

9 single time in this court. I could hand you copies of the
10 prior decisions. For example, Loud Records v. Does 1 - 74,
11 they make the same arguments about quashing the subpoena, the
12 same lawyers, because the complaint was subject to dismissal at
13 this stage and because they say that our side did not make a
14 concrete evidentiary showing. Judge Sweet denied that motion
15 on October 12, 2005.

16 In Interscope Records Company, they made exactly the
17 same motion they filed in Loud and Judge Holwell denied that
18 motion on April 6, 2006.

19 In Atlantic Recording Corporation --

20 THE COURT: Let me accept that from you. I take it,
21 this is in the briefs?

22 MR. GABRIEL: It is, your Honor, the first page.

23 THE COURT: What was the basis of Judge Sweet denying
24 the motion? What does he say? You can trace from here to here
25 to here to here and go for it? What?

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1 MR. GABRIEL: No, his order was fairly short. I am
2 happy to present it to you, if you like.

3 THE COURT: It is in the papers, isn't it?

4 MR. GABRIEL: It is, your Honor. It is attached to
5 the papers.

6 Let me start with the factual basis; I think that is
7 what the Court is asking for. Your Honor, we start by having
8 our investigator go on these file sharing programs the same way
9 you or I could do so. You go on there and the investigator is
10 looking at files that people are sharing, and they will look
11 for people who are sharing a lot of files, sometimes a thousand
12 or 2,000 music files.

13 THE COURT: How does he do that? Just tell me
14 briefly, if you can.

15 MR. GABRIEL: Well, the process is automated and
16 proprietary. I am not privy to all of it. But effectively it
17 automates what you or I could do. We could go onto Kazaa and
18 basically search on people's shared files and look for files.

19 And so all they do is search -- they want to find somebody who
20 has this kind of music, they can get to somebody's shared file
21 on their computer. Kazaa, when you load that program --

22 THE COURT: I'm sorry, you are going to have to assume
23 that I am just as ignorant as that chair over there on all of
24 this.

25 You want to get -- you go on the Internet, right?

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1 MR. GABRIEL: That's correct, your Honor.

2 THE COURT: And you want to share a file with
3 somebody. Now, how do you know where to go to say, hey, guy,