

COPY

NO. GV505065

THE STATE OF TEXAS,
Plaintiff,

v.

SONY BMG MUSIC ENTERTAINMENT,
Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

126TH JUDICIAL DISTRICT

Filed in the District Court
of Travis County, Texas

DEC 19 2006
AL 8:37 19 AM
Amalia Rodriguez-Mendoza, Clerk

AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION

On this date, came for hearing the above-entitled and numbered cause in which the STATE OF TEXAS (hereinafter "Plaintiff" or "State"), acting by and through Attorney General of Texas, GREG ABBOTT, is Plaintiff, and SONY BMG Music Entertainment is Defendant. Through their respective attorneys of record, Plaintiff and Defendant agree to the entry of this AGREED FINAL JUDGMENT AND PERMANENT INJUNCTION.

STIPULATIONS

1. The parties agree to the entry of this Judgment and, at their request, the court FINDS that:
 - A. The Office of the Attorney General has asserted certain claims and causes of action under the Texas Consumer Protection Against Computer Spyware Act, TEX. BUS. & COM. CODE § 48.001 et seq. (Vernon Supp. 2005) ("Spyware Act") and under the Texas Deceptive Trade Practices-Consumer Protection Act, TEX. BUS. & COM. CODE § 17.47 et seq. (Vernon 2002 & Supp. 2005) ("DTPA");
 - B. Defendant denies the allegations of the Office of the Attorney General, and the parties agree and stipulate that neither this Judgment nor the payment of money by Defendant constitutes an admission by Defendant of any violation of the Spyware Act, the DTPA, or otherwise;
 - C. The parties agree that this Agreed Final Judgment and Permanent Injunction is being entered into for the sole purpose of compromising disputed claims without

the necessity for protracted and expensive litigation and that it does not constitute an admission of any violation of any law by Defendant, and that, in accordance with the terms of this Agreed Final Judgment and Permanent Injunction, the parties have agreed to settle this matter;

- D. SONY BMG Music Entertainment is a Delaware general partnership in which the partnership interests are held by USCO Holdings, Inc. (a subsidiary of SONY Corporation of America) and BeSo Holding LLC, Ariola Eurodisc, Inc., Arista Holding, Inc. and Zomba US Holdings, Inc. (each a subsidiary of Bertelsmann AG). All recorded music business of Sony Corporation of America and Bertelsmann AG in the United States is conducted through SONY BMG Music Entertainment.
- E. The corporate signatory hereto is an officer of SONY BMG Music Entertainment, is authorized to enter into this Agreed Final Judgment and Permanent Injunction on behalf of SONY BMG Music Entertainment, has read the Agreed Final Judgment and Permanent Injunction, and agrees to the entry of same;
- F. Defendant does not contest jurisdiction or venue in this case;
- G. This Agreed Final Judgment and Permanent Injunction in no way affects, preempts, precludes or resolves any matters with respect to any private claimants or other governmental agencies or departments;
- H. This judgment is non-appealable;
- I. Defendant acknowledges notice of this permanent injunction and acceptance of the same; therefore no writ need be issued;
- J. The court shall have continuing jurisdiction to enforce this judgment;

- K. SONY BMG represents that it will make a good faith effort to ensure that CDs that are distributed by SONY BMG, but in accordance with Paragraph 3 are not subject to the permanent injunction, adhere to the terms and conditions of this Judgment.

DEFINITIONS

2. For purposes of this Agreed Final Judgment and Permanent Injunction, the following definitions shall apply:

- A. "Clear and Conspicuous" or "Clearly and Conspicuously" means that (a) in a written statement or communication, one that is presented in such font, size, color, location, and word choice, and contrast against the background in which it appears, compared to the other matter with which it is presented, so that it is readily understandable, noticeable, and readable, or (b) in an oral statement or communication, one that is presented in such speech and word choice so that it is readily audible, noticeable, and clear. If such statement or communication modifies, explains, or clarifies other information with which it is presented, it must be presented so that it is in close proximity to such other information so that it is easily noticeable and readily understandable and it must not be obscured in any manner. A statement may not contradict any other information which is presented.
- B. "Compact Disc" or "CD" refers to compact discs used primarily to store musical content and which includes standard "Redbook" audio format. This includes standard music CDs and the "Redbook" audio CD side of a DualDisc.
- C. "Computer" means any general purpose programmable computing device with a central processor and a memory capable of computing functions and storing or

receiving information, including but not limited to, desktop, devices, laptop or portable devices, personal digital assistants, minicomputers or other such device.

