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Attorneys at Law

DENVER

December 19, 2006

BY ECF AND TELECOPY

BOULDER

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

COLORADO SPRINGS

Re: UMG Recordings, Inc. v. Lindor, No. 05 Civ. 1095 (DGT)(RML)

Dear Magistrate Judge Levy:

LONDON

Plaintiffs are mindful of this Court's admonition that the parties exercise restraint in filing more motions with this Court. Plaintiffs, however, have no choice but to ask this Court to strike the purported "further submission" in opposition to plaintiffs' motion for protective order that defendant filed on December 15, 2006. This submission relies on unverified witness statements of purported "expert" witnesses that were submitted in another case in another country involving entirely different issues. The supposed experts have never been properly disclosed in this case, and, on its face, the submission has no possible relevance to the pending motion for protective order or to any other issue before this Court.

LOS ANGELES

MUNICH

SALT LAKE CITY

Fed. R. Civ. P. 12(f) authorizes a Court to strike from a pleading any redundant, immaterial, impertinent, or scandalous matter. Defendant's submission relates to work done by MediaSentry in a foreign country, in a different matter, and for a different client, and it is unclear whether MediaSentry's work in that foreign case even involved the same methods or protocols that were used in this case. Moreover, the submission improperly relies on unverified hearsay statements of alleged "expert" witnesses that have never been disclosed or properly designated in this case pursuant to Fed. R. Civ. P. 26(a)(2). Simply stated, the information submitted is improper and, in any event, has nothing to do with this case or with the recording industry's agreement with MediaSentry, which is the sole issue currently before this Court. Defendant's submission is nothing more than another effort by defendant's counsel to create content for his web blog (per the attached, this

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submission was the headline article of counsel's blog) and to unfairly prejudice this Court against plaintiffs' witnesses.

If defendant wishes to litigate the case before her, then she should do so directly, and not by way of attempting to incorporate irrelevant hearsay from other cases involving different parties and different issues into this one.

Plaintiffs respectfully request that defendant's December 15, 2006 further submission be stricken.

Respectfully submitted,

s/Richard L. Gabriel
Counsel for Plaintiffs

RLG:ah

Attachment

cc: Ray Beckerman, Esq. (by ECF and e-mail; w/ attach.)
Richard Guida, Esq. (by ECF and e-mail; w/ attach.)
Timothy M. Reynolds, Esq. (by e-mail; w/ attach.)
Kathrin H. Weston, Esq. (by e-mail; w/ attach.)