

**SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY**

SEP 24 2013



**AMENDED PURSUANT TO RULE 6-1(1)(a)
ORIGINAL NOTICE OF CIVIL CLAIM
FILED AUGUST 24, 2010**

NO. S103350
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

ARISTA RECORDS LLC, CAPITOL RECORDS, LLC, LA COMPAGNIE
LARIVEE, CABOT, CHAMPAGNE, DARE TO CARE RECORDS INC., LES
DISQUES AUDIOGRAMME INC., EMI MUSIC CANADA, EMI RECORDS
LIMITED, INTERSCOPE RECORDS, JUSTIN TIME RECORDS INC.,
LAFACE RECORDS LLC, MERCURY RECORDS LIMITED, MUTE
RECORDS LIMITED, POLYDOR LIMITED, SONY MUSIC
ENTERTAINMENT, SONY MUSIC ENTERTAINMENT CANADA INC.,
SONY MUSIC ENTERTAINMENT UK LIMITED, TANDEM.MU INC., UMG
RECORDINGS, INC., UNIVERSAL MUSIC CANADA INC., UNIVERSAL-
ISLAND RECORDS LIMITED, VIRGIN RECORDS AMERICA, INC, VIRGIN
RECORDS LIMITED, WARNER MUSIC CANADA CO., WARNER MUSIC
UK LIMITED, WEA INTERNATIONAL INC., ZOMBA RECORDING LLC

PLAINTIFFS

AND

ISOHUNT WEB TECHNOLOGIES, INC. and GARY FUNG

DEFENDANTS

AMENDED NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiffs for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

SKM

- (a) file a Response to Civil Claim in Form 2 in the above-named registry of this court within the time for Response to Civil Claim described below, and
- (b) serve a copy of the filed Response to Civil Claim on the Plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a Response to Civil Claim in Form 2 and a Counterclaim in Form 3 in the above-named registry of this court within the time for Response to Civil Claim described below, and
- (b) serve a copy of the filed Response to Civil Claim and counterclaim on the Plaintiff and on any new parties named in the Counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the Response to Civil Claim within the time for Response to Civil Claim described below.

Time for Response to Civil Claim

A Response to Civil Claim must be filed and served on the Plaintiffs,

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed Notice of Civil Claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed Notice of Civil Claim was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed Notice of Civil Claim was served on you, or
- (d) if the time for Response to Civil Claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFFS

PART 1: STATEMENT OF FACTS

INTRODUCTION

1. Gary Fung (“Fung”), together with his company IsoHunt Web Technologies, Inc. (individually and collectively the “Defendants”), operates three websites, www.isohunt.com, www.torrentbox.com and www.podtropolis.com (the “IsoHunt Websites”). These commercial websites together attract millions of users every day who come to the IsoHunt Websites and illicitly download copies of the Plaintiffs’ sound recordings as well as other copyright protected works and subject matter owned by third parties (“other copyright content”).

2. The IsoHunt Websites have been designed and are operated by the Defendants with the sole purpose of profiting from rampant copyright infringement which the Defendants actively enable, encourage, promote, authorize, induce, aid, abet, materially contribute to and commercially profit from. The Defendants and users of the IsoHunt Websites act together, in and as part of a file sharing community, to make available, reproduce, and distribute the Plaintiffs’ sound recordings and other copyright content.

THE PARTIES

3. The Plaintiffs are all leading makers of musical sound recordings.

4. The Plaintiff Arista Records LLC is a sound recording maker with headquarters located at 550 Madison Avenue, New York, NY.

