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May 23, 2008

www.isohunt.com
sales@isohunt.com

Via e-mail

Re: www.isohunt.com - Copyright Infringement

Dear Sir/Madam,

We represent the Canadian Recording Industry Association (CRIA), an association of music companies operating in Canada. CRIA members own or hold Canadian copyright rights in the vast majority of all sound recordings manufactured, distributed and sold in Canada. CRIA's members include, but are not limited to: EMI Music Canada, SONY BMG MUSIC (CANADA) INC., Universal Music Canada Inc., and Warner Music Canada Co. CRIA is acting on their behalf in giving you this notice.

Our client has determined that the www.isohunt.com site (the "isoHunt Site") is a tracker and indexing BitTorrent site (recently at IP address 208.71.112.30).

As you are well aware, the isoHunt Site is responsible for massive infringements of copyright in Canada and elsewhere of works and other subject matter protected by copyright, including sound recordings in which the copyright is owned or licensed by one or more CRIA member record companies. Specifically, the isoHunt Site is responsible for causing, authorizing, and contributing to a staggering amount of illegal music uploading, downloading and file sharing.

Among the more than one million torrent files hosted by the isoHunt Site, the vast majority of the torrent files for sound recordings provide links to, and enable users to copy, copyright-protected music of CRIA members. Two illustrative examples of torrent files being hosted at the isoHunt Site, the copyrights of which are owned or exclusively licensed by CRIA members, include Nelly Furtado's album *Loose* (Universal Music Canada Inc.) and Nickelback's album *All the Right Reasons* (EMI Music Canada).¹ As indicated above, these

¹ See Tab 1 to this letter for IP address information and pertinent screen-shots from the isoHunt Site.

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are only two of the more than one million torrent files that are unlawfully hosted on the isoHunt Site.

As you know, the BitTorrent tracker functionality at the isoHunt Site acts as central point (a gateway) of contact for BitTorrent clients and torrent swarms (or peers). It manages swarms by accepting new clients and distributes lists of peers to clients connecting and already connected to the swarms. It records and enables peers to locate each other and coordinates and enables sharing (copying) of files between peers. It also keeps track of the names of torrent swarms, the names of the files being shared, and the IP addresses of clients. In short, the BitTorrent tracker functionality is responsible for a vast amount of illegal file sharing.

The isoHunt Site is clearly authorizing, encouraging and enabling copyright infringement by both “seeders”, who upload and transmit unauthorized copies of sound recordings, and by “leechers”, who download infringing copies of sound recordings and transmit unauthorized copies of sound recordings to other leechers. The isoHunt Site purports to grant both expressly and by implication the right to make unauthorized copies of sound recordings. Further, the operators of the isoHunt Site clearly know what is occurring at the site and control the actions of the site’s users. The isoHunt Site is also liable for copyright infringement as a joint tortfeasor for its material contribution and inducement to the infringing activities and by acting in concert with its user community to make illicit copies of CRIA members’ sound recordings. In sum, the isoHunt Site sanctions, permits, encourages, and materially aids, abets, enables and contributes to unauthorized file sharing by users of the isoHunt Site.

As you are undoubtedly aware, the liability of BitTorrent sites like the isoHunt Site for copyright infringement was recently confirmed this month when a United States Federal Court issued a judgment against TorrentSpy, another BitTorrent site, for more than US\$110 million for infringing copyrighted motion pictures and television shows and issued a permanent injunction prohibiting further infringement by TorrentSpy.

The unauthorized copying of our members’ sound recordings that occurs as a result of the operation of the isoHunt Site causes irreparable damage to CRIA record companies and their recording artists. As such, our client considers this to be an exceptionally serious matter. Under the Canadian *Copyright Act*, a rights holder is entitled to seek statutory damages of up to **\$20,000** for **each** sound recording infringed. In addition, our client’s members would be entitled to seek legal costs, punitive damages, and injunctive relief.

Given the above, our client requests that you immediately:

- (1) remove the isoHunt Site from the internet;
- (2) cease operating any BitTorrent tracker or indexing site that infringes the copyrights of our client’s members; and

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(3) preserve records, including all electronic records related to the use and operation of the isoHunt Site, such as, without limitation, the electronic logs of all inbound and outbound traffic to the website, including the IP addresses of all visitors to the site.

Please reply forthwith to confirm that you have taken the above actions required to comply with the foregoing demands. Given the seriousness of this matter to our client, if we do not receive a satisfactory response within **five business days**, we may not provide any further notice before legal action is commenced against you.

Yours very truly,

McCarthy Tétrault LLP

Per:

Barry Sookman
(per DBP)

Barry B. Sookman
BBS: dbp