in support thereof.

DATED this 31 day of October, 2007.

Respectfully submitted,

HARDY MYERS  
Attorney General

  
KATHARINE VON TER STEGGE #032300  
Assistant Attorney General  
Trial Attorney  
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Katharine.VonTerStegge@doj.state.or.us  
Of Attorneys for University of Oregon

Issued by the  
**United States District Court**

DISTRICT OF OREGON

ARISTA RECORDS LLC; ATLANTIC RECORDING CORPORATION; BMG MUSIC; CAPITOL RECORDS, INC.; ELEKTRA ENTERTAINMENT GROUP INC.; INTERSCOPE RECORDS; LAFACE RECORDS LLC; PRIORITY RECORDS LLC; SONY BMG MUSIC ENTERTAINMENT; UMG RECORDINGS, INC.; VIRGIN RECORDS AMERICA, INC.; and WARNER BROS. RECORDS INC.

SUBPOENA IN A CIVIL CASE

RECEIVED  
SEP 12 2007  
UO GENERAL COUNSEL  
hand delivered 2:59 p.m.

vs.

DOES 1 - 17

To: University of Oregon  
221 Johnson Hall  
1226 University of Oregon  
Eugene, OR 97403-1226

Case No. 07-6197-HO

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

|                    |               |
|--------------------|---------------|
| PLACE OF TESTIMONY | COURTROOM     |
|                    | DATE AND TIME |

YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case:

|                     |               |
|---------------------|---------------|
| PLACE OF DEPOSITION | DATE AND TIME |
|---------------------|---------------|

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): Information, including names, current and permanent addresses, and telephone numbers, sufficient to identify the alleged infringers of copyrighted sound recordings, listed by IP address in Attachment A to this Subpoena.

|   |                                   |
|---|-----------------------------------|
| PLACE<br>Lane Powell PC<br>601 S.W. Second Avenue, Suite 2100<br>Portland, OR 97204<br>Phone: (503)778-2015 | DATE AND TIME<br>October 17, 2007 |
|---|-----------------------------------|

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

|          |               |
|----------|---------------|
| PREMISES | DATE AND TIME |
|----------|---------------|

Any organization not a party to this suit that is subpoenaed for the taking of deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Federal Rules of Civil Procedure 30(b)(6).

|   |                 |
|---|-----------------|
| ISSUING OFFICER'S SIGNATURE AND TITLE (indicate if attorney for Plaintiff or Defendant)<br><i>William T. Patton</i><br>Attorneys for Plaintiffs | DATE<br>9/11/07 |
|---|-----------------|

|  |
|--|
| ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER<br>William T. Patton, OSB No. 97364<br>Lane Powell PC<br>601 S.W. Second Avenue, Suite 2100<br>Portland, OR 97204<br>Phone: (503)778-2015 |
|--|

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

Attachment A

|          |   |
|----------|---|
| Doe # 1  | IP Address: 128.223.230.231 2007-03-09 01:55:15 EST |
| Doe # 2  | IP Address: 128.223.226.145 2007-03-10 19:15:43 EST |
| Doe # 3  | IP Address: 128.223.226.88 2007-03-13 01:51:38 EDT  |
| Doe # 4  | IP Address: 128.223.190.224 2007-03-14 04:25:56 EDT |
| Doe # 5  | IP Address: 128.223.168.173 2007-03-15 16:57:02 EDT |
| Doe # 6  | IP Address: 128.223.231.26 2007-03-21 11:35:51 EDT  |
| Doe # 7  | IP Address: 128.223.116.202 2007-04-22 16:04:27 EDT |
| Doe # 8  | IP Address: 128.223.182.205 2007-04-23 20:03:51 EDT |
| Doe # 9  | IP Address: 128.223.226.199 2007-04-24 01:43:50 EDT |
| Doe # 10 | IP Address: 128.223.168.220 2007-04-24 01:56:15 EDT |
| Doe # 11 | IP Address: 128.223.189.147 2007-04-24 01:42:49 EDT |
| Doe # 12 | IP Address: 128.223.168.42 2007-05-08 11:55:34 EDT  |
| Doe # 13 | IP Address: 128.223.230.164 2007-05-11 00:37:25 EDT |
| Doe # 14 | IP Address: 128.223.194.216 2007-05-14 17:59:37 EDT |
| Doe # 15 | IP Address: 128.223.228.157 2007-05-17 02:03:59 EDT |
| Doe # 16 | IP Address: 128.223.228.71 2007-05-21 20:40:59 EDT  |
| Doe # 17 | IP Address: 128.223.185.104 2007-05-24 11:38:22 EDT |

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Plaintiffs,

v.

DOES 1-17,

Defendants.

Case No. 6:07-cv-06197-HC

AFFIDAVIT OF RANDOLPH GELLER IN  
SUPPORT OF UNIVERSITY OF  
OREGON'S MOTION TO QUASH

Page 1 - AFFIDAVIT OF RANDOLPH GELLER IN SUPPORT OF UNIVERSITY OF  
OREGON'S MOTION TO QUASH

KV1/cbh/Geller Affidavit 103007 TRIT2863

Department of Justice  
1162 Court Street NE  
Salem, OR 97301  
(503) 947-4700 / Fax: (503) 947-4791

Exhibit 102, Page 1 of 3  
Arista Records v. Does, 6:07-cv-06197HO  
Motion to Quash Subpo

STATE OF OREGON     )  
                                  ) ss.  
County of Lane         )

I, Randolph Geller, being first duly sworn on oath, depose and say:

