

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARISTA RECORDS LLC, a Delaware limited liability company; WARNER BROS. RECORDS INC., a Delaware corporation; ATLANTIC RECORDING CORPORATION, a Delaware corporation; VIRGIN RECORDS AMERICA, INC., a California corporation; UMG RECORDINGS, INC., a Delaware corporation; BMG MUSIC, a New York general partnership; CAPITOL RECORDS, INC., a Delaware corporation; SONY BMG MUSIC ENTERTAINMENT, a Delaware general partnership; MOTOWN RECORD COMPANY, L.P., a California limited partnership; MAVERICK RECORDING COMPANY, a California joint venture; ELEKTRA ENTERTAINMENT GROUP INC., a Delaware corporation; LAFACE RECORDS LLC, a Delaware limited liability company; and INTERSCOPE RECORDS, a California general partnership,)	CIVIL ACTION No. 04-cv-12434-NG (CONSOLIDATED DOCKET NUMBER)
Plaintiffs,)	CIVIL ACTION No. 07-cv-10834-NG (ORIGINAL DOCKET NUMBER)
v.)	
DOES 1 - 21,)	
Defendants.)	

PLAINTIFFS’ OPPOSITION TO MOTION TO QUASH SUBPOENA

Plaintiffs respectfully submit this opposition to Defendant John Doe’s (“Doe’s” or “Defendant’s”) motion to quash a subpoena issued by Plaintiffs to Boston University (the “University”). For the reasons discussed below, Defendant’s motion should be denied.

As an initial matter, Defendant’s counsel, Mr. Sayeg, has misrepresented the scope of his representation to this Court. Mr. Sayeg signed the Motion to Quash (“Motion”) [Docket No. 10] and the accompanying “Memorandum of Law of Boston University In Support of Its Motion to

Quash Subpoena” (“Mem. Supp. Mot.) [Docket No. 11] on behalf of “John Does 1-21,” despite the fact that he does not represent each of the Doe defendants in this matter.¹ Mr. Sayeg has continuously refused to comply with repeated requests from Plaintiffs’ counsel to identify which Doe defendant he represents and to file a clarifying statement with this Court. *See* June 15, 2007 Letter from M. Rothman to R. Sayeg; June 21, 2007; Letter from R. Sayeg to J. Bauer, attached collectively hereto as Exhibit A. Mr. Sayeg has also refused to identify his client to the University, despite the ease with which the University can determine the Doe number for Mr. Sayeg’s client. *See* June 25, 2007 Letter from C. Talley to J. Bauer, attached hereto as Exhibit B. Mr. Sayeg’s continued refusal to identify his client and clarify the scope of his representation raises a number of issues and has caused unnecessary delay and confusion in this case.

First, Mr. Sayeg may have moved to quash the subpoena on behalf of a number of Doe defendants who may not have consented to the Motion. Those defendants who have contacted Plaintiffs’ counsel to discuss settlement, either directly or through counsel, may wish to take advantage of settlement terms that are more favorable this early in the litigation than may be available after the motion to quash has been litigated and this case progresses. By moving to quash the subpoena purportedly on behalf of those defendants without their consent, Mr. Sayeg is taking that decision out of their hands and possibly harming their best interests.

Second, Mr. Sayeg’s refusal to identify which Doe defendant(s) he represents has engendered confusion and uncertainty with respect to *all* of the Doe defendants in this case. That confusion and uncertainty is preventing Plaintiffs’ counsel from engaging in discussions with several different Doe defendants who have contacted them to discuss various issues,

¹ It is clear from Plaintiffs’ counsel’s communications with Mr. Sayeg and with other attorneys who are representing different Doe defendants in this case that Mr. Sayeg does not represent each of the Doe defendants.

including settlement. Plaintiffs' counsel are understandably concerned about communicating directly with any defendant who is represented by counsel. Mr. Sayeg's representation to the Court and to Plaintiffs' counsel that he represents all of the Doe defendants, which Plaintiffs' counsel knows is incorrect, makes it impossible for Plaintiffs' counsel to determine with certainty whether defendants who have contacted Plaintiffs' counsel are represented by counsel. Until Mr. Sayeg clarifies which of the Doe defendants he does not represent, he is interfering with the ability of those defendants to enter into settlement negotiations.

Finally, because it cannot determine which Doe defendant is objecting to the subpoena, the University is refusing to provide *any* response to the subpoena until Mr. Sayeg's Motion is resolved. *See* Letter from C. Talley to Clerk of Courts [Docket No. 13].

