

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UMG RECORDINGS, INC. *et al.*
Plaintiffs,

v.

Case No.: 8:07-cv-00368-RAL-TGW

SUZY DEL CID
Defendant.

AMENDED COUNTERCLAIMS OF SUZY DEL CID

Defendant SUZY DEL CID (“Del Cid”) submits her amended counterclaims as follows.

FACTS COMMON TO ALL COUNTERCLAIMS

1. This court has jurisdiction for counterclaims in the instant suit.
2. Defendant Del Cid resides in Florida.
3. Plaintiffs are corporate entities purporting to hold a copyright ownership in certain musical works and/or musical sound recordings.
4. Plaintiffs, through various concerted efforts and cartels, control or attempt to control the channels of creation, distribution, and sale of musical works throughout the United States and the world. They are not artists, songwriters, or musicians. They did not write or record the songs.
5. For a number of years, a group of large, multinational, multi-billion dollar record companies, including these Plaintiffs, have been abusing the federal court judicial system for the purpose of waging a public relations and public threat campaign

targeting digital file sharing activities. As part of this campaign, these record companies hired unlicensed private investigators – in violation of various state laws – who receive a bounty to invade private computers and private computer networks to obtain information – in the form of Internet Protocol (“IP”) addresses – allowing them to identify the computers and computer networks that they invaded. These unlicensed investigators perform these investigations in Florida and other states.

6. Using information obtained from this illegal invasion, the record companies file so-called “John Doe” lawsuits – reportedly against more than 13,500 anonymous “John Does.” The “John Doe” lawsuits are filed for the sole purpose of activating the discovery powers of the court system – notably, the subpoena power – to obtain records from Internet service providers, to connect the IP addresses the names of individual account holders allegedly using those IP addresses at the time of the invasion. However, service providers have no way of knowing the identities of the person or persons who may be using the computer or computer network at the time the records companies invade it. In fact, there is not even any way to verify that the unlicensed investigators secretly snooping for IP addresses have obtained the correct ones.
7. After harvesting the names of account holders through these subpoenas, the record companies often dismiss the John Doe suits. The record companies then provide the personal information to their agent, the “Settlement Support Center,” which engages in deceptive and illegal practices aimed at extorting money from

- people allegedly identified from the secret lawsuits. Most of the people subjected to these secret suits do not even know that they have been sued until a demand for payment is made by lawyers for the record companies or by the Settlement Support Center operatives.
8. The Settlement Support Center is a company organized for the sole purpose of contacting prospective defendants and demanding that they pay thousands of dollars each to avoid the prospect of a federal lawsuit against them. This demand takes no account of the merits of any prospective claim against the putative defendant, but instead relies upon the inherent inequality in resources and litigation power between Plaintiffs and their individual victims.
 9. As part of this campaign of extortion, Plaintiffs enhance the intimidation factor by actually filing suit in a number of instances with no prior warning. These suits are designed to attract media attention, and often do, as stories emerge of Plaintiffs' suits against the elderly, disabled, technologically clueless, and other vulnerable victims. Many of these victims have no idea how to operate a computer, let alone how to install and use peer-to-peer networking software to exchange music they would not likely be listening to anyway. But actual innocence is rarely a consideration to Plaintiffs.
 10. The instant suit is just one example, yet it is an integral part of the Plaintiffs' extortion campaign. As a result, it is but one affirmative action out of thousands taken by the Plaintiffs in furtherance of their criminal extortion campaign.
 11. Plaintiffs' litigation campaign, and its preceding extortionate demands and illegal

- investigations, are part of a concerted pattern of sham litigation.
12. Plaintiffs' true purpose is not to obtain the relief claimed in its sham litigation, but to intimidate, harass, and oppress the Defendants and other users of computer networks.
 13. Upon information and belief, Plaintiffs have filed suit against more than thirty thousand individuals alleging virtually identical claims.
 14. Upon information and belief, Plaintiffs have never once proceeded to trial in any contested case raising these allegations.
 15. Plaintiffs have not observed any specific instance of Del Cid illegally downloading any sound recording.
 16. Plaintiffs have not observed any specific instance of Del Cid illegally uploading any sound recording.
 17. Plaintiffs have not observed any specific instance of Del Cid illegally disseminating any sound recording to anyone not authorized to receive it.
 18. Del Cid did not authorize any person to obtain information from her computer via the "online media distribution system" alleged by Plaintiffs.
 19. Del Cid did not configure any computer to "share" files.
 20. Neither Plaintiffs nor their agents contacted Del Cid to obtain her permission to obtain information from her computer.
 21. Neither Plaintiffs nor their agents contacted any person with authority to grant permission for Plaintiffs to obtain information from the computer identified in Plaintiffs' Complaint, for the purpose of obtaining that permission.

22. Del Cid has committed no infringement.

COUNT I – TRESPASS TO CHATTELS

23. Del Cid re-states and incorporates herein the allegations identified as “Facts Common to All Counterclaims.”

24. As an investigative precursor to their sham litigation, Plaintiffs have accessed a computer system without authorization and obtained information from that computer system in violation of Del Cid’s rights.

25. Plaintiffs intentionally and without authorization, intruded into a computer to obtain information.

26. Plaintiffs’ unlawful intrusion deprived Del Cid of the use and possession of the computer.

27. Plaintiffs proximately caused injury as a result.

28. Del Cid is entitled to recover those damages from Plaintiffs.

COUNT II – COMPUTER FRAUD AND ABUSE (18 U.S.C. § 1030)

29. Del Cid re-states and incorporates herein the allegations identified as “Facts Common to All Counterclaims.”

30. As an investigative precursor to their sham litigation, Plaintiffs have accessed a computer system without authorization and obtained information from that computer system in violation of Del Cid’s rights.