5. The Plaintiff Capitol Records, LLC is a sound recording maker with headquarters located at ~~150 Fifth~~ 2220 Colorado Avenue, 11th Floor New York, NY Santa Monica, CA 90404.
6. The Plaintiff La Compagnie Larivée, Cabot, Champagne is a sound recording maker with headquarters located at 3774, Rue St-Denis, Montreal (Quebec) H2W 2M1.
7. The Plaintiff Dare To Care Records Inc., is a sound recording maker with headquarters located at 4350, Boul. Saint-Laurent, Bureau 206, Montreal (Quebec) H2T 1R4.
8. The Plaintiff Les Disques Audiogramme Inc. is a sound recording maker with headquarters located at 355 rue Ste-Catherine Ouest, Bureau 600, Montreal (Quebec) H3B 1A5.
9. The Plaintiff EMI Music Canada is a sound recording maker with headquarters located at 109 Atlantic Avenue, Suite 301, Toronto, Ontario.
10. The Plaintiff EMI Records Limited is a sound recording maker with headquarters located at 27 Wrights Lane, London, United Kingdom. After the original filing of this Notice of Civil Claim, EMI Records Limited changed its registered company name to Parlophone Records Limited and its registered address to 90 High Holborn, London, United Kingdom.
11. The Plaintiff Interscope Records is a sound recording maker with headquarters located at 2220 Colorado Avenue, Santa Monica, California.
12. The Plaintiff Justin Time ~~Reeordings~~ Records Inc. is a sound recording maker with headquarters located at 5524 rue Saint-Patrick, Suite 580, Montreal, Quebec.

13. The Plaintiff LaFace Records LLC is a sound recording maker with headquarters located at 550 Madison Avenue, New York, New York.
14. The Plaintiff Mercury Records Limited is a sound recording maker with headquarters located at 364-366 Kensington High Street, London, United Kingdom.
15. The Plaintiff Mute Records Limited is a sound recording maker with headquarters located at Mute Records Limited, 27 Wrights Lane, London, United Kingdom.
16. The Plaintiff Polydor Limited is a sound recording maker with headquarters located at 364-366 Kensington High Street, London, United Kingdom.
17. The Plaintiff Sony Music Entertainment is a sound recording maker with headquarters located at 550 Madison Avenue, New York, New York.
18. The Plaintiff Sony Music Entertainment Canada Inc. is a sound recording maker with headquarters located at 150 Ferrand Drive, Suite 300, Toronto, ON M3C 3E5.
19. The Plaintiff Sony Music Entertainment UK Limited is a sound recording maker with headquarters located at ~~10 Great Marlborough~~9 Derry Street, London, United Kingdom.
20. The Plaintiff Tandem.Mu Inc. is a sound recording maker with headquarters located at 4398, Boul St-Laurent, Bureau 302, Montreal (Quebec) H2W 1Z5.
21. The Plaintiff UMG Recordings, Inc. is a sound recording maker with headquarters located at 2220 Colorado Avenue, Santa Monica, California.

22. The Plaintiff Universal Music Canada Inc. is a sound recording maker with headquarters located at 2450 Victoria Park Avenue, Suite 1, Toronto, Ontario.

23. The Plaintiff Universal-Island Records Limited is a sound recording maker with headquarters located at 364-366 Kensington High Street, London, United Kingdom.

24. The Plaintiff Virgin Records America, Inc. is a sound recording maker with headquarters located at 150 5th Avenue, New York, NY. After the original filing of this Notice of Civil Claim, Virgin Records America, Inc. merged with the Plaintiff Capitol Records, LLC.

25. The Plaintiff Virgin Records Limited is a sound recording maker with headquarters located at ~~27 Wrights Lane~~ 364-366 Kensington High Street, London, United Kingdom.

26. The Plaintiff Warner Music Canada Co. is a sound recording maker with headquarters located at ~~381~~3381 Steeles Avenue East, Suite 100, Toronto, Ontario.

27. The Plaintiff Warner Music UK Limited is a sound recording maker with headquarters located at Seventh Floor, 90 High Holborn, London, United Kingdom.

28. The Plaintiff WEA International Inc. is a sound recording maker with headquarters located at 75 Rockefeller Plaza, New York, New York.

29. The Plaintiff Zomba Recording LLC is a sound recording maker with headquarters located at ~~137-139 West 25th Street~~ 550 Madison Avenue, New York, New York.

30. As set forth in **Exhibit A**, the Plaintiffs are the owners or exclusive licensees of the copyrights in Canada of the sound recordings listed in Exhibit A to this Notice of Civil Claim (the "Plaintiffs' Sound Recordings"). The ~~Register~~Registrar of Copyrights has issued certificates of copyright registration in respect of the Plaintiffs' Sound Recordings as shown in Exhibit A and copyright subsists in Canada in each of the Plaintiffs' Sound Recordings. A copy of each certificate of registration is attached as **Exhibit B** to this Notice of Civil Claim. The Plaintiffs' Sound Recordings also display the name (by print or other indications in the usual manner) of the maker of each Sound Recording listed in Exhibit A.

