

Issued by the
United States District Court 7-8-03 2:38
SERVED ON
SERVED BY P. Server
DISTRICT OF Columbia WITNESS SIGNATURE 0

In Re Subpoena to
Pacific Bell Internet

vs

SUBPOENA IN A CIVIL CASE

To: Pacific Bell Internet
303 Second Street
San Francisco, CA 94107

CASE NUMBER 1:03MS00232

JUDGE: Unassigned

DECK TYPE: Miscellaneous

DATE STAMP: 07/01/2003

YOU ARE COMMANDED to appear in the United States District Court below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):
Information, including name, address, telephone number, and e-mail address, sufficient to identify the alleged infringer of copyrighted sound recordings, listed by IP address in Attachment A to this Subpoena.

PLACE

Jenner & Block, LLC
601 Thirteenth Street, NW, Suite 1200 South
Washington, D.C. 20005
ATTN: DMCA Subpoena Department
Ph: 202-974-6800 Fax: 202-974-0555 Email: dmca@msk.com

DATE AND TIME

10:00 a.m. on 7th calendar day after issuance date of Subpoena

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Federal Rules of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (Indicate if attorney for Plaintiff or Defendant)
NANCY LAYER BRITTINGTON, CLERK

DATE

By: [Signature]

7/1/03

ISSUING OFFICER'S ADDRESS AND PHONE NUMBER
Deputy Clerk

Clerk's Office
United States District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, D.C. 20001 Ph: (202) 354-3000

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

ATTACHMENT A

64.166.19.46 at 26 Jun 2003 17:43:57 EDT (GMT -0400)

PROOF OF SERVICE

SERVED	Date	Place
served on (Print Name)		Manner of Service
served by (Print Name)		Title

DECLARATION OF SERVER

I Declare under penalty of perjury under the law of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts C & D

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fees.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (4)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

LAW OFFICES

MITCHELL SILBERBERG & KNUPP LLP

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

TRIDENT CENTER
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064-1683
(310) 312-2000
FAX: (310) 312-3100

June 27, 2003

Pacific Bell Internet
Pacific Bell Internet
303 Second Street
San Francisco, CA 94107Re: Notice of Copyright Infringement (17 U.S.C. § 512(c)(3))

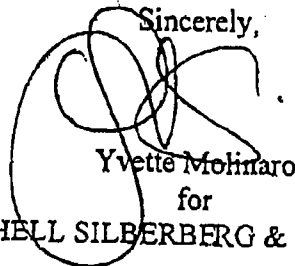
Dear Pacific Bell Internet:

We are counsel to the Recording Industry Association of America, Inc. ("RIAA") and its member record companies. The RIAA is a trade association whose member companies create, manufacture, and/or distribute approximately ninety percent (90%) of all legitimate sound recordings sold and distributed in the United States. Under penalty of perjury, we submit that we are authorized to act on behalf of the RIAA and its member companies in matters involving the online infringement of their copyrighted sound recordings.

A user, customer, or subscriber of your system or network, identified by the IP address, date, and time on the attached document, is offering for download over the Internet files containing copyrighted sound recordings owned by RIAA member companies. The attached document also includes a representative list of the recordings the identified user is offering for download. We have a good faith belief that such activities are not authorized by the copyright owners, their agents, or the law, and assert that the information in this Notice of Copyright Infringement is accurate, based on the data available to us.

Thank you for your prompt attention to this matter. Should you have any questions, please contact me at (310) 312-3297 or at dmca@msk.com.