- D. "DRM" or "Digital Rights Management" software means any software residing on a CD and that, when installed on a computer, player or machine, acts to limit, control, track or otherwise manage an end user's use of the CD's musical content.
- E. "EULA" means an End User License Agreement for DRM software.
- F. "Patch" means a small piece of software designed to update or fix problems with a computer program.
- G. "Retailer" or "Distributor" means any individual, partnership, corporation, association, or other group, however organized, known by SONY BMG to sell or distribute SONY BMG CDs.
- H. "SONY BMG" means SONY BMG Music Entertainment, its subsidiaries, predecessors, successors (including, without limitation, its parents and affiliates to the extent that the recorded music business carried out through SONY BMG may in the future be carried out by SONY Corporation of America, Bertelsmann AG, or an affiliate thereof) and current and former assigns, agents, representatives, shareholders, officers, administrators, directors, board of directors, attorneys, servants, and employees. Except as otherwise specifically provided, the provisions of this Judgment are applicable to those persons, and to all persons acting in concert or participation with them or any of them in the conduct of the business of SONY BMG with actual or constructive notice of this Judgment.

- I. "XCP" means the versions of eXtended Copy Protection software developed by First 4 Internet and utilized on commercial CDs in public release beginning in or about April 2005.
- J. "MediaMax" means versions 3.0 and 5.0 of the Digital Rights Management software developed by Sunncomm International, Inc. and utilized by SONY BMG on commercial CDs.

PERMANENT INJUNCTION

3. IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Defendant SONY BMG, and all persons listed in Paragraph 2.H. above, shall comply with the following for any CD for which SONY BMG controls the master files, or otherwise has ownership, possession, or control over the digital content or packaging of the CD:

SOFTWARE INCLUDED ON FUTURE CD RELEASES

4. SONY BMG shall not manufacture, distribute, or otherwise place into the stream of commerce any CD containing DRM or other software, designed for installation on the hard drive of the user's computer, that employs any technology or any method to hide or cloak any files, directories, or registry entries in such a manner that a user cannot locate them through standard and ordinary methods available on the computer operating system. Methods of hiding or cloaking files that are prohibited include, but are not limited to, creating random or deceptive files names, directory folders, formats, or registry entries; and misrepresenting the purpose or effect of files directory folders, formats or registry entries. "Standard and ordinary methods," as referred to in this Judgment, include methods normally made available to the consumer to view files, including hidden files, without specific knowledge or expertise by the consumer. "Standard and ordinary methods" do not include, for example, concealing files from the

graphical interface of the Microsoft Windows operating system, regardless of security settings, such that a consumer can only view the files through the command prompt.

5. SONY BMG shall not include DRM software on any CDs manufactured, distributed, or otherwise placed in the stream of commerce by SONY BMG unless the software complies with all of the terms of this Judgment.

6. On future CDs that SONY BMG manufactures, distributes, or otherwise places in the stream of commerce, SONY BMG shall not include DRM software that is downloaded or copied to the hard drive unless the software complies with all of the following requirements:

- A. The user must be provided with a Clear and Conspicuous option to decline the installation of the files;
- B. If the user declines the software installation, no files may be installed on the hard drive; and
- C. All of the material terms and conditions of the functions and features of the software, including, but not limited to the following, must be Clearly and Conspicuously disclosed immediately prior to installation on the hard drive of any software:
 - 1) The fact, if true, that computer files must be installed on a consumer's computer in order for the consumer to listen to, copy, or transfer the music via that computer;
 - 2) The fact, if true, that any software to be installed on the hard drive may consume system resources when the CD is not in use on the computer;

- 3) The fact that the CD includes DRM software, and the general limitations that such DRM software imposes on the use of the CD (i.e., the limited number of copies that the DRM software permits a consumer to make);
- 4) The fact, if true, that playing the CD in a computer may cause information, including but not limited to an IP address, to be transmitted across the Internet;
- 5) The specific file formats, if limited, to which the musical content can be converted using the DRM software and a reference to a hyperlink for more information about conversion to other file formats, if applicable;
- 6) The fact, if true, that a consumer will be required to accept the terms and conditions of a license agreement prior to being able to listen to or otherwise access the CD on a computer;
- 7) A reference to a hyperlink or other source where consumers may obtain any recommended updates or patches, including but not limited to security patches; and
- 8) Any other material terms or conditions.