Defendant asks this Court to quash the subpoena and vacate its Order allowing Plaintiffs to serve the subpoena identifying who the Defendant is on the ground that Plaintiffs have failed to make a prima facie showing of copyright infringement. This argument does not present a proper basis on which to quash a subpoena under Fed. R. Civ. P. 45(c)(3) and would serve solely to immunize the Defendant and all of the other Doe defendants in this lawsuit from liability for violating Plaintiffs' copyrights. This argument is also irrelevant at this stage of the litigation – the proper standard for determining the sufficiency of Plaintiffs' complaint is whether Plaintiffs' have met the liberal pleading standard of Fed. R. Civ. P. 8(a). Furthermore, even if Plaintiffs were required to make a prima facie showing of copyright infringement at this stage of the litigation, many courts have agreed in similar cases that Plaintiffs' complaint is more than sufficient to state a prima facie claim for copyright infringement.

BACKGROUND

The Court is well-versed in the background of this case. Plaintiffs are major recording companies who own copyrights in sound recordings. Collectively, they face a massive problem

of digital piracy over the Internet. Every month, copyright infringers unlawfully disseminate billions of perfect digital copies of Plaintiffs' copyrighted sound recordings over peer-to-peer ("P2P") networks. *See* Lev Grossman, *It's All Free*, Time, May 5, 2003. A P2P network is an online media distribution system that allows users to transform their computers into interactive Internet sites, disseminating files for other users to copy. As a direct result of piracy on P2P networks, Plaintiffs have and continue to sustain substantial financial losses.

P2P users who disseminate (upload) and copy (download) copyrighted material violate the copyright laws. *See, e.g., Metro-Goldwyn-Mayer Studios, Inc., et al. v. Grokster Ltd., et al.*, 125 S.Ct. 2764, 2770-72 (2005) (noting that users of P2P networks share copyrighted music and video files on an enormous scale, and, as such, even the providers of those networks "concede infringement" by the individual users); *In re Aimster Copyright Litigation*, 334 F.3d 643.

Copyright infringement over P2P networks is widespread, however, because users can conceal their identities by means of an alias, copyright owners can observe infringement occurring on P2P networks, but cannot (without assistance) identify the true names and locations of the infringers.

The Defendant in this case is an active participant on a P2P network, offering copyrighted sound recordings stored on his computer for others to download and downloading copyrighted sound recordings from other users of the P2P network. Plaintiffs discovered Defendant openly disseminating sound recordings whose copyrights are owned by Plaintiffs. By logging onto the P2P network, Plaintiffs viewed the files that Defendant was offering to other users. The Defendant in this case is a significant infringer. He has chosen to distribute from his computer as many as 699² sound recordings whose copyrights are owned by various of the

² Though Plaintiffs do not know which Doe defendant has brought the present motion,

Plaintiffs. In conjunction with the complaint filed in this case, Plaintiffs listed a sample of the songs that the defendants were disseminating without authorization (*see* Exhibit A to the Complaint).³

As has previously been explained to the Court in the Linares Declaration filed with the original *Ex Parte* Motion to Take Immediate Discovery (“Discovery Motion”), upon finding Defendant disseminating large numbers of copyrighted works, Plaintiffs gathered substantial evidence of Defendant’s illegal conduct. Plaintiffs could not ascertain Defendant’s name, address, or any other contact information, but could identify the Internet Protocol (“IP”) address from which the Defendant was unlawfully disseminating Plaintiffs’ copyrighted works. *See* Linares Decl. ¶ 18. Using the IP address, Plaintiffs determined that Defendant was using the University’s internet service to disseminate copyrighted works unlawfully. *Id.* The University maintains logs that match IP addresses with their users’ computers. *Id.* ¶ 12. By looking at its IP address logs, the University can match the IP address, date, and time with the computer that was using the IP address when Plaintiffs observed the infringement. Thus, the University—and only the University—can identify the Defendant in this case.

each of the Doe defendants in this case made available for distribution between 100 and 699 of Plaintiffs’ copyrighted sound recordings.

³ Plaintiffs discovered each Defendant with at least 100 – and several with more than 600 – sound recordings on his or her computer, many of which are owned by Plaintiffs. Each Defendant was distributing these sound recordings freely to the millions of people who use similar P2P networks. On information and belief, Defendant downloaded (copied) all or many of the sound recordings without permission of the record company copyright owners.

