



*the Street*<sup>2</sup> (RIAA website billing their legal actions as a method to alter “attitudes, practices, [and] cultural norms”). All Plaintiffs in this case – and thus all defendants in the context of Defendant's counterclaims – are members of the RIAA. This litigation to further the RIAA's strategy.

Defendant Joel Tenenbaum has brought counterclaims against Plaintiffs that seek to prevent Plaintiffs from abusing the judicial process to further their impermissible crusade against current norms of Internet and digital technology usage. Defendant cannot adequately litigate his counterclaims without joinder of the RIAA, which is the originator and coordinator of this abuse.

Defendant Joel Tenenbaum respectfully requests the Court to join the RIAA as a required defendant to Defendant's counterclaims under Rule 19 of the Federal Rules of Civil Procedure. In the alternative, Defendant requests leave of the Court to join the RIAA as a defendant to Defendant's counterclaim under Rule 20 of the FRCP.

## **DISCUSSION**

### **I. RULE 19**

Under Rule 19(a)(1)(a) of the FRCP, a party must be joined as a defendant if “in that person's absence, the court cannot accord complete relief among existing parties.”<sup>3</sup> Here, the court cannot accord complete relief to Defendant Joel Tenenbaum on his claim of abuse without providing recourse against the RIAA, which serves as the coordinating body of the abuses Defendant seeks to prevent.

### **II. RULE 20**

Under Rule 20(a)(2) of the FRCP, the Court may join a party as a defendant if (a) a right to relief is asserted against them that arises out of the same series of transactions or occurrences and (b) any question of law or fact common to all defendants will arise in the action. These requirements are

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<sup>2</sup> Available at [http://www.riaa.com/physicalpiracy.php?content\\_selector=piracy\\_details\\_online](http://www.riaa.com/physicalpiracy.php?content_selector=piracy_details_online) (last visited October 23, 2008)

<sup>3</sup> Rule 19(a)(1) applies only if the party is subject of service of process and if joinder would not defeat federal subject matter jurisdiction. The RIAA as an established trade group is capable of receiving process via its headquarters at 1025 F ST N.W., 10th Floor, Washington, D.C. 20004. Because the RIAA is headquartered in Washington, D.C., it presents no threat to subject matter jurisdiction.

met because Defendant's amended counterclaim target the RIAA as coordinator and originator of the mass-litigation campaign or which this lawsuit against him is part . Questions of law or fact at issue in this cases apply equally to the RIAA and the current Plaintiffs.

### **CONCLUSION**

For the forgoing reasons, the Court should join the RIAA as a required party to Defendant's counterclaims under Rule 19 or as a permissive party under Rule 20 of the FRCP.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I, Charles Nesson, hereby certify that on October 27, 2008, a true copy of the above document will be served electronically on counsel for Plaintiffs.

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