31. At the date of the first fixation of each sound recording listed in Exhibit A, or during a substantial part of the period of such first fixation, its maker was a Canadian citizen or permanent resident within the meaning of s. 2(1) of the *Immigration and Refugee Protection Act*, or a citizen or permanent resident of a Berne Convention country, a Rome Convention country, a WPPT country, or a country that is a WTO Member, or, if a corporation, had its headquarters in one of the foregoing countries. In the alternative, the first publication of each sound recording in issue was made in such a quantity as to satisfy the reasonable demands of the public and occurred in one of the foregoing countries.

32. The defendant IsoHunt Web Technologies, Inc. ("IWT") is a company incorporated under the laws of British Columbia with a registered office located at 6371 Granville Crescent, Richmond, British Columbia.

33. The defendant Fung is the president, founder, chief operator and directing mind of IWT.

THE NATURE OF BITTORRENT SITES AND SERVICES

34. Through use of the IsoHunt Websites, which are commonly known as “BitTorrent” or “torrent” sites, users download (copy) content directly from the computers of other users.

BitTorrent is a file sharing protocol that breaks files into small pieces of data, which is quicker for users to share than if one large data file is shared. A user who has all the pieces is called a

“seeder”, and a user ~~collecting~~downloading the pieces is called a “leecher”. A leecher will become a seeder by getting~~downloading~~ all the pieces. Leechers and seeders can then share the data. ~~Leechers can also share the~~any pieces of the file they have received with other leechers.

Leechers and seeders that share files are also called “peers”.

35. BitTorrent technology ~~relies on~~uses a variety of mechanisms in order to accomplish the ultimate downloading of a given file, including: (1) a software application that users download, which is commonly referred to as a “client application” (a BitTorrent client is a program designed to ~~follow~~read the ~~instructions~~information in the ~~a~~ dot-torrent file, and use this information to execute the BitTorrent protocol); (2) websites, also known as “torrent sites,” which allow users to search for and select “dot-torrent files” that ~~they wish~~contain the information needed to download a given content file; and (3) servers, also known as “trackers,” that manage the communication between peers during the download process.

36. In a BitTorrent network, users of the network will often use a torrent site to search for ~~and select the~~a file that they wish to download. The initial seeder uses software to create a dot-torrent file which contains details of the file and the trackers which may be used to co-ordinate

the downloading. These torrent sites maintain indexes of available torrent files for download that users may search, or, in the alternative, users may upload torrent files to share with others through the torrent site. Once the user selects a dot-torrent file, the tracker ~~connects~~ is used by the user to connect to seeder to the leecher(s) and the leechers making available the desired content, thus enabling downloading will begin from a number of host computers that possess the file or parts of the file simultaneously.

37. ~~The client applications and trackers work together through the use of a “BitTorrent protocol” which standardizes the client-client and client-tracker communications.~~ These components work together to allow individuals to download dot-torrent files using from a torrent site and then in turn download content files from seeders and leechers in conjunction with BitTorrent trackers. The BitTorrent trackers keep track of those downloads – as well as discover additional persons ~~to download them from~~ who wish to join the downloading process.

38. In this system the downloading of the desired content is occurring from multiple source points at the same time and allows larger downloads to move expeditiously. During this simultaneous downloading process users form what is known as a “swarm,” which allows for quick exchange of the downloading content.

39. Once the user clicks on the desired dot-torrent file, ~~the BitTorrent client will locate and download the actual content.~~ This is accomplished through the use of trackers. on the torrent site, the file is downloaded to the user's machine, which then automatically starts up the BitTorrent client program. The client program then uses the information in the dot-torrent file to join a

tracker and start downloading the desired content. The BitTorrent client application then simultaneously downloads the content file from other users as-and reassembles the content file on the requesting computer when the download is complete. As a user starts to download a given content file, the user immediately becomes a source for future requests and downloads.