ARGUMENT

I. DEFENDANT FAILS TO PROVIDE A PROPER BASIS ON WHICH TO QUASH PLAINTIFFS' RULE 45 SUBPOENA

A. Defendant Has Failed To Articulate A Valid Basis For Quashing The Subpoena.

Rule 45(c)(3) specifies four grounds on which a subpoena may be quashed. Specifically, a subpoena may be quashed if it: (1) fails to allow reasonable time for compliance; (2) requires a person who is not a party to travel to a place more than 100 miles from the place where that person resides; (3) requires disclosure of privileged or other protected matter; or (4) subjects a person to undue burden. Fed. R. Civ. P. 45(c)(3). Defendant fails to identify any basis under Rule 45(c)(3) on which he is moving to quash the subpoena. Defendant's failure to identify such a basis is not coincidental. Defendant's arguments regarding the sufficiency of Plaintiffs' complaint and Plaintiffs' supposed failure to make a prima facie showing of copyright infringement are simply not valid bases on which to quash a subpoena. There will be a time for Defendant to deny Plaintiffs' allegations and to contest Plaintiffs' theory of their case, but that time is not now. For this reason alone the Motion should be denied.

B. The Court's Order Granting Plaintiffs' Motion For Expedited Discovery Was Properly Granted.

Plaintiffs' use of a "John Doe" complaint in this matter and the Court's grant of Plaintiffs' motion for expedited discovery were both proper. Most courts apply a flexible good cause standard in deciding whether to grant orders for expedited discovery in circumstances like those presented here.⁴ Under this standard, courts examine the reasonableness of the discovery

⁴ The cases Defendant cites in support of his claim that discovery should be allowed only after a defendant has been served not only do not help his argument, but in fact support Plaintiffs' position. In *Sony Music Entertainment, Inc. v. Does 1-40*, 326 F. Supp. 2d 556, a case very similar to this one, the Court denied the Defendant's Motion to Quash the subpoena and held that the plaintiff copyright owners were entitled to discovery. The Court stated that plaintiffs, on evidence very similar to that submitted in the case at hand, had "made a concrete

request in light of all of the surrounding circumstances, *see, e.g., Ayyash v. Bank Al-Madina*, 2005 U.S. Dist. LEXIS 14276 (S.D.N.Y. 2005), and generally find good cause in cases involving claims of infringement. *Qwest Communs. Int'l Inc. v. Worldquest Networks, Inc.*, 213 F.R.D. 418, 419 (D. Colo. 2003) (“The good cause standard may be satisfied ... where the moving party has asserted claims of infringement ...”); *Benham Jewelry Corp. v. Aron Basha Corp.*, 1997 U.S. Dist. LEXIS 15957 (S.D.N.Y. 1997).

As this Court has already found, both in this case and in similar copyright infringement cases, Plaintiffs’ request for expedited discovery is reasonable under the good cause standard, in light of the allegations of Plaintiffs’ Complaint, the harm to Plaintiffs of having Defendant infringe hundreds of Plaintiffs’ copyrighted works, Plaintiffs’ inability to pursue the case against Defendant absent expedited discovery, the opportunity that Defendant would have to defend against Plaintiffs’ claims at the appropriate time, and the low burden on the University of complying with the discovery order. *See, e.g., Order, London-Sire Records, Inc. v. Does 1-4*, Civil Action No. 04-142434-NG (D. Mass. June 20, 2005). Nothing in Defendant’s motion changes the fact that Plaintiffs have met the good cause standard for granting expedited discovery. Defendant’s motion to quash and request to vacate should therefore be denied.

II. PLAINTIFFS HAVE STATED A CLAIM FOR COPYRIGHT INFRINGEMENT

Defendant’s argument that Plaintiffs have failed to make a prima facie showing of copyright infringement is a red herring. As discussed above, this is not the standard by which Plaintiff’s Discovery Motion is to be judged and does not present a valid basis for quashing the subpoena. However, even if Defendant’s arguments were appropriate at this stage, which is not

showing of a prima facie claim of copyright infringement.” *Id.* at 565. Similarly, in *Columbia Insurance Co. v. Seescandy*, 185 F.R.D. 573, 580 (N.D. Cal. 1999), the Court found that the plaintiffs had made the showing required to state a claim of copyright infringement, as plaintiffs’ complaint was sufficient to survive a motion to dismiss. The other case on which Defendant relies reached different results based on the unique and distinguishable facts before that court.

the case,⁵ Plaintiffs have made a prima facie showing of copyright infringement. Defendant's argument to the contrary is based on a misunderstanding of Plaintiffs' allegations and of the Copyright Act.

