

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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CAPITOL RECORDS, INC. et al.,	)	
Plaintiffs,	)	
v.	)	
NOOR ALAUJAN,	)	
Defendant.	)	
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	)	
SONY BMG MUSIC ENTERTAINMENT	)	
et al.,	)	
Plaintiffs,	)	
v.	)	
JOEL TENENBAUM,	)	
Defendants.	)	
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Civ. Act. No. 03-cv-11661-NG  
(LEAD DOCKET NUMBER)

Civ. Act. No 07-cv-11446-NG  
(ORIGINAL DOCKET NUMBER)

**DECLARATION OF LAURIE J. RUST, ESQ.**

I, Laurie J. Rust, declare:

1. I am an attorney at law licensed to practice before the Courts of the State of Colorado. I am an attorney at the law firm of Holme Roberts & Owen LLP, national coordinating counsel for the Plaintiffs. I am admitted to this case *pro hac vice*. Unless otherwise stated, I have personal knowledge of the following facts, and if called and sworn as a witness, would competently testify thereto.

2. On September 30, 2004, Plaintiffs filed a "Doe" lawsuit in Northern District of Georgia and served a Rule 45 subpoena on Cox Communications, Inc. ("Cox"), which is the Internet Service Provider that was responsible for assigning to its customers the block of IP addresses that included the 68.227.185.38 IP address on August 10, 2004.

3. In response to Plaintiffs' Rule 45 Subpoena, Cox identified J. Tenenbaum as the person to whom the 68.227.185.38 IP address was assigned on August 10, 2004. Included as Exhibit D to Plaintiffs' Response is a true and correct copy of Cox's subpoena response.

4. In early 2005, Plaintiffs sent a letter to J. Tenenbaum in an effort to resolve their copyright infringement claims without filing a lawsuit. On October 4, 2005, Mr. Tenenbaum's counsel, Karuna Ojanen, contacted Plaintiffs' settlement representative and told Plaintiffs' representative that Mr. Tenenbaum's college-aged child, who had been home for the summer, was responsible for the infringement at issue.

5. Based on that identification, Plaintiffs attempted to resolve their copyright infringement claims without filing a lawsuit. On November 21, 2005, Defendant mailed Plaintiffs' a check in an effort to settle this lawsuit for an amount far below Plaintiffs' settlement demand. Plaintiffs returned the check and informed Defendant that they were unwilling to settle the lawsuit for the amount he proposed.

6. Since Defendant filed his Answer on August 18, 2007, Plaintiffs have contacted Defendant by telephone to attempt to settle this case. Each time, Defendant has declined Plaintiffs' settlement offer.

7. Per the Court's October 24, 2007 requirement that the parties attend a status conference prior to propounding discovery, Plaintiffs are not permitted to serve Defendant written discovery requests until after the January 29, 2008 status conference

8. In order to respond to Defendant's Motion for Summary Judgment, Plaintiffs require the Court's consent to serve written discovery requests on Defendant and for Defendant to submit responses to all of Plaintiffs' written discovery requests. Plaintiffs also require the

opportunity to depose Defendant and others who have information relevant to the claims of this lawsuit.

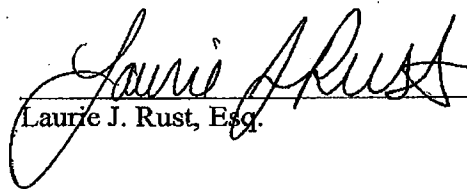
9. Plaintiffs intend to conduct a forensic inspection of the computer used to connect to the Internet through Cox on August 10, 2004, as provided under Fed. R. Civ. P. 34(a). This inspection will reveal important details of the infringement and allow Plaintiffs to gauge the veracity of Defendant's claims that a foster child, exchange student from Burkina Faso, or burglar may be responsible for the infringement at issue.

10. Plaintiffs require this discovery to test the assertions in Defendant's affidavit and obtain information regarding Defendant's use of the computer used to infringe Plaintiffs' copyrights. Plaintiffs believe that such discovery will yield further evidence of Defendant's infringement of Plaintiffs' copyrights.

11. Knowledge of these facts rests outside Plaintiffs' control, and Plaintiffs must be accorded the opportunity to obtain this discovery.

12. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed January 2, 2007 at Denver, Colorado.

  
Laurie J. Rust, Esq.