Sincerely,



Yvette Molinaro
for

MITCHELL SILBERBERG & KNUPP LLP

64.166.19.46 on 6/26/2003 at 5:43 p.m.(EDT)

The user at the above-identified IP address, using the screen name jim@KaZaA, has offered for download through the online media distribution system known as KaZaA copyrighted sound recordings owned by RIAA member record companies, including the following representative recordings:

Michael Jackson - Dirty Diana
The Time - Jungle Love
Evelyn King - Love Come Down
Berlin - Metro
Van Halen - Panama
Billy Idol - Rebel Yell
Bobby Brown - Roni
Avril Lavigne - Sk8er Boi
Poison - Talk Dirty to Me

03-232

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION PURSUANT TO 17 U.S.C. § 512(h)

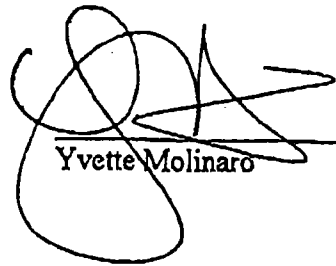
I, Yvette Molinaro, the undersigned, declare that:

1. I am an attorney licensed to practice law in the State of California and am associated with Mitchell Silberberg & Knupp LLP ("MSK"), counsel for the Recording Industry Association of America, Inc. ("RIAA") and its member record companies. MSK is authorized to act on behalf of the RIAA and its member companies on matters involving the infringement of their copyrighted sound recordings. This declaration is made in support of the accompanying Subpoena, pursuant to 17 U.S.C. § 512(h)(2)(C).

2. The purpose of the accompanying Subpoena is to obtain the identity of the alleged copyright infringer who is identified at the Internet location listed on Attachment A to the Subpoena. The information obtained will be used only for the purpose of protecting the rights granted to our clients under Title 17 of the United States Code.

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

Executed at Los Angeles, California, on Friday, June 27, 2003.


Yvette Molinaro

LAW OFFICES

MITCHELL SILBERBERG & KNUPP LLP

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

TRIDENT CENTER
11377 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064-1683
(310) 312-2000
FAX: (310) 312-3100

SERVED ON _____
DATE 7-8-03 : 2:38
SERVED BY P. Server
WITNESS SIGNATURE Ø

NOTICE TO SERVICE PROVIDER

DMCA Subpoena and Notice of Copyright Infringement

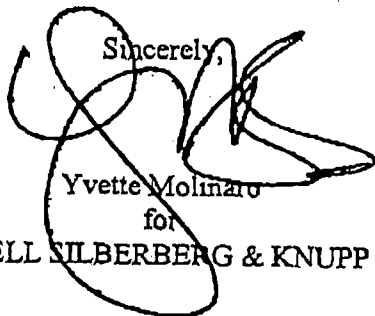
We are counsel for the Recording Industry Association of America, Inc. ("RIAA") and its member record companies. The RIAA is a trade association whose member companies create, manufacture, and/or distribute approximately ninety percent (90%) of all legitimate sound recordings sold and distributed in the United States. We have determined that a user, customer, or subscriber of your system or network has infringed our clients' copyrighted sound recordings.

We are serving you with the enclosed Subpoena and related Notice of Copyright Infringement, issued pursuant to section 512 of the Digital Millennium Copyright Act (17 U.S.C. § 512). By law, in response to the Subpoena, you must "expeditiously disclose," no later than the time for production specified in the Subpoena, information identifying the person assigned the IP address listed in the Subpoena, including the name, address, telephone number, and e-mail address of the person. 17 U.S.C. § 512(h). You may deliver your response to the Subpoena to the office address, fax number, or e-mail address listed on the Subpoena.

We understand that some ISPs may notify their customers that a third party is seeking their identifying information. If you choose to do so, please include with your notification the information that a user may contact Patricia H. Benson, Esq. of Mitchell Silberberg & Knupp LLP at (310) 235-2442 with any inquiries. Be advised, however, that providing notification to your customers does not relieve you of, or allow you to delay, your obligation under the DMCA to "expeditiously disclose" to us the identifying information sought by the Subpoena.

Thank you for your cooperation in this matter. Should you have any questions, please contact me at (310) 312-3297 or at dmca@msh.com.

Sincerely,



Yvette Molinaro
for

MITCHELL SILBERBERG & KNUPP LLP