A. Plaintiffs Have Sufficiently Alleged Copyright Infringement By The Doe Defendants.

In the context of a copyright infringement claim, a plaintiff need only allege: (1) that the plaintiff owns valid copyrights and (2) that Defendant violated one or more of the exclusive rights in 17 U.S.C. § 106 by, for example, copying or distributing Plaintiffs' copyrighted works. *See Susan Wakeen Doll Co., Inc. v. Ashton Drake Galleries*, 272 F.3d 441, 450 (7th Cir. 2001); *see also, e.g., Feist Pub., Inc. v. Rural Tel. Serv. Co., Inc.*, 499 U.S. 340, 361 (1991) ("To establish copyright infringement, two elements must be proven: (1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original."); 4 Melville Nimmer & David Nimmer, NIMMER ON COPYRIGHT § 13.01, at 13-5 & n.4 (2002) ("Reduced to most fundamental terms, there are only two elements necessary to the plaintiff's case in an infringement action: ownership of the copyright by the plaintiff and copying [or public distribution or public display] by the defendant.").

Plaintiffs have met this burden. Plaintiffs have alleged that they own valid copyrights in the sounds recordings identified in Exhibit A of the Complaint. Plaintiffs have further alleged that the Doe defendant has used and continues to use an online media distribution system to download and distribute the sound recordings identified in Exhibit A, in violation of Plaintiffs' copyrights and exclusive rights under the Copyright Act. (Complaint ¶ 22.) Such allegations suffice to establish a copyright claim because they establish Plaintiffs' ownership of valid

⁵ Should the Court nonetheless wish to consider Defendants' argument that Plaintiffs have allegedly provided insufficient evidence to state a prima facie claim of copyright infringement, Plaintiffs respectfully request an opportunity to provide such evidence.

copyrights in clearly specified works and because they expressly state the acts by which and the time during which copyright infringement took place, namely the continuous and ongoing reproduction and distribution of the Copyrighted Recordings using an online media distribution system.

Every court that has considered a motion to dismiss virtually identical allegations against other defendants in similar copyright cases has determined that the plaintiff record companies' allegations satisfy Rule 8 and Rule 12. In addition to many unpublished decisions, the following decisions are available on Lexis and Westlaw: *Elektra Entm't Group, Inc. v. Crawford*, 226 F.R.D. 388, 390 (C.D. Cal. 2005); *Elektra Entertainment Group, Inc. v. Santangelo*, 2005 U.S. Dist. LEXIS 30388, No. 05-CV-2414-CM (S.D.N.Y. Nov. 28, 2005) (denying the defendants' motion to dismiss, finding that Plaintiffs' Complaint satisfied Rule 8's pleading requirements, as applied to copyright infringement claims.); *Sony Music Entm't Inc. v. Does 1-40*, 326 F. Supp. 2d 556, at 565 (S.D.N.Y. 2004) (in rejecting a similar motion to quash the Court noted that "Plaintiffs have made a concrete showing of a prima facie claim of copyright infringement"); *Arista Records LLC v. Gruebel*, 453 F.Supp 2d 961 (N.D. Tex. 2006); *Interscope Records v. Duty*, 2006 U.S. Dist. LEXIS 20214 (D. Ariz.); *Maverick Recording Co. v. Goldshetyen*, 2006 U.S. Dist. LEXIS 52422 (E.D.N.Y.); *Warner Bros. Records, Inc. v. Payne*, 2006 U.S. Dist. LEXIS 65765 (W.D. Tex.).

Moreover, Plaintiffs allegations of Doe defendants' unlawful distribution are well supported on the face of the Complaint, which shows massive infringement by each of the Doe defendants. For example, Plaintiffs have gathered substantial evidence that each Doe defendant has unlawfully disseminated hundreds of Plaintiffs' copyrighted works and have attached to the Complaint a partial list of the sound recordings each Doe defendant downloaded and/or

distributed to the public. *See Ex. A, Complaint.* Thus, Plaintiffs have already presented competent evidence that Defendant was disseminating hundreds of copyrighted sound recordings without authorization and had previously illegally downloaded hundreds of copyrighted sound recordings. Defendant may dispute that evidence, and may deny Plaintiffs' claims, but that is not a basis for quashing the subpoena.