7. For the first twelve months of distribution of any CDs with DRM software intended for installation on the hard drive, distributed after the effective date of this Judgment, a summary, plain-English version of the disclosures required by Paragraph 6 above shall also be Clearly and Conspicuously presented on a printed insert, of the type referred to in the music industry as a blow-in card.

XCP AND MEDIAMAX SOFTWARE

8. SONY BMG shall not manufacture, distribute, or otherwise place into the stream of commerce CDs containing XCP software.

9. SONY BMG shall not manufacture any additional CDs containing MediaMax software.
10. As to existing MediaMax CDs currently in wholesale stock, SONY BMG shall destroy such CDs.
11. SONY BMG shall continue, for 12 months from the date of this Judgment, its current voluntary program of providing financial incentives to retailers for the return of XCP CDs as detailed in Exhibit A. SONY BMG shall expand the incentive program to include identical incentives for the return of MediaMax 5.0 CDs.
12. SONY BMG shall, for at least 12 months from the date of this Judgment, implement a program of using "keyword buys" to give consumers notice of:
 - A. The possible security vulnerabilities created by XCP and MediaMax;
 - B. Any known form of damage to a computer that can occur following the use of XCP and MediaMax (including, but not limited to the disabling of a CD-ROM drive);
 - C. The URL where a consumer can access the uninstaller or patch to remove or update XCP or MediaMax; and
 - D. The URL where a consumer can access the complete details of the restitution provisions in Paragraphs 28-30 below.

SONY BMG shall, at a minimum, purchase the keywords attached as Exhibit B with the following search engines: Google, Yahoo!, MSN. SONY BMG shall further consider in good faith any suggestions Plaintiff may offer concerning possible adjustments to the language of the disclosures, the specific terms included in the keyword buys program, and the language displayed to consumers in connection with the relevant links and landing pages. SONY BMG shall adopt procedures to monitor and ensure that such keyword buys result in consumers

receiving a Clear and Conspicuous link to the information in A-D above on the first page of returned search results for each of the above-listed search engines.

13. SONY BMG shall, for at least 12 months from the date of this Judgment, implement a program of using the "bannering" feature of capable CDs to give consumers notice of:

- A. The possible security vulnerabilities created by XCP and MediaMax;
- B. Any known loss of functionality to a computer that can occur following the use of XCP and MediaMax (including, but not limited to the disabling of a CD-ROM drive); and
- C. The URL where a consumer can access the uninstaller or patch to remove or update XCP or MediaMax and where a consumer can access the complete details of the restitution provisions in Paragraphs 28-30 below.

SONY BMG shall monitor and ensure that banner ads function properly and provide consumers with a Clear and Conspicuous notice of A-C above.

14. SONY BMG shall continue, for a period of at least two years from the date of this Judgment, to provide Clear and Conspicuous and easily navigable instructions via its website for uninstalling XCP and MediaMax and for implementing any patch that has been distributed. The uninstall and patching instructions shall be clearly written and easy to access, follow, and perform. To the extent that accessing the instructions requires clicking on one or more hyperlinks, the first link shall be Clearly and Conspicuously identified on the homepage of the SONY BMG website, as shall a link to the list of affected CDs. Online technical support shall continue to be provided to assist consumers in the process of uninstalling or patching the software or with any related questions or concerns. SONY BMG shall also continue, for a period of at least two years from the date of this Judgment, to maintain on its website a list of the

affected XCP and MediaMax CDs. To the extent that this paragraph or other provisions of this Judgment require SONY BMG to post or provide information via the Internet, it shall constitute full compliance with this Judgment if the information is provided in detail on the class action settlement website (www.sonybmgcdtechsettlement.com), the website of the appropriate software licensor, or another website, provided that a Clear and Conspicuous link leading to the information is provided on the homepage of SONY BMG's website. At the end of the two year period, Respondent may remove the information above, and/or any reference to the information above, from its home page and website, but must otherwise comply with this Paragraph and maintain the information in a publicly accessible website; provided, however, that Respondent shall first notify the State at least thirty (30) days before such removal.

