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By Fax (914-390-4179) and ECF

The Honorable Stephen C. Robinson  
United States District Judge  
United States District Court for the  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601

Re: Warner Bros. Records Inc. v. Cassin  
SDNY No. 06 Civ. 3089 (SCR)

Dear Judge Robinson:

It is now clear why the plaintiffs found it so important to make the point to Your Honor, several days ago, that decisions of motions against *pro se* defendants are as persuasive as decisions of motions which have been fully briefed by counsel on both sides; it is because they had received a favorable decision, several days earlier, in a *pro se* case in Arizona on the central issue in the RIAA litigations, Atlantic v. Howell, 06-2076 (D. Arizona) (PHX/NVW). We note that plaintiffs mailed a copy to Your Honor but did not file their submission electronically. Clearly the decision misstates the holdings in the district court holdings of Greubel, Payne, and Duty, since none of those decisions held that merely 'making available' does in fact constitute an infringement of plaintiffs' distribution right under 17 USC 106(3), and the decision contains no explanation of how merely 'making available' could possibly fulfill the elements specified in 17 USC 106(3).

Respectfully submitted,

/s/

Ray Beckerman (RB8783)

cc: Richard J. Guida, Esq.  
Fax (212-451-2999) and ECF