31. In violation of 18 U.S.C. § 1030, Plaintiffs have intentionally accessed a protected

computer without authorization, and as a result of such conduct, caused damage to Del Cid in an amount exceeding \$5,000.00.

32. In violation of 18 U.S.C. § 1030, Plaintiffs have knowingly and with intent to defraud, accessed a protected computer without authorization, or exceeding any authorized access, and by means of that access furthered the intended fraud and obtained information of value.
33. Del Cid is entitled to recover damages from Plaintiffs, along with injunctive relief for such loss that cannot be remedied by an action at law, and to prevent further unauthorized access.

COUNT III – COPYRIGHT MISUSE

34. Del Cid re-states and incorporates herein the allegations identified as “Facts Common to All Counterclaims.”
35. Plaintiffs, putatively competitors in the music industry, act collusively in violation of public policy, by jointly investigating, litigating, and settling thousands of cases, virtually identical to this one, together as a single cartel.
36. This collusive action, including the sham litigation alleged herein, are an attempt by Plaintiffs to secure to themselves rights beyond those granted to them in copyright law.
37. These acts constitute misuse of copyright, and require a forfeiture of the exclusive rights granted to Plaintiffs by copyright laws.
38. Del Cid is entitled to a judgment that counterclaim defendants have forfeited the exclusive rights, if any, which they possess in and to the sound recordings that

they allege the counterclaim defendants to have infringed, along with an award of costs and attorney's fees.

COUNT IV – DECEPTIVE AND UNFAIR TRADE PRACTICES
(Fla. Stat. § 501.201 *et seq.*)

39. Del Cid re-states and incorporates herein the allegations identified as “Facts Common to All Counterclaims.”
40. The acts of Plaintiffs occurred in commerce in the State of Florida and elsewhere.
41. The acts of the Plaintiffs as enumerated above are prohibited deceptive and unfair practices in the conduct of commerce.
42. Del Cid has suffered damages as a result of Plaintiffs’ violation of Fla. Stat. §501.201 *et seq.* and is entitled to recover actual damages, plus attorney’s fees and court costs, along with injunctive relief barring further violations.

COUNT V – DECLARATORY JUDGMENT

43. Del Cid re-states and incorporates herein the allegations identified as “Facts Common to All Counterclaims.”
44. Plaintiffs have a pattern and practice that, once their sham litigation has commenced, they will voluntarily dismiss, without prejudice, claims against defendants who contest them.
45. Plaintiffs’ practice of dismissing claims without prejudice, after accusing defendants of civil and criminal wrongdoing, deprives those defendants of a final judicial resolution of the matters that Plaintiffs have brought into this Court’s

concern and the public eye.

46. An actual case and controversy exists between Plaintiffs and this defendant.

47. Del Cid is entitled to a positive judicial declaration of non-infringement along with costs and attorney's fees.

COUNT VI – CIVIL CONSPIRACY

48. Del Cid re-states and incorporates herein the allegations identified as “Facts Common to All Counterclaims.”

49. Plaintiffs have conspired among themselves and with others to commit illegal acts and to use the illegal methods described in Counts I, II, III, IV, and V of these Counterclaims.

50. Plaintiffs have conspired among themselves and with others to commit the following illegal acts to further the ends of their conspiracy: (a) use of private investigators to conduct investigations in Florida against Florida residents, without license, in violation of Fla. Stat. Chapter 493; (b) unauthorized access to a protected computer system, in interstate commerce, for the purpose of obtaining information in violation of 18 U.S.C. § 1030; and (c) extortion and attempted extortion in violation of the Hobbs Act, 18 U.S.C. 1951.

51. Plaintiffs have taken numerous overt acts to further the conspiracy.

52. Plaintiffs have acted in conscious disregard of and indifference to Del Cid' rights, and intending to cause her harm.

53. Del Cid has been damaged by the acts of the conspiracy and is entitled to recover those damages from Plaintiffs jointly and severally.

54. Del Cid is also entitled to recover punitive damages from Plaintiffs, jointly and

severally.

JURY TRIAL DEMAND

Del Cid demands trial by jury on all counts so triable.

PRAYER FOR RELIEF

WHEREFORE, Del Cid demands relief as follows:

1. Judgment against Plaintiffs for all damages in an amount to be proven at trial;
2. Judgment for punitive damages, as awarded by the jury;
3. Declaratory relief pursuant to Fla. Stat. Chapter 501 that Defendants have committed unfair and deceptive trade practices;
4. Declaratory judgment of non-infringement;
5. Injunctive relief, pursuant to 18 U.S.C. 1030 and Fla. Stat. Chapter 501, to prevent further violations of law and to remedy those losses for which no adequate remedy at law exists;
6. Costs of suit, including attorney's fees to the maximum extent allowed under law;
and,
7. Such other relief as this Court deems required by justice.

Respectfully submitted,
this 16th day of August, 2007,
RICARDO & WASYLIK, PL

/s/ Michael Alex Wasylik
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 16, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Chaila D. Restall, Counsel for Plaintiffs

I further certify that I mailed the foregoing document and the notice of electronic filing by first class mail to the following non-CM/ECF participants:

None

/s/ Michael Alex Wasylik