B. Plaintiffs' Theory of Copyright Infringement Is Well-Supported Under The Law.

As discussed above, Plaintiffs' Complaint stands on its own and is sufficient to state a claim for copyright infringement. The Linares Declaration, which Defendant appears to confuse with Plaintiffs' Complaint, simply provides factual support for Plaintiffs' contention that good cause existed for this Court to grant Plaintiffs' request for expedited discovery. As such, Defendant's argument that "the theory advanced in the Linares Declaration," in support of Plaintiffs' Discovery Motion, is "incorrect under the law," (Mem. Supp. Mot. at 5), is unavailing.

Moreover, the "theory" of copyright infringement contained in the Linares Declaration, and in Plaintiffs' Complaint, is well supported. Defendant misconstrues the nature of Plaintiffs' claims when he states that "the grounds" for Plaintiffs' Discovery Motion is "that the individual users of internet services infringed plaintiffs' copyrights by storing music files on the their computers while connected to the internet without sufficient protection to prevent third parties from accessing those music files and copying them."⁶ (Mem. Supp. Mot. at 3-4.) Plaintiffs'

⁶ Defendant's arguments that Plaintiffs' complaint is deficient because they have failed to allege "that individual users invited anyone to copy their music files," that "individual users were aware that any [sic] copied their music files," that "the individual users were even aware that their music files could be copied by third parties," and that there exists "a duty for individual users to protect their music files from copying by third parties over the internet" are equally misplaced. (Mem. Supp. Mot., at 4.) None of the "missing" allegations are necessary to state a claim for copyright infringement. Copyright infringement is a strict liability claim, the defendant's "motive or intent is irrelevant to establishing liability." *Flyte Time Tunes v. BSB Inns, Ltd.*, 1990 U.S. Dist. LEXIS 9330, *8, No. 89-cv-564 (N.D.N.Y. July 16, 1990); *Ford Motor Co. v. Summit Motor Products, Inc.*, 930 F.2d 277, 299 (3d Cir. 1991) (it "is settled law

claims for copyright infringement are based on the *direct* copying and distribution of Plaintiffs' copyrighted sound recordings by each of the Doe defendants. Uploading and downloading copyrighted works over a P2P network, which Plaintiffs have alleged each Doe defendant has done on a massive scale, clearly violates federal law and Plaintiffs' exclusive rights under the Copyright Act. See e.g., *BMG Music v. Gonzalez*, 430 F.3d 888 (7th Cir. 2005); *In re Aimster Copyright Litigation*, 334 F.3d 643, 645 (7th Cir. 2003) ("swap[ping] computer files containing popular music . . . infringes copyright"); *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004, 1013-14 (9th Cir. 2001); *Sony Music Corp., et al. v. James Scott*, No. 03-Civ.6886-BSJ (Feb. 18, 2005 S.D.N.Y) (finding "no genuine issue of material fact as to Defendant's liability for infringing Plaintiffs' copyrights.").

As to Plaintiffs' allegation that Defendant improperly distributed such files, Defendant does not appear to dispute the truth of that allegation, but rather contends that Defendant is not liable for making available the copyrighted sound recordings to millions of people because "nothing in the Complaint . . . alleges any Doe defendant received a commercial advantage by storing copyrighted files in a place where others could access them and make copies." (Mem. Supp. Mot. at 5.) Defendant's presumption is incorrect because there is no requirement that a plaintiff must allege the defendant received a commercial advantage in order to state a claim for copyright infringement. Section 106 of the Copyright Act, 17 U.S.C. § 101, *et seq.*, which sets forth the rights that a copyright holder may enforce, "contains no 'for profit' requirement."

LaSalle Music Publr., Inc. v. Highfill, 831 F.2d 300 (8th Cir. 1987) ("Title 17 U.S.C. § 106 sets forth the rights that a copyright holder may enforce" and does not contain a "for profit"

that innocent intent is generally not a defense to copyright infringement."). For the same reasons, Defendant's argument that "there was not even an allegation that the individuals intentionally made the files available on their computers for distribution to others," (Mem. Supp. Mot., at 6), is irrelevant.

requirement); *see also Ford Motor Co. v. Summit Motor Products, Inc.*, 930 F.2d 277, 299 (3d Cir. 1991) (noting that legislative intent was to grant the copyright owner has the right to control public distribution, "whether by sale, *gift*, loan, or some rental or lease arrangement") (emphasis added) (citation omitted); *Pedrosillo Music v. Radio Musical, Inc.*, 815 F. Supp. 511, 514 (D.P.R. 1993) ("showing of profit" not necessary "to make out a cause of action for copyright infringement."); *Almo Music Corp. v. 77 East Adams, Inc.*, 647 F. Supp. 123, 125 (N.D. Ill. 1986) ("plaintiffs did not have to plead that their copyrighted work was performed for profit in order to survive a motion to dismiss.").

