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June 3, 2008

**Electronically Filed and
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Hon. Robert M. Levy
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *UMG Recordings, Inc., et al. v. Marie Lindor*,
No. 05-CV-1095-DGT-RML

Dear Magistrate Judge Levy:

Plaintiffs respectfully submit this Opposition to Defendant's Motion for Reconsideration of the Court's May 16, 2008 Order denying in part Defendant's Motion to Compel MediaSentry to respond to the November 14, 2007 subpoena duces tecum. As explained below, Defendant has provided no basis for reconsideration of the Court's Order.

"It is well-settled that a motion for reconsideration 'will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked – matter, in other words, that might reasonably be expected to alter the conclusion reached by the court.'" *Arum v. Miller*, 304 F.Supp.2d 344, 347 (E.D.N.Y. 2003) (citation omitted). Reconsideration is granted only "to correct a clear error or prevent manifest injustice." *Virgin Atlantic Airways, Ltd. v. Nat'l Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992). The standard for a motion to reconsider is "narrowly construed and strictly applied so as to avoid repetitive arguments on issues that have been considered fully by the Court." *Staples, Inc. v. W.J.R. Assocs.*, 2007 U.S. Dist. LEXIS 67539, at *4 (E.D.N.Y. September 7, 2007) (citations omitted); *see also Shrader v. CSX Transp.*, 70 F.3d 255, 257 (2d Cir. 1995) (holding that a "motion to reconsider should not be granted where the moving party seeks solely to relitigate an issue already decided"). As this Court has held, "reconsideration of a previous order is an extraordinary remedy to be employed sparingly in the interests of finality and



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conservation of scarce judicial resources.” *Altronic Int’l v. Sai Semispecialists of Am.*, 2007 U.S. Dist. LEXIS 64185, at * 4 (E.D.N.Y. August 29, 2007). Here, Defendant has not cited a single authority to support her motion and cannot satisfy the standard for reconsideration.

The bulk of Defendant’s motion purports to argue that the Court somehow misconstrued the nature of the information Defendant had requested. Defendant contends that the subpoena requests were not general, but were specific to “*The Account*” or “*to defendant*.” Defendant is wrong, and her effort to redefine the scope of her requests should be rejected. As previously explained, MediaSentry is not paid on a per defendant basis and has no specific strategy, operation, or technical process aimed at this Defendant. Thus, MediaSentry does not have any such information relating specifically to “*The Account*” or “*to defendant*.” By their very nature, therefore, Defendant’s requests for all information regarding MediaSentry’s pricing, strategies, operations, and technical processes would have required production of documents and information relating to MediaSentry’s entire program. This information has no relevance to the parties’ claims and defenses, and is also highly proprietary and confidential.

To the extent Defendant argues that she only requested information as it relates to “*The Account*” or “*to defendant*,” that information has already been produced. Plaintiffs have already produced hundreds of pages of documents, reflecting all of the data and information collected by MediaSentry in connection with Defendant. As such, the information sought in the Motion for Reconsideration is duplicative of information already produced by Plaintiffs.

The remainder of Defendant’s motion also seeks to rehash other arguments Defendant has made previously, some multiple times now, regarding MediaSentry’s agreement with Plaintiffs and information regarding licensing. A motion for reconsideration does not allow a party to relitigate issues that have already been briefed, argued, and decided.



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For all of these reasons, Plaintiffs respectfully request that this Court deny Defendant's Motion for Reconsideration.

Sincerely yours,


Victor B. Kao

VBK/ccl

cc: Ray Beckerman, Esq. (via ECF and facsimile)
Morlan Ty Rogers, Esq. (via ECF and facsimile)