DISCLOSURES TO CONSUMERS ON CD PACKAGING

15. For any CD release after the Effective Date that contains DRM software, the outer packaging must Clearly and Conspicuously disclose, at a minimum, the following:

- A. On the front of the CD packaging (jewel case), the fact that the CD includes limitations on consumers' ability to copy and use the CD;
- B. Which operating systems are required to play the CD or use the DRM software;
- C. The fact, if true, that to play, copy, or transfer the contents of the CD on a computer, DRM software must be installed on the hard drive; and will require the consumer to accept the terms of a EULA;
- D. The number of copies, if limited, that can be made of the CD;
- E. The specific compatible file formats to which the musical content may be converted using the DRM software, and the URL of the website that consumers can visit for additional information about conversion to other file formats, the DRM software, or other features of the CD. The identified website will include

information regarding items A. through D. above, as well as, where applicable, customer service contact information and information about the specific file formats to which the CD audio files may be converted for personal use; and

- F. If a EULA must be accepted, what limitations on use of the CD result if the user declines the EULA, and the URL of SONY BMG's website where the consumer may find the full terms and conditions of EULA.

EULA TERMS

16. SONY BMG shall not include any of the following terms and conditions in any EULA for DRM software on CDs released after the Effective Date, and shall not enforce the following terms and conditions in any existing EULA included with software on existing CDs:

- A. A limit on a user's ability to transfer music to any media player or portable device; provided, however, that such a prohibition may be included in the EULA if notice of this restriction is Clearly and Conspicuously disclosed to the consumer on the CD jewel case;
- B. A prohibition on the private resale of the CD, provided, however, that SONY BMG shall be permitted to require a consumer to delete or destroy all copies of the musical content prior to resale;
- C. A prohibition against removing or deleting any DRM files SONY BMG places or will place on the person's computer;
- D. A requirement that the user waive or limit any rights or causes of action against SONY BMG for any damage arising out of the normal and proper use of the CD;
- E. A provision allowing SONY BMG to terminate that license agreement for a person's failure to timely update any music or DRM files SONY BMG places or will place on the person's computer; or

- F. A provision allowing SONY BMG to terminate the license agreement upon a person's filing of a voluntary or involuntary bankruptcy petition.

INSTALLATION AND REMOVAL OF SOFTWARE

17. All DRM software distributed by SONY BMG on CDs for installation on computers running Microsoft's Windows operating system shall be configured so as to automatically appear in the "Add/Remove Program" applet in the Windows Control Panel, which shall allow a consumer to remove the software in its entirety. The DRM software shall be Clearly and Conspicuously identified as software distributed by SONY BMG on a CD. All DRM software distributed by SONY BMG on CDs for installation on computers running any other operating system shall be removable through that system's standard software removal process.

18. The uninstall methods described in paragraph 17 above shall include (a) removing a software program from a computer; (b) removing all files, registry keys, and components that were added to the computer when such software program was initially installed; (c) removing all files, registry keys, and components that were subsequently generated by such software program; and (d) restoring all files, registry keys, and components that such software program caused to be altered, provided that, (a) the uninstall process need not erase information or data stored on the computer regarding whether the user had reached the limit of permitted copies of the covered product prior to uninstalling the content protection, or other comparable content protection data, and (b) the uninstall methods shall be designed so as to remove files and registry entries, disable drivers or terminate processes to a commercially reasonable standard, which may include allowing the survival of small amounts of code or data that do not impair the operation of the computer or operating system.

19. SONY BMG shall not require that a consumer accept and install software as a condition of accessing the music content of the CD on a computer, unless the requirements of this Judgment are followed.

