

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

IN RE SUBPOENA TO VERIZON
INTERNET SERVICES, INC.,

Misc. Act. No. 03-MC-804-HHK/JMF

RECORDING INDUSTRY ASSOCIATION
OF AMERICA,

Plaintiff,

v.

VERIZON INTERNET SERVICES, INC.,

Defendant.

**OFFER OF PROOF
IN SUPPORT OF MOTION TO
INTERVENE**

RECORDING INDUSTRY ASSOCIATION
OF AMERICA,

Plaintiff,

v.

JANE DOE,
(a.k.a. nycfashiongirl@KaZaA.com)

Intervenor.

OFFER OF PROOF

I, DANIEL N. BALLARD, am one of the attorneys representing Intervenor applicant Jane Doe in this proceeding. This offer of proof is made and based upon Jane Doe's active collaboration with me in preparing to defend her interests in this matter and upon my good faith belief that she is competent to and will, if required, testify essentially as follows:

1. That she does not reside in or within 100 miles of the District of Columbia. Her telephone number at which I have contacted her is for a geographic area that is more than 100 miles from the District of Columbia.

2. That she shares the use of a home personal computer with another family member and that she and that other family member use the computer for, among other things, playing music, sending and receiving email, internet research, and word processing.

3. That she lawfully purchased a number of compact discs containing sound recordings and transferred some of those sound recordings onto the family computer. That a number of sound recordings were also present on the computer when it was first purchased.

4. That the family computer accesses the internet through a direct subscriber line connection provided by Verizon Internet Services, Inc. ("Verizon"). That she chose to become a member of the peer to peer file sharing community known as KaZaA and that on more than one occasion she sought to ensure that no other KaZaA user could access any of the folders on her family's computer. That she believes to the extent access may have occurred, it occurred without her consent.

5. That she used the KaZaA Media Desktop software to listen to sound recordings located on the family computer at times when it was not connected to the internet.

6. That she received a letter dated July 15, 2003 from Verizon. That she read the letter on July 22, 2003 and that it stated that Verizon was served with a subpoena requiring Verizon to disclose her name, telephone number, and home address.

7. That she sought counsel the following day and that one of those attorneys, Charles L. Mudd Jr., Esq., wrote a letter to Verizon on her behalf informing Verizon that

she intended to seek judicial review of the subpoena and that he requested Verizon not to comply with the subpoena.

8. That Jane Doe also sought the counsel of Daniel N. Ballard, Esq. of the law firm McDonough Holland & Allen PC. That McDonough Holland & Allen PC and its attorneys have agreed to represent Jane Doe.

9. That she left the KaZaA peer to peer file sharing community within days of reading the communication from Verizon and that she has removed the KaZaA Media Desktop software from the family computer. That she is not a member of any other peer to peer file sharing community.

10. That Attorney Ballard has been in contact with Jane Doe throughout the preparation of this motion to intervene.

Dated: August 20, 2003

By: 

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Attorneys for Intervenor