40. Another way of obtaining content is by using a function incorporated within the BitTorrent protocol standard known as "Distributed Hash Table" (or "DHT"). DHT provides the same basic function as a centralized tracker's hash table, that is, providing the ability to match a hash (as contained in a .torrent file or magnet link) to its related content identifier to locate and ultimately facilitate the downloading of content from other users in the swarm. However, unlike the centralized hash table management in a tracker environment, the management of relationship between hashes and content identifiers in a DHT environment is distributed across numerous participating nodes. This provides significant performance and fault tolerance advantages over the traditional tracker environment. By default, popular BitTorrent client software uses both tracker and DHT hash lookup functions. Unless the creator of a particular .torrent file has specified otherwise, any of the .torrent files available on the isoHunt website can facilitate the download of content using DHT.

THE ISOHUNT WEBSITES

40.41. The IsoHunt Websites are designed, programmed, and operated, marketed and promoted by the Defendants to enable users to quickly and easily locate and download copies of the Plaintiffs' Sound Recordings as well as other copyright content. They provide users the ability to

publicly exhibit and to distribute copyright content, including guidance on uploading BitTorrent files to the IsoHunt Websites. They also provide users the ability to search for and download BitTorrent files and infringing copies of the Plaintiffs' Sound Recordings and other copyright content. The IsoHunt Websites collect, receive, index, and make available descriptions of content, including dot-torrent files, and they also provide access to BitTorrent trackers.

41-42. Users of the IsoHunt Websites click on a "download torrent" button or link on the websites to begin the automatic downloading process. The downloading process works together to bring the desired content to the users' computers without any further actions by the users. In fact, the only purpose of a dot-torrent file is to enable users to identify, locate, and download a copy of the actual content item referenced by the dot-torrent file. Ordinarily, once a user has clicked the "download torrent" button or link from the IsoHunt Websites, the user's BitTorrent client software will automatically use the information in the torrent file to connect with a swarm and download the desired content file ~~begins downloading to the user's computer,~~ without any further action or input from the user.

42-43. The vast majority of the downloading occurring through the IsoHunt Websites are reproductions of copyright infringing content including infringing copies of sound recordings (including the Plaintiffs' Sound Recordings), movies, TV programs, software, computer games, and books.

44. The Defendants have marketed and promoted the IsoHunt Websites as services that could be used to enable acts of copyright infringement. They have done this on the IsoHunt Websites, within the file-sharing community, and in the general media.

45. In creating the IsoHunt Websites, the Defendants set out to provide a service that facilitated the searching and downloading of infringing content via BitTorrent networks, including copies of the Plaintiffs' Sound Recordings. The Defendants sought to create a "one-stop shop" service for file-sharing by combining search, download and communication tools, to cater to, and promote the growth of, a community defined by and organized around the large-scale unauthorized making available, reproduction, and distribution of copyright infringing content files, including copies of the Plaintiffs' Sound Recordings.

46. The IsoHunt Websites enable users to locate the copyright content they want to download in multiple ways. The IsoHunt Websites market and promote themselves by highlighting new and popular releases of copyright content, among them copies of the Plaintiffs' Sound Recordings.

47. The front page of the Defendants' website www.isohunt.com (the "IsoHunt.com Website") prominently features a list of categories, inviting users to browse through its index of Movies, TV Shows, Audio Files, Music Videos, Games, Applications, Books, and other categories, which refer users to content that is predominantly infringing. A "Top Searches" box on the same page is routinely populated with search terms intended to lead users to infringing content.

48. The front page of the Defendants' website www.podtropolis.com (the "Podtropolis Website") prominently displays boxes for "Top 20 TV Shows", "Top 20 Movies", "Top 20 Music Videos" and "Top 20 Music", each of which displays lists of infringing content made available to users of the Podtropolis Website, including the Plaintiffs' Sound Recordings.

49. The front page of the Defendants' website www.torrentbox.com (the "Torrentbox Website") prominently displays a list of dot-torrent files it hosts, the vast majority of which correspond with infringing content files available to download via the BitTorrent protocol.

50. The lists, directories and other search results provided by the IsoHunt Websites display the numbers of seeders and leechers associated with dot-torrent files, enabling users to identify which files are widely shared and will therefore be easy to download.

43.51. The Defendants also provide a search box where users can type the name of a desired sound recording or other copyright content. They also provide organized directories that enable users to quickly and easily find the category of download they want (e.g., "Audio", "Music Video"). This search box includes auto-completion functionality which will suggest possible searches based on what the user has typed. These suggestions generally include the names of sound recordings (including the Plaintiffs' Sound Recordings), performers, and other copyright content. They also provide lists of the latest sound recordings by listing them according to the date the dot-torrent file was uploaded to or cached by the site (1 day, 7 days, 30 days or 6 months).