PERSONAL IDENTIFYING INFORMATION

20. SONY BMG shall not manufacture, distribute, or otherwise place into the stream of commerce CDs that gather, collect, or store any personal identifying information without the consumer's express consent via an "opt-in" method. "Express consent" shall mean a consumer's unambiguous acknowledgment and agreement with SONY BMG's use of such personal identifying information that is objectively verifiable and obtained through the use of an electronic acknowledgment that requires the consumer to affirmatively click on a check box or button acknowledging receipt of an explanation of such use, and acceptance of the same. For purposes of this paragraph personal identifying information includes a person's name, address, telephone number, email address, or other information disclosing the identity of a person, and any information regarding the CDs listened to by an identifiable person, or any websites visited on an identifiable person's computer, and does not include an IP address. Prior to obtaining a consumer's express consent, SONY BMG shall Clearly and Conspicuously disclose its privacy policy which shall include all material information regarding SONY BMG's collection and use of such personal identifying information.

RELEASES OF ENHANCED CDS AFTER THE EFFECTIVE DATE

21. With respect to Enhanced CDs released 90 days or later after the Effective Date, SONY BMG must provide notice prior to causing transmission of or receiving any information across the Internet. Enhanced connectivity either may require an affirmative act by the consumer (e.g., user must click a hyperlink) or may occur in the background (e.g., CD "pings" the Internet whenever user is online). If the connection requires an affirmative act, it shall be sufficient to

disclose the option of connecting by using clear, simple language on-screen at the point of connection, such as via a text hyperlink or a floating dialog box that would appear when a cursor moved over the text hyperlink. If the connection occurs in the background, one of two types of notice must be provided, with the choice between them at SONY BMG's discretion: either (a) terse, plain-English notice of the fact of such connectivity shall be provided Clearly and Conspicuously on the CD packaging (e.g. "Automatic Internet Connection"), and in the EULA and/or other on-screen disclosures that are presented to the user prior to the first playback or ripping of the CD on a computer, or (b) an on-screen notice shall be provided, in the EULA acceptance process, whereby the user has the option to decline or turn off the background Internet connection. Whether the connection requires an affirmative act or occurs in the background, basic information about any collection and use of consumers' information shall be disclosed, to the extent required by law and consistent with the level of disclosure ordinarily found on major consumer websites, in the EULA and/or in a privacy policy. Any privacy policy shall be readily accessible to the consumer via an Internet link on the on-screen user interface or by comparable means. Whether the connection requires an affirmative act or occurs in the background, the consumer shall have the option through the software to terminate the Internet connection and disallow any further connection.

LANGUAGE OF DISCLOSURES REQUIRED BY JUDGMENT

22. All disclosures required in this Judgment shall be made in English and shall be available in Spanish and any other language the CD is marketed in, in the same Clear and Conspicuous manner as required above; provided, however, that outside packaging disclosures generally may be in English only, unless the CD is marketed primarily to a non-English-speaking audience, in which case the outside packaging disclosures may at SONY BMG's discretion be either in English or in English and the language of the target audience, provided that all of the disclosures

on a particular CD are made in full in both languages. Disclosures made in electronic form may always be in English as the primary language at SONY BMG's discretion, provided that the user has the option to select a different language. Technical computer terminology that does not readily translate into languages other than English may always appear in English only.

SECURITY REVIEWS

23. SONY BMG shall obtain an assessment and report ("Assessment") from a qualified, objective, independent, third-party professional, using procedures and standards generally accepted in the computer security profession, within one hundred and eighty (180) days after the signing of the Judgment, and annually thereafter for the next five (5) years, that:

- A. Confirms that, as to any CD with DRM software released during the period under review, prior to such release SONY BMG obtained reasonable assurances from an independent outside expert that the software would not in ordinary use create any security vulnerability on consumers' computers;
- B. Sets forth any specific administrative, technical, and physical safeguards that SONY BMG has implemented and maintained during the reporting period to protect the security and integrity of computers and systems with which any DRM-protected CDs distributed by SONY BMG interact;
- C. Confirms that a "privacy audit," similar in scope to the one available on SONY BMG's website as of the date of this Judgment, has been performed within the preceding year, and summarizes the findings and any recommendations of that audit;
- D. Explains how the safeguards that have been implemented meet or exceed the protections required by this Judgment;

