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December 19, 2006

By fax and electronic filing

Hon. Robert M. Levy
Magistrate Judge
U. S. District Court, Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Opposition to Plaintiffs' Motion to Strike

UMG Recordings, Inc., et al v. Lindor, 05CV1095(DGT)(RML)

Dear Judge Levy:

In opposition to Mr. Gabriel's motion to strike, we will refrain from responding to Mr. Gabriel's ad hominem attack upon the undersigned, and instead annex a translation of the decision of the Appeals Court of Amsterdam, affirming the holding of the District Court of Utrecht, in *Foundation v. UPC Nederland*, barring ex parte discovery based upon the "investigation" by Tom Mizzone of MediaSentry, holding:

neither the affidavits nor the cross-examination of Mr. Millin pro[...]vide clear and comprehensive evidence as to how the pseudonyms of the KaAaA or iMesh users were linked to the IP addresses identified by MediaSentry. No evidence was presented that the alleged infringers either distributed or authorized the reproduction of sound recordings. They merely placed personal copies into their shared directories which were accessible by other computer users via a P2P service.

As your honor knows, we submitted these authorities and the declaration of the independent experts simply to illustrate the importance of a thorough and searching deposition and crossexamination of Mr. Mizzone. Certainly the fact that Mr. Mizzone's 'science' has been repudiated by appeals courts in Canada and the Netherlands, and the reasons why it was

repudiated, are germane to your honor's inquiry, and far more helpful than Mr. Gabriel's post-argument submission of a 4-year-old published case which, to the extent it was relevant at all, contradicted, rather than supported, plaintiffs' motion.

Respectfully submitted,

/s/

Ray Beckerman

cc: Richard L. Gabriel, Esq.
(By fax 303-866-0200) and ECF