44.52. The IsoHunt Websites also offer users detailed descriptions of the content of files that are made available by users for download. The sound recording title, artist name, track names and durations, file type, associated BitTorrent trackers, and sound recording credits are often all displayed on the individualized download pages on the IsoHunt Websites alongside the “Download” button which initiates users’ downloads of the copyright content.

53. The Defendants have developed site features to make it easier to find specific infringing content, including site features that permit users to search for content posted by particular users and to comment on and rate particular content files.

54. The IsoHunt Websites enable users to publicly exhibit and to distribute copyright content. The Defendants promote the use of these capabilities, including by offering guidance on uploading dot-torrent files to the IsoHunt Websites. The Defendants solicit and encourage users to upload dot-torrent files for, or post links to, as well as to describe, categorize, rate and comment on infringing content files including the Plaintiffs’ Sound Recordings, to facilitate and enable further infringement.

45.55. One reason for the popularity of the Defendants’ website www.isohunt.com (“the IsoHunt.com Website”) over other BitTorrent indexing sites is that it features “super-indexing” or “spider” technology. This capability improves and expedites end-users’ searching for, access to, and downloading of infringing copyright content.

46.56. Using its super-indexing/spider- technology, the IsoHunt.com Website searches the Internet for other dot-torrent files from a list of other BitTorrent indexing sites specifically

selected and compiled by the Defendants. These sites include well-known pirate sites such as the infamous "Pirate Bay" BitTorrent website, a website whose operators, to the knowledge of the Defendants, were found guilty in Sweden of aiding and abetting the making available of infringing copies of copyright works and to which access has been blocked by court orders in other countries because of its role in enabling copyright infringement.

47.57. Unlike ~~common Internet~~ other search engines such as Google technologies, which create Internet directories using automated content-neutral means, the Defendants' super-indexing feature will only search the specific sites manually selected by the Defendants for dot-torrent files of which the vast majority correspond to copyright infringing sound recordings or works.

48.58. The Defendants specifically developed and configured the super-indexer functionality to ensure that the IsoHunt.com Website has the most comprehensive inventory of dot-torrent files that correspond to the latest and most desired infringing copies of the Plaintiffs Sound Recordings and other copyright content. ~~Fung's~~ The Defendants' super-indexing technology ensures that the IsoHunt.com Website remains a premier destination to acquire unlicensed free copies of all the latest (and yet-unreleased) music sound recordings and other copyright content.

49.59. The Defendants also use the IsoHunt Websites to create and foster an active Internet distribution network of "file sharers" and file sharing activities. The Defendants and the IsoHunt Websites' users act in concert and pursuant to a common design to engage in the unlicensed file sharing of the Plaintiffs' Sound Recordings and other copyright content. This file sharing includes the unlicensed making available, reproduction, distribution (to such an extent as to

affect the Plaintiffs prejudicially), and exhibition in public, of infringing copies of the Plaintiffs' Sound Recordings and other copyright content, as well as the authorization to carry out such activities.

50-60. The Defendants also actively authorize, countenance, sanction, approve, encourage, and induce users of the IsoHunt Websites to infringe the copyrights of the Plaintiffs and other copyright owners. They also aid, abet, enable and materially contribute to this activity. In fact, the Defendants' entire business model is dependant on encouraging as many visits from copyright infringing-users to the IsoHunt Websites as possible to earn revenues from, for instance, selling advertising space. The availability of copyright content at and through the IsoHunt Websites is a major draw for users of the IsoHunt Websites and the Defendants derive substantial revenues therefrom, including through advertising and direct solicitation of donations from users. These revenues are entirely contingent on the Defendants' acts set out herein, including the enablement of copyright infringement.

51-61. ~~The IsoHunt.com Website contains~~ Websites contain discussion forums where users are encouraged to discuss sound recordings they have downloaded, comment on the quality of sound recordings that are made available through all of the IsoHunt Websites, and request other sound recordings and works to be made available to ~~the community.~~ (and by) the community. Discussion of infringement on these forums is overt. The Defendants, including their authorized representatives, know of, encourage and actively participate in these discussions.