- E. Certifies that SONY BMG's security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of personal information is protected and, for annual reports, has so operated throughout the reporting period;
- F. Identifies all non-DRM software that has been distributed on SONY BMG CDs during the reporting period and, for any such software program that requires installation on a computer's hard drive in order for the user to access the music files on the CD, describes the nature and functionality of such software, ensures that such software complies with the same disclosure and functionality requirements that are imposed on DRM software by this Judgment; and
- G. Identifies by name and title the individual at SONY BMG responsible for receiving and reviewing the Assessment and for coordinating on a day to day basis SONY BMG's software security efforts on matters covered by this Judgment.

24. Each Assessment shall be prepared by a person qualified as a Certified Information System Security Professional (CISSP) or as a Certified Information Systems Auditor (CISA), or a person holding Global Information Assurance Certification (GIAC) from the SysAdmin, Audit, Network, Security (SANS) Institute. SONY BMG shall provide the Assessments to the State upon request.

NOTICE OF SECURITY FLAWS

25. SONY BMG shall notify consumers of all security flaws in DRM software covered by this Judgment that cause any material security risk or material potential for damage to consumers' computers, including material vulnerability to viruses or malware, damage to data or file integrity, or the disabling of hardware devices including CD-ROM drives. Computer

security industry norms shall be considered in determining the materiality of security risks and necessity of notice under this paragraph. Notice must be provided in the most expedient time possible and without unreasonable delay. Notice may be delayed (1) if law enforcement determines that notification impedes a criminal investigation, or (2) to determine the scope of the flaw and take reasonable steps to prepare and distribute a patch or otherwise restore the integrity of the DRM software. At a minimum, notice shall be made by (1) email if SONY BMG has an email address for the subject persons; (2) conspicuous posting of the notice on SONY BMG's consumer website; (3) banner ads to all enhanced CDs that both contain the flaw and have banner functionality; and (4) notification to major computer security providers.

FUTURE TESTING OF DRM SOFTWARE

26. SONY BMG shall adopt and implement policies and procedures to fully examine and test future DRM software for security vulnerabilities, as well as compliance with this Judgment.

Such policies and procedures shall include, at a minimum, the following:

- A. SONY BMG shall retain an independent, third-party expert to test any future DRM software for security flaws, compatibility conflicts, unauthorized installations, or other behavior in conflict with this Judgment, prior to manufacturing CDs with such software;
- B. Promptly upon learning of any credible report of a security risk or other harm caused by SONY BMG's DRM software, SONY BMG shall promptly perform its own tests and/or submit the DRM to an independent third party expert for further testing;
- C. If testing confirms any potential material security risk or other harm, SONY BMG shall take or cause the software vendor to take immediate remedial action to correct, fix, or patch, the DRM software as well as to notify consumers of the

risks associated with the DRM software, pursuant to the notice requirements above; and

- D. SONY BMG shall maintain copies of all results from DRM testing for at least three (3) years, and shall, upon request of the State, provide copies of those results to the Attorneys General.

INJUNCTIVE RELIEF AS INDUSTRY STANDARDS

27. In order to promote adoption of the principles of this Judgment as guidelines for the music industry generally, SONY BMG shall (a) distribute this Judgment to appropriate industry organization(s) for consideration, including but not limited to the Recording Industry Association of America (RIAA); (b) recommend that the organization(s) promulgate substantially similar standards; (c) facilitate any follow-up communication to the organization(s) by Plaintiff, and (d) create and post on its website, for one year from the date of the Judgment, a short, plain-English summary of the principles of the Judgment in a form that is easily read and understood by members of the public.

RESTITUTION

28. SONY BMG shall continue to provide the same consumer incentives required by the court-approved, nationwide class action settlement, In re SONY BMG CD Technologies Litigation, No. 05 CV 9575 (NRB) (S.D.N.Y.) (May 24, 2006) ("Class Action"), and as listed in the attached Exhibit C, through June 30, 2007, for any consumer who returns an XCP or MediaMax CD, provided that the person has not already obtained relief for that CD. In providing such incentives, SONY BMG shall not be required to use the same administrator as established in the Class Action and may administer the incentive distribution internally.