1. I am employed as Deputy General Counsel and a Special Assistant Attorney General to provide legal counsel to the University Oregon.
2. I spoke with Katheryn Coggon, national counsel for the Recording Industry Association of America (RIAA) in July 2007 concerning the pre-litigation notices provided to the University by the RIAA during the summer of 2007.
3. It is my understanding that Ms. Coggon represented the Plaintiffs in this case at the time I spoke with her.
4. I assured Ms. Coggon that the University of Oregon had preserved and would continue to preserve the identifying information concerning the Doe defendants described in the pre-litigation notices.
5. The University of Oregon is subject to all provisions of the Family Educational Rights and Privacy Rights Act of 1974, ORS 30.864, and OAR 571-020-0100 through 571-020-0250 and is subject to legal sanctions, including suits for damages by aggrieved individuals and the withholding of federal funds essential for the University's operation by the U.S. Department of Education, for erroneously releasing information protected by that Act.

Page 2 -AFFIDAVIT OF RANDOLPH GELLER IN SUPPORT OF UNIVERSITY OF OREGON'S MOTION TO QUASH

KV1/cbl/Geller Affidavit 103007 TRIT2863

Department of Justice  
1162 Court Street NE  
Salem, OR 97331  
(503) 947-4700 / Fax: (503) 947-4791

Exhibit 102, Page 2 of 3  
Anista Records v. Does, 6:07-cv-06197HO  
Motion to Quash Subpo

DATED this 30<sup>th</sup> day of October, 2007.

  
RANDOLPH GELLER

SUBSCRIBED AND SWORN to before me this 30<sup>th</sup> day of October, 2007.



  
Notary Public for Oregon  
My Commission Expires: 5-30-10

HARDY MYERS  
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KATHARINE VON TER STEGGE #032300  
Assistant Attorney General  
Department of Justice  
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Plaintiffs,

v.

DOES 1-17,

Defendants.

Case No. 6:07-cv-06197-HC

AFFIDAVIT OF DALE SMITH IN  
SUPPORT OF UNIVERSITY OF  
OREGON'S MOTION TO QUASH

STATE OF OREGON     )  
County of Lane        ) ss.

I, Dale Smith, being first duly sworn on oath, depose and say:

1. I am Director of Network Services for the University of Oregon, located in Eugene, Oregon.
2. I have been employed as the University's Director of Network Services for fifteen years.
3. In my capacity as Director of Network Services I am responsible for maintaining and managing the University of Oregon's extensive computer network. I am familiar both with the capabilities and limitations of the University's network.
4. I received a Bachelor of Science Degree in Computer Science in 1980 and a Master's Degree in Computer Science in 1989, both from the University of Oregon.
5. I have been continuously employed since 1980 in the field of computing and networking.
6. I have reviewed a copy of the subpoena served on the University in case 6:07-cv-06197-HO, including the attached IP addresses alleged by Plaintiffs to have been used by the named John Does in the infringement of Plaintiffs' copyrights.
7. My staff and I have attempted to identify all seventeen alleged infringers and have been unable to do so.
8. Five of the seventeen John Does accessed the content in question from double-occupancy dorm rooms at the University. With regard to these Does, the University is able to identify only the room where the content was accessed and whether or not the computer used was a Macintosh or a PC. No login or personally identifiable information, i.e. authentication,

was used by the Does to access the University's network because none is required. The University cannot determine whether the content in question accessed by one occupant as opposed to another, or whether it was accessed instead by a visitor.

9. Two of the seventeen John Does accessed the content in question from single-occupancy dorm rooms at the University. No login or personally identifiable information, i.e. authentication, was used by the Does to access the University's network because none is required. The University cannot determine whether the content was accessed by the room occupant or visitor.

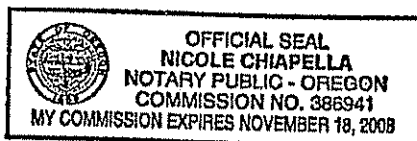
10. Nine of the seventeen John Does accessed the content in question from the University's wireless network or a similar system called the "HDSL Circuit." These systems do record a user name associated with the access. For these John Does, the University can determine the identity of the individual who has been assigned the user name, however, it is unable to determine whether the content was accessed by the individual assigned that user name or by someone else using the computer associated with the user name.

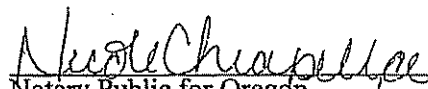
11. In the case of sixteen of the seventeen John Does, I believe it is not possible for the University to identify the alleged infringers without conducting interviews and a forensic investigation of the computers likely involved.

DATED this 30 day of October, 2007.

  
\_\_\_\_\_  
DALE SMITH

SUBSCRIBED AND SWORN to before me this 30<sup>th</sup> day of October, 2007.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: 11/18/2008

**CERTIFICATE OF SERVICE**

I certify that on October 31, 2007, I served the foregoing MOTION TO QUASH SUBPOENA PURSUANT TO FRCP 45 B(3)(A) BY THE UNIVERSITY OF OREGON upon the parties hereto by the method indicated below, and addressed to the following:

Kenneth Ray Davis II  
William T. Patton  
Lane Powell PC  
601 SW 2nd Ave Ste 2100  
Portland OR 97204  
Of Attorneys for Plaintiffs

HAND DELIVERY  
 MAIL DELIVERY  
 OVERNIGHT MAIL  
 TELECOPY (FAX) 503 778-2200  
 E-MAIL **davisk@lanepowell.com;**  
**pattonw@lanepowell.com**  
 E-FILE



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