52-62. Discussions on the IsoHunt.com Website forums hosted by the Defendants include commenting on the availability of sound recording “leaks” (where sound recordings appear on file sharing sites such as the IsoHunt Websites often before their commercial release) and methods of circumventing technical protection measures rights holders place on copyright content to protect them from unlicensed file sharing.

53-63. The Defendants also provide instructions on the use of BitTorrent technology in the forums; provide instructions to users on avoiding detection from copyright-holder groups; implement measures to avoid indexing “fake” copies of copyright-protected materials on the IsoHunt Websites; and promote the use of their BitTorrent trackers from the main page of the IsoHunt.com Website. The isoHunt.com Website also has dedicated forums for discussion of its download technology, including “Files Chat”, “BitTorrent Chat”, “Hardware” and “Apps, etc”.

64. The Defendants advertise, promote and recommend tools for users to ensure that infringing downloads can be made anonymously to avoid legal consequences. In particular, the IsoHunt.com Website includes a link to one such product near each “download torrent” button or link.

54-65. The Defendants have also admitted, even bragged about, the fact that the IsoHunt Websites allow users to “steal” from copyright owners.

55-66. The Defendants also promote the IsoHunt Websites as a file sharing distribution network. The Defendants solicit donations from users and sell IsoHunt branded merchandise to them. The IsoHunt Websites’ network of users are encouraged to support the Defendants in their fight

against copyright holders so that IsoHunt can continue to provide its file sharing services to the IsoHunt Websites' distribution network. The IsoHunt.com Website's home page declares to users "We must fight the increasing noise we are drowned in, that file-sharing is stealing" and attaches a copy of the Defendants' Statement of Claim in Action No. 086309 in this Court against certain of the Plaintiffs herein.

~~56-67.~~ The IsoHunt.com Website displays a selection of BitTorrent trackers that are available for use by users to download copyright content including the Plaintiffs' Sound Recordings.

These trackers display information such as the tracker URLs and the number of ~~seeds~~seeders in each tracker which assists users in determining which trackers to use to obtain unlicensed copies of copyright content most expeditiously.

~~57-68.~~ The Defendants also operate at least two BitTorrent trackers accessible at <http://tracker.torrentbox.com:2710/announce> (the "TorrentBox Tracker") and <http://tracker.podtropolis.com:2710/announce> (the "Podtropolis Tracker", collectively the "Trackers"). They are designed and programmed to coordinate and manage the unlicensed file sharing between users.

~~58-69.~~ The Defendants have the right and ability and the means to control and eliminate the unlicensed file sharing that takes place at and through the IsoHunt Websites. The Defendants do take measures to control and eliminate access to objectionable files such as pornography and fake content files. However, the Defendants have deliberately not taken steps to control or eliminate unlicensed file sharing at or through the IsoHunt Websites as they profit from the

infringing uses of the IsoHunt Websites and it would be contrary to their financial interests to do so. The IsoHunt.com Website publishes a “notice and takedown” policy. However, this policy is completely ineffective to address the massive file sharing which is carried out at and through the IsoHunt Websites.

70. Further, the Defendants have not carried out their published “notice and takedown” policy when presented with claims of infringement by rights holders.

~~59-71.~~ The Defendants know of, or in the alternative are willfully blind of and indifferent to, the rampant copyright infringement that is enabled by and conducted at and through the IsoHunt Websites.

72. The IsoHunt Websites attract millions of visitors per day. The vast majority of the visits are made to share infringing copyright content, including copies of the Plaintiffs’ Sound Recordings. Each month, millions of copies of the Plaintiffs’ Sound Recordings and other copyright content are illicitly exhibited in public, distributed, and reproduced as a result of the acts of the Defendants. At no point have the Plaintiffs consented to, or received compensation for, this unlicensed file sharing.

73. The IsoHunt Websites have no significant uses other than to enable acts of copyright infringement.

~~60-74.~~ The IsoHunt Websites would not be economically viable if they were not used to enable acts of copyright infringement.

61.75. By attracting millions of users per day to the IsoHunt Websites, the Defendants have generated significant revenues. The Plaintiffs have also suffered, and continue to suffer, significant damages.

