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August 28, 2006

By fax (718) 613-2345 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: UMG Recordings, Inc., et al v. Lindor, 05CV1095(DGT)(RML)(Corrected)

Dear Magistrate Levy:

Unfortunately, the plaintiffs are again refusing to comply with their discovery obligations. At the July 25<sup>th</sup> conference your honor ordered them to serve a privilege log which complied with the EDNY rules by August 24<sup>th</sup>. (Copy of order enclosed). Enclosed is a copy of the "privilege log" they served. As your honor can see, the first four designations are entirely frivolous. These are the working agreements between the RIAA and the sources of the so-called "evidence" upon which the plaintiffs' entire case – an "online distribution" case against a lady who's never in her life even used a computer – is based. These are clearly documents "concerning an investigation" which were set forth in document request number 3, which plaintiffs had previously refused to turn over based upon claims of 'privilege', and which we agreed and your honor determined would be resolved by the production of a detailed privilege log.

Obviously, if the RIAA weren't ready to disclose this information, it ought never to have commenced litigation in the first place, as these agreements (a) go to the very heart of plaintiffs' prima facie case, (b) are vital to defendant's cross examination of plaintiffs' so-called investigators, and other witnesses, and (c) will be vital to the issues anticipated to be in litigation over attorneys fees under the Copyright Act, where we will demonstrate the 'objective unreasonableness' of plaintiffs' commencement and prosecution of this "distribution" case against a non-computer user. Even more obviously, there is no privilege known to the law which covers these documents.

Also unfortunately, I have attempted to get plaintiffs' counsel to remove the assertion of privilege and turn over the documents, but, consistent with their pattern of litigation conduct, they refuse, falsely claiming that your honor previously ruled that these documents were not discoverable.

Accordingly, we request an order directing the immediate turnover of unredacted copies of those documents. The timing of the request is urgent, as the depositions of plaintiffs are scheduled for September, and we should not have to examine these witnesses without these documents in hand.

Additionally we think that, based upon (a) the meritlessness of plaintiffs' assertion of "privilege", (b) plaintiffs' additional failures to comply with discovery unless judicially directed to do so, and (c) plaintiffs' barrage of meaningless, time consuming, and costly discovery demands upon defendant and her children, it is time for the Court to issue discovery sanctions.

Thank you.

Respectfully submitted,

/s/Ray Beckerman

Ray Beckerman

cc: Maryann Penney, Esq.  
(By telecopier 212-575-0671)

**Ray Beckerman**

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**From:** ecf\_bounces@nyed.uscourts.gov  
**Sent:** Friday, March 30, 2007 3:34 PM  
**To:** nobody@nyed.uscourts.gov  
**Subject:** Activity in Case 1:05-cv-01095-DGT-RML UMG Recordings, Inc. et al v. Lindor Order on Motion to Compel

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The following transaction was entered on 3/30/2007 at 3:34 PM EDT and filed on 3/30/2007

**Case Name:** UMG Recordings, Inc. et al v. Lindor

**Case Number:** [1:05-cv-1095](#)

**Filer:**

**Document Number:** No document attached

**Docket Text:**

ORDER denying [62] Motion to Compel; granting [75] Motion for Protective Order; granting [108] Motion to Strike, and striking both plaintiffs' and defendant's letters of 12/12/06, as these additional pleadings of plaintiffs and defendant were beyond the scope of Local Rule 6.1(a) and not authorized by the court. In any event, they were not necessary to the court's decision. Following extensive briefing, oral argument, and in camera review of the issues underlying defendant's request for documents 1-4 on plaintiffs' privilege log relating to plaintiffs' contractual relationship with Media Sentry, the court finds that the documents are not relevant in that they do not contain information that is relevant to the claim or defense of any party or reasonably calculated to lead to the discovery of admissible evidence, as required by FRCP Rule 26(b)(1). Defendant was unable, either at oral argument or in her papers, to formulate a convincing explanation of the documents' relevance. After considerable analysis, and for the reasons explained at the oral argument, the court could not do so either. Accordingly, plaintiffs are not required to produce documents 1-4 on their privilege log. Ordered by Judge Robert M. Levy on 3/30/07. (Levy, Robert)

**1:05-cv-1095 Notice has been electronically mailed to:**

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3/30/2007

**1:05-cv-1095 Notice will not be electronically mailed to:**

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