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2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----X

5 UMG RECORDINGS, INC., et al,

6

Plaintiffs, 05 CV 1095
(DGT)(RML)

7

vs.

8

9 MARIE LINDOR,

10 Defendant.

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11

12 February 23, 2007

13 9:30 a.m.

14

15 DEPOSITION of Expert Witness,

16 DR. DOUGLAS W. JACOBSON, held at the offices

17 of Vanderberg & Feliu, LLP, 110 East 42nd

18 Street, New York, New York, pursuant to

19 Notice, before ELIZABETH SANTAMARIA, a

20 Notary Public of the State of New York.

21

22

23

24 Reported by:

ELIZABETH SANTAMARIA

25 JOB NO. 54123

6 A. Again, that sounds like a statement

7 that was in that testimony. I don't have the

8 testimony in front of me, so I ...

9 Q. Did you make this statement?

10 "These technologies are not designed

11 for the home users."

12 A. Again, that sounds like a statement

13 that was in the testimony.

14 Q. Did you make this statement?

15 "This leaves individuals on their own

16 to solve the problems of peer-to-peer networking."

17 A. Again, that sounds like a statement

18 that was in the testimony.

19 Q. Did you make this statement?

20 "Which naturally leaves us to the

21 question, what is the homeowner to do?"

22 A. Again, that sounds like something

23 that was in that testimony.

24 Q. Did you make this statement?

25 "Unlike web filtering, where certain

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2 sites can be blocked and web access can be

3 monitored, peer-to-peer traffic cannot be filtered

4 based on its content. This leaves a home user no

5 choice but to either allow peer-to-peer activity and

6 all of its associated risks or not allow any

7 peer-to-peer applications on their machines."

8 A. Again, that sounds like what was in

9 that testimony.

10 Q. Are you familiar with Steven Gottlieb

11 of the RIAA?

12 A. I've heard the name but that's it.

13 Q. Do you agree with this statement

14 which I will represent to you he made on

15 November 15, 2004 in comments he provided to the

16 Federal Trade Commission?

17 "P2P services often configure their

18 software to share content by default. What users

19 often do not know is that they may be sharing their

20 tax records, financial records, health records,

21 business records, e-mail and other personal and

22 private material."

23 Do you agree with that statement?

24 A. Oh, I'm sorry. Yes.

25 Q. Do you agree with this statement,

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2 which I represent to you was made by Mr. Gottlieb?

3 "As an additional matter P2P software

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4 may, upon installation, automatically search a
5 user's entire hard drive for content, files that
6 users have no intention of sharing may end up being
7 offered to the entire P2P network."

8 A. Yes.

9 Q. Do you agree with this statement
10 which I represent to you was made by Mr. Gottlieb?

11 "Continued sharing of personal
12 information is hard to avoid and is facilitated by
13 confusing and complicated instructions for
14 designating shared items."

15 A. Yes.

16 Q. Do you agree with this statement also
17 made by Mr. Gottlieb?

18 "A study by Nathaniel S. Good and
19 Aaron Krekelberg at HP Laboratories showed that the
20 majority of the users were unable to tell what files
21 they were sharing and sometimes incorrectly assumed
22 they were not sharing any files when in fact they
23 were sharing all files on their hard drive.

24 MR. GABRIEL: Object to the form.

25 Lack of foundation.

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2 A. I guess I can't quantify some, most,

3 all. I'm sorry.

4 Q. Are you familiar with the report by
5 Nathaniel Good and Aaron Krekelberg at KP
6 Laboratories?

7 A. No.

8 MR. GABRIEL: When we get to a good
9 stopping point, can we take five? It's
10 been an hour and a half.

11 MR. BECKERMAN: Sure.

12 (Recess taken.)

13 Q. Your reports state your conclusions;
14 is that correct?

15 A. Yes.

16 Q. And they state that your conclusions
17 were based upon --

18 Withdrawn. I shouldn't lump the
19 three together.

20 The April report states that
21 conclusions were based upon the materials that had
22 been provided to you by MediaSentry plus a few other
23 documents; is that correct?

24 A. Yes.

25 Q. Does that report explain how you