Similarly, the cases Defendant cites in support of his claim that their "theory of copyright infringement has been considered by courts in prior cases and has never been adopted," (Mem. Supp. Mot., at 5), either support *Plaintiffs'* "theory", or are inapposite because they were decided on the unique and distinguishable facts before those courts. *Arista Records, Inc. v. MP3Board, Inc.*, 2002 U.S. Dist. LEXIS 16165 (S.D.N.Y. Aug. 29, 2002) supports Plaintiffs' position because the court found Plaintiffs' allegations sufficient to survive the defendant's motion for summary judgment and allowed the case to proceed. *Obolensky v. G.P. Putnam's Sons*, 628 F. Supp. 1552, 1554 (S.D.N.Y. 1986) is distinguishable because it involved a defendant who identified itself as the publisher of Plaintiffs' book; there were no allegations of copying or distribution of the copyrighted material as there are here. The primary issue in *National Car Rental Sys., Inc. v. Computer Assocs. Int'l, Inc.*, 991 F.2d 426, 434 (8th Cir. 1993) was whether the Copyright Act preempted the plaintiff's claim for breach of a licensing agreement regarding the use of computer software. The court commented on the distribution requirement only in the context of rejecting the defendant's argument that simply using the plaintiff's computer program to benefit another constituted a distribution. *Id.* at 434. *SBK Catalogue Partnership v. Orion*

Pictures Corp., 723 F. Supp. 1053 (D.N.J. 1989) and *CACI Intern., Inc. v. Pentagen Tech. Intern.*, 1994 U.S. Dist. LEXIS 21457, *12, 93 Civ. 1631 (E.D.Va. June 16, 1994) (Appendix 3) are inapposite because they did not involve the direct copying and distribution of copyrighted works over a P2P network that is alleged here.

In sum, Plaintiffs have stated a claim for copyright infringement and have provided more than sufficient information to warrant the limited discovery they seek. Thus, this Court correctly found that Plaintiffs have met the standard for expedited discovery. Indeed, it was for these reasons that this Court—like the hundreds of other courts across the country that relied on precisely the same kind of evidence in parallel cases—granted Plaintiffs leave to serve the subpoena seeking the defendants’ identifying information. (See attached Exhibit C for a partial list of cases in which courts have granted motions for leave to take expedited discovery in parallel cases.)

CONCLUSION

Defendant has not presented a single valid basis for quashing the subpoena. Even if Defendant’s arguments did present a potential basis for quashing the subpoena, for all of the foregoing reasons, Plaintiffs have stated a claim for, and made a prima facie showing of, copyright infringement against each of the Doe defendants. Accordingly, Plaintiffs respectfully request that this Court deny Defendant’s motion to quash the subpoena and order the University to fully comply with the subpoena forthwith.

ARISTA RECORDS LLC; WARNER BROS.
RECORDS INC.; ATLANTIC RECORDING
CORPORATION; VIRGIN RECORDS
AMERICA, INC.; UMG RECORDINGS, INC.;
BMG MUSIC; CAPITOL RECORDS, INC.;
SONY BMG MUSIC ENTERTAINMENT;
MOTOWN RECORD COMPANY, L.P.;
MAVERICK RECORDING COMPANY;
ELEKTRA ENTERTAINMENT GROUP INC.;
LAFACE RECORDS LLC; and INTERSCOPE
RECORDS

By their attorneys,

Dated: June 27, 2007

By: /s/ Nancy M. Cremins
John R. Bauer, BBO# 630742
Nancy M. Cremins, BBO # 658932
ROBINSON & COLE LLP
One Boston Place
Boston, MA 02108-4404
Main Phone: (617) 557-5900
Main Fax: (617) 557-5999

NOTICE OF ELECTRONIC FILING

The undersigned hereby certifies that this document was electronically filed on June 27, 200 and will be sent electronically to the registered participants identified on the Notice of Electronic Filing. In addition, a copy was served by first class mail to the following:

Raymond Sayeg, Esq.
Denner Pellegrino
4 Longfellow Place, 35th Floor
Boston, MA 02114

/s/ Nancy M. Cremins
Nancy M. Cremins