29. For a period of 180 days following the entry of this Judgment, SONY BMG shall provide restitution to any consumer who used an XCP CD in his or her computer and experienced the

disabling of that computer's CD-ROM drive as a result. At the request of any consumer who purchased a SONY BMG CD containing XCP and experienced such damage, and who resides in Texas, SONY BMG shall refund the consumer the greater of \$25.00 or the actual out-of-pocket expenses spent to repair or replace his or her computer as a result of the disabling of his or her CD-ROM drive up to a maximum of \$175.00. Any claim for compensation must be submitted on a form, to be made available on SONY BMG's website and subject to the approval of the State. The form when submitted must (i) be sworn to under penalty of perjury (provided that notarization will not be required), (ii) be accompanied by proof of purchase of an XCP CD (which may be in the form of a receipt, UPC code, evidence that proof of purchase was accepted in the class action, or any other credible evidence of such purchase), (iii) be accompanied by documentation of out-of-pocket repair expense if seeking greater than \$25.00, (iv) include a credible basic description of the nature of the harm allegedly caused by the installation (provided that technical detail will not be required) and approximately when the harm occurred; (v) require the consumer to certify that no previous claim for restitution has been made as to the same computer; and (vi) grant a complete release to SONY BMG for the specific damage caused by such CDs. SONY BMG may, in its discretion, accept or reject any claim for compensation that fails to meet all of requirements (i) through (vi) above, including where the alleged harm described is contrary to the known harm as examined by SONY BMG's experts. Copies of any rejections shall be provided to the State. SONY BMG shall publicize this claims process in continued banner advertising and keyword buys as described in Paragraphs 12 and 13 above, and shall cooperate with the State in distributing information about the claims process to periodicals in Texas as identified by the State in an agreed upon form and manner.

30. Sony BMG shall confirm that its expert(s) have investigated fully and identified any possible damage that could occur to a consumer's computer based upon the installation of XCP or MediaMax; provided however, that promptly upon learning of a credible report of a security risk or other harm caused by XCP or MediaMax, SONY BMG shall promptly notify the State of such report, and shall promptly perform its own tests and/or submit the DRM to an independent third party expert for further testing. Results of such testing shall be provided to the State. If the expert determines that other possible damage may occur, i.e. other than the disabling of a CD-ROM drive due to the application of third-party antivirus software, SONY BMG shall provide restitution to such consumers for any such damage on the same terms described above.

PAYMENT TO THE STATE

31. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff shall have judgment against Defendant in the total amount of SEVEN HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$750,000.00), which shall be allocated to attorneys fees and investigative costs. Payment of this amount shall be made within fourteen (14) days of the Effective Date.

MISCELLANEOUS

32. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the State of Texas shall have all writs of execution and other process necessary to enforce this Agreed Final Judgment and Permanent Injunction. Defendant, by the signature of its authorized representative below, hereby acknowledges notice of this permanent injunction and acceptance of same; therefore, no writ need be issued.

33. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Judgment shall be binding upon Defendant SONY BMG. If Defendant merges with any other business entities or sells, assigns, or otherwise transfers substantially all of its assets, Defendant shall provide

reasonable prior notice to the surviving corporation or the purchaser, assignee, or transferee of this Judgment and its binding effect upon the surviving corporation, purchaser, assignee, or transferee.

34. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that nothing in this Judgment shall be construed as a waiver of any private rights, causes of action, or remedies of any person against Defendant with respect to their practices alleged herein.

35. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, unless otherwise specified in this Agreed Judgment, this Judgment shall be deemed in effect from the day it is approved by the District Court (the "Effective Date"). To the extent that the provisions of this Judgment conflict with any Texas, local, or federal law which now exists, or is later enacted or amended, such law and not this Judgment shall apply only to the extent such conflict exists. For the purposes of this Judgment, a conflict exists if conduct prohibited by this Judgment is required by such Texas, local, or federal law, or if conduct required by this Judgment is prohibited by such Texas, local, or federal law.

36. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that to seek a modification or termination of this Judgment for any reason, Defendant shall send a written request to the Attorney General. The Attorney General shall make a good faith evaluation of the then existing circumstances, and after collecting information the Attorney General deems necessary, make a prompt decision as to whether to agree to the modification or termination of this Judgment. In the event the Attorney General timely denies the modification or termination, Defendant reserves all rights to pursue any legal or equitable remedies that may be available to it. No waiver, termination, modification, or amendment of the terms of this Judgment shall be

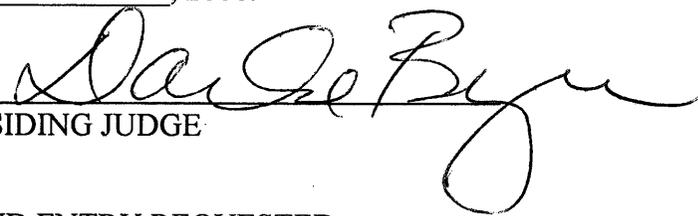
valid or binding unless made by order of the Court; provided, however, the parties may agree to an extension of any time periods in this Judgment without an order of the Court.

37. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the parties are responsible for paying their own costs of court.

38. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall not represent to the public that this Judgment constitutes approval by Plaintiff or this Court of any of Defendant's actions or business activities.

39. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that all relief not expressly granted herein is denied.

SIGNED this 19 day of Dec, 2006.


PRESIDING JUDGE

AGREED AS TO SUBSTANCE AND FORM AND ENTRY REQUESTED:

GREG ABBOTT
Attorney General of Texas

KENT C. SULLIVAN
First Assistant Attorney General

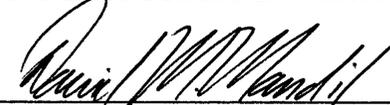
EDWARD D. BURBACH
Deputy Attorney General for Litigation

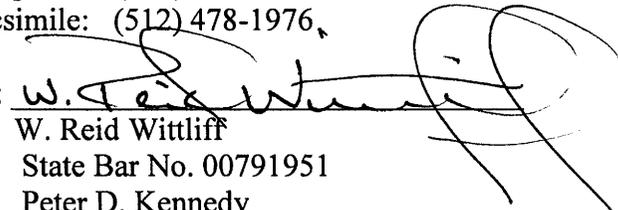
PAUL D. CARMONA
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ATTORNEYS FOR THE STATE OF TEXAS

SONY BMG MUSIC ENTERTAINMENT


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ATTORNEYS FOR DEFENDANT

Exhibit A

EXHIBIT A

On December 16, 2005, SONY BMG Music Entertainment announced to its retail accounts a financial incentive program (the "Incentive Program"). Under the Incentive Program, retailers who demonstrate proof (subject to confirmation via inventory checks by SONY BMG) that they have removed all XCP-protected CDs from their stores receive a 1% credit on purchases of replacement product.

By January 15, 2007, SONY BMG will provide a further announcement to its retail accounts, confirming that it will:

1. expand the Incentive Program to provide the same 1% credit on purchases of replacement product to retailers who demonstrate proof (subject to inventory checks by SONY BMG) that they have removed all MediaMax 5.0-protected CDs from their stores, and
2. continue the Incentive Program, as to both XCP and MediaMax 5.0, through December 31, 2007.

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Exhibit B

EXHIBIT B

SUBJECT

Abbott Sony Settlement
AG Sony Settlement
AOL CD damage
AOL CD disable
AOL CD disappear
AOL CD repair refund
Attorney General Sony Settlement
audio cd copy protection
bmg class action
bmg music class action
bmg settlement
cd copy protection
cd copy protection software
CD ROM damage
CD ROM disable
CD ROM disappear
CD ROM repair refund
copy protection
copy protection and cds
copy protection software
digital image watermarking
digital watermark
digital watermark software
digital watermarking
extended copy protection
first 4 internet
first4internet
media max
mediamax
mediamax cd
mediamax settlement
mediamax software
mediamax uninstall
Pest Patrol CD damage
Pest Patrol CD disable
Pest Patrol