

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

**NOTICE TO SERVICE PROVIDER**

**DMCA Subpoena and Notice of Copyright Infringement**

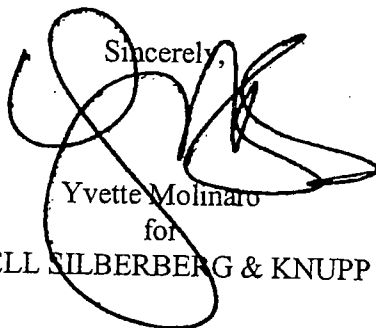
We are counsel for the Recording Industry Association of America, Inc. ("RIAA") and its member record companies. The RIAA is a trade association whose member companies create, manufacture, and/or distribute approximately ninety percent (90%) of all legitimate sound recordings sold and distributed in 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@musk.com](mailto:dmca@musk.com).

Sincerely,



Yvette Molinaro  
for

MITCHELL SILBERBERG & KNUPP LLP

Issued by the  
**United States District Court**

DISTRICT OF Columbia

In Re Subpoena to  
SBC

vs

**SUBPOENA IN A CIVIL CASE**

To: **SBC**  
300 Convent Street, 18th Floor  
San Antonio, TX 78205

CASE NUMBER 1:03MS00422

JUDGE: Unassigned

DECK TYPE: Miscellaneous

DATE STAMP: 07/07/2003

- 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 MAYER-WHITTINGTON, Clerk

DATE

*Cindy Kactor*

JUL - 7 2003

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
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**

67.123.11.186 at 6/29/2003 at 4:40 p.m.(EDT)

03-422

## 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 (d)(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 (c)(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.

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

July 02, 2003

Keith Epstein  
SBC  
300 Convent Street, 18th Floor  
San Antonio, TX 78205

Re: Notice of Copyright Infringement (17 U.S.C. § 512(c)(3))

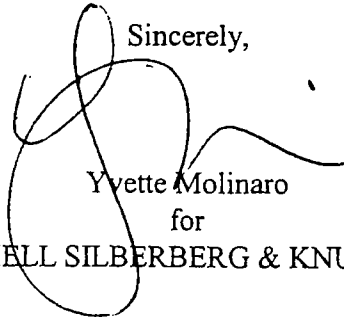
Dear Keith Epstein:

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](mailto:dmca@msk.com).

Sincerely,



Yvette Molinaro  
for

MITCHELL SILBERBERG & KNUPP LLP

335 122

67.123.11.186 on 6/29/2003 at 4:40 p.m.(EDT)

The user at the above-identified IP address, using the screen name ckalak@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:

Pearl Jam - Betterman  
Pearl Jam - Daughter  
Enrique Iglesias - Esperanza  
Enrique Iglesias - Experiencia Religiosa  
Enanitos Verdes - Lamento Boliviano  
Conjunto Primavera - Mi Sacrificio  
Banda El Recodo - Que Solo Estoy  
Marco Antonio Solis - Se Va Muriendo Mi Alma

03-422