62.76. The Defendant Fung and IWT's employees, including the IsoHunt.com Website's administrators and moderators, have also used the IsoHunt Websites to reproduce, distribute (to such an extent as to affect the Plaintiffs prejudicially), make available, and exhibit in public, infringing copies of the Plaintiffs' Sound recordings. The Defendant IWT is vicariously liable for all such acts of infringement.

63.77. As a result of all of the ~~forgoing~~foregoing activities, the Defendants have infringed the copyrights of the Plaintiffs in the Plaintiffs' Sound Recordings. The Defendants have without the consent of the Plaintiffs:

- (a) made available to the public, reproduced, distributed (to such an extent as to affect the Plaintiffs prejudicially), and exhibited in public, infringing copies of the Plaintiffs' Sound Recordings,
- (b) jointly with users of the IsoHunt Websites and pursuant to a common design, made available to the public, reproduced, distributed (to such an extent as to affect the Plaintiffs prejudicially), and exhibited in public, infringing copies of the Plaintiffs' Sound Recordings,
- (c) authorized, procured, induced, and knowingly aided, abetted and materially caused and contributed to IsoHunt Websites' users' infringements of the copyrights of the Plaintiffs in the Plaintiffs' Sound Recordings, ~~and~~
- (d) knowingly permitted the IsoHunt Website users to use the IsoHunt Websites and Trackers knowing or having reason to know that the IsoHunt Website users will use these instrumentalities to infringe the copyrights of the Plaintiffs in the Plaintiffs' Sound Recordings, and

(e) provided the services of the IsoHunt Websites, via the Internet, primarily for the purpose of enabling acts of copyright infringement and, actual infringement of the Plaintiffs' copyrights in the Plaintiffs' Sound Recordings has taken place by means of the Internet as a result of the use of those services.

64.78. All of the features, functions and capabilities of the IsoHunt Websites and the services provided therefrom described herein (including all of the software, computer programs, databases, and data and log files and related documentation) have been designed, programmed, procured, implemented, used, and operated by or for the Defendants to carry out the acts described herein including infringing copyright in the manner described herein.

65.79. Fung is the president, founder, chief operator, a director and the directing mind of IWT. He formed IWT for the purpose of engaging in the acts of infringement described herein.

Moreover, Fung has directly ordered and/or authorized the acts complained of herein. Fung has deliberately, willfully and knowingly pursued a course of conduct that was intended to, or in the alternative was likely to, result in copyright infringement and has been indifferent to the risks of it.

66.80. The Defendants will continue to infringe the copyrights of the Plaintiffs in the Plaintiffs' Sound Recordings unless restrained by this Honourable Court.

81. The full particulars of the dates and extent of the Defendants' infringing activities are presently unknown to the Plaintiffs, but are known to the Defendants. The Plaintiffs claim relief in respect of all of the Defendants' infringements of their copyrights.

PART 2: RELIEF SOUGHT

1. The Plaintiffs claim against the Defendants for:

- (a) a declaration that the operation of the IsoHunt Websites and other activities of the Defendants alleged herein infringe upon the Plaintiffs' rights under the *Copyright Act*.
- (b) damages against the Defendants for infringement of copyright in the Plaintiffs' Sound Recordings;
- (c) profits made by the Defendants from the infringement of copyright in the Plaintiffs' Sound recordings;
- (d) statutory damages as may be elected by the Plaintiffs before final judgment;
- (e) an order that the Defendants, and their officers, directors, employees, representatives, lawyers and any person acting directly or indirectly on their behalf or under their instructions, as well as any person that is informed of the order to:
 - (i) cease operating the IsoHunt Websites and any other website that can be used to facilitate or enable the unlicensed reproduction, uploading, downloading, distribution, making available, or exhibition in public of the Plaintiffs' Sound Recordings; and

