



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

February 22, 2008

Media Sentry
4690 Mellenium Dr., Ste. 400
Belcamp, MD 21017

RE: File No. 308967
Complaint of Randy L. Kruger

Dear Respondent:

It has been noted during a review of the above matter by the Department of Labor & Economic Growth that you are not licensed at the address provided. You may be in violation of Section 3(1) & (2) of 1965 PA 285, MCL 338.823(1) & (2).

"338.823.amended License required; violation; penalty.

Sec. 3. (1) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of private detective or investigator for hire, fee or reward, and shall not advertise his or her business to be that of detective or of a detective agency without first obtaining a license from the department.

(2) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of furnishing or supplying, for hire and reward, information as to the personal character of any person or firm, or as to the character or kind of business and occupation of any person, firm, partnership, company, limited liability company, or corporation and shall not own, conduct, or maintain a bureau or agency for the purposes described in this subsection except as to the financial rating of persons, firms, partnerships, companies, limited liability companies, or corporations without having first obtained a license from the department."

Unlicensed violations are considered serious by the Department. Continuation of this practice could result in criminal prosecution. Referral of this matter may be made to the local prosecutor or police department. The prosecutor can prosecute these cases as felonies with a maximum penalty of \$5,000 and/or up to four years in prison.

If you intend to perform activities that require a private detective agency license, you must obtain a license immediately. Please call (517) 241-9288 to obtain information on how to become licensed.

If you are licensed and we do not have correct information, please notify me at the number below.

Sincerely,

Ann Paruk
Administrative Law Specialist
Commercial Enforcement Division
(517) 241-9202

AP:ld

LAW OFFICES OF
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March 17, 2008

BY REGULAR MAIL

Ann Paruk
Administrative Law Specialist
Commercial Enforcement Division
State of Michigan
Department of Labor & Economic Growth
P.O. Box 30018
Lansing, MI 48909

Re: Complaint of Randy L. Kruger
File No. 308967

Dear Ms. Paruk:

I write on behalf SafeNet, Inc, f/k/a MediaSentry, Inc. ("SafeNet") in response to your letter of February 22, 2008. SafeNet respectfully asserts that it does not furnish or supply information as to the personal character of any person or firm, or kind of business or occupation of any person or firm, that it does not fall within the requirements of Section 3(1) & (2) of 1965 PA 285, MCL 338.823(1) & (2).

Specifically, SafeNet provides a litigation-support service to the Recording Industry Association of America ("RIAA"), and would play a limited role in the eventual litigation that the RIAA members might bring against infringers of copyrights in certain music being illegally distributed over the internet. That role generally is to identify the computer that is being used to illegally distribute music files. SafeNet does so by using the internet as any other user would. SafeNet connects to the internet, often on a peer-to-peer network, as any other user would, and participates in the process of swapping music files with another party. It is a function of the peer-to-peer networks that certain information is exchanged by individuals who are trading, swapping, or distributing copyrighted music, because it is this information that allows the exchanged music file to arrive at the correct destination, just as a street address allows the receipt of regular mail.

SafeNet connects with a large number of these infringers throughout the United States, and gathers and stores that exchanged information, which will include the internet protocol ("ip") address of

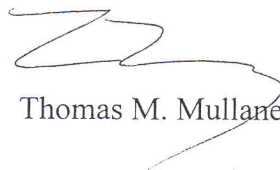
the infringer (essentially the internet analogue of a street address). SafeNet then gives that ip address to the RIAA, who then obtains the identity of the occupant or owner of that ip address from the internet service provider (usually the local telephone company). SafeNet is simply not involved in the private investigation activities associated with companies like Pinkerton's, who might surreptitiously follow and photograph individuals for whatever reason.

Instead, SafeNet's activities fall squarely within the 1989 Opinion of the Michigan Attorney General, Frank J. Kelly, which excepts persons who are providing testimony in a lawsuit based on factual information gather by application of technical knowledge. See 1989-1990 Mich. Op. Atty. Gen. 263 1989 WL 445979 (Mich.A.G.)(the "Opinion"). The Opinion expressly cites the example of a chemical engineer who took photographs of, and samples from, the scene of a fire and from them prepared exhibits for use in Court. *See id.* The Opinion also included physicians, geologists and surveyors in the category of those who ought to enjoy the exception. SafeNet utilizes technical expertise in gathering factual evidence for use in just the same way as those other professionals, and thus enjoys the same exception. If the computer software engineering technology that SafeNet employs had existed when Attorney General Kelly rendered his opinion, there seems little doubt that SafeNet and its competitors would have been named specifically.

Moreover, SafeNet's operations are conducted at the specific direction of an attorney, which brings SafeNet within another exception to the private investigator's licensing requirement of Michigan. Notably, no defendant in any copyright infringement action is prejudiced by the extension of these exceptions to SafeNet, because that party will have ample opportunity to examine SafeNet witnesses on any appropriate topic.

Moreover, SafeNet has no personnel, offices, real estate or bank accounts in Michigan used for the purposes of data collection, or any other purpose. In fact, because the copyright infringer projects its ip address, *inter alia*, out of Michigan, and to the entire world, when distributing music files, SafeNet respectfully asserts that it never comes within the State of Michigan in the course of its business.

Respectfully,



Thomas M. Mullaney