- (ii) cease enabling, assisting, encouraging, inducing, procuring, allowing, authorizing, helping, causing, aiding, abetting, facilitating and contributing to the indexing, searching for, reproduction, uploading, downloading, ~~distribution~~distributing, making available, or ~~exhibition~~exhibiting in public of the Plaintiffs' Sound Recordings without the copyright holder's express authorization on, at, or through the IsoHunt Websites or any other site or software including a site or software offering dot-torrent files, a tracker, a search capability, an indexing capability, trackers, search or indexing capabilities, links to infringing files, or using any other means or providing any service including, without limitation using the BitTorrent or peer-to-peer technology, or other file sharing technology;
- (f) a wide area injunction restraining the Defendants and their officers, directors, employees, representatives, lawyers and any person acting directly or indirectly on their behalf or under their instructions, from engaging in any of the acts referred to in ~~paras 67(v).A and 67.(v).B~~paragraph (e) above with any other sound recordings or works the copyrights of which are owned or exclusively licensed to any of the Plaintiffs;

- (g) punitive, exemplary and aggravated damages;
- (h) costs;
- (i) recovery of all plates used or intended to be used for the production or reproduction of infringing copies; and
- (j) such further and other relief as to this Honourable Court may seem just.

PART 3: LEGAL BASIS

1. The Defendants have without the consent of the Plaintiffs:

- (a) made available to the public, reproduced, distributed (to such an extent as to affect the Plaintiffs prejudicially), and exhibited in public, infringing copies of the Plaintiffs' Sound Recordings,
- (b) jointly with users of the IsoHunt Websites and pursuant to a common design, made available to the public, reproduced, distributed (to such an extent as to affect the Plaintiffs prejudicially), and exhibited in public, infringing copies of the Plaintiffs' Sound Recordings,
- (c) authorized, induced, and knowingly aided, abetted and materially caused and contributed to IsoHunt Websites' users' infringements of the copyrights of the Plaintiffs in the Plaintiffs' Sound Recordings, ~~and~~
- (d) knowingly permitted the IsoHunt Website users to use the IsoHunt Websites and Trackers knowing or having reason to know that the IsoHunt Website users will use these instrumentalities to infringe the copyrights of the Plaintiffs in the Plaintiffs' Sound Recordings, ~~and~~
- (e) provided the services of the IsoHunt Websites primarily for the purpose of enabling acts of copyright infringement, and actual infringement of the Plaintiffs' copyrights in the Plaintiffs' Sound Recordings has taken place by means of the Internet as a result of the use of those services.

2. The Plaintiffs plead and rely on ~~Sections~~ the Copyright Act, R.S.C. 1985 c. C-42, including in particular sections 2.4, 18, 19, 27, 34, 34.1, 35, 36, 38, 38.1, and 39.1 of the ~~Copyright Act R.S.C. 1985 c. C-42~~ and 53.

3. The Plaintiffs claim against Fung as he is directly and vicariously liable for all of the acts of infringement alleged herein against IWT.

Plaintiffs' address for service:

Address for service:

McCarthy Tétrault LLP
Barristers & Solicitors
#1300 - 777 Dunsmuir Street
Vancouver, BC V7Y 1K2

Attention: Lisa Martz/Steve Mason

Fax number for service (if any):

604-622-5626

Email address for service (if any):

n/a

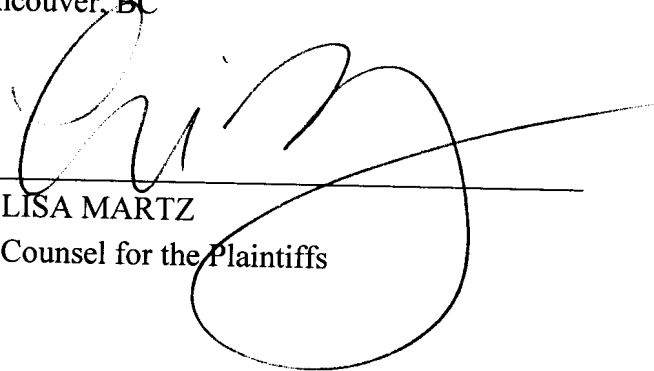
Place of Trial:

Vancouver, British Columbia

The address of the Registry is:

The Law Courts
800 Smithe Street
Vancouver, BC

DATED: September 24, 2013



LISA MARTZ
Counsel for the Plaintiffs

Rule 7-1 (1) of the Supreme Court Civil Rules states:

1. Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

- (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.

APPENDIX

PART 1: CONCISE SUMMARY OF NATURE OF CLAIM:

1. Copyright infringement.

PART 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money

- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

PART 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

PART 4: ENACTMENTS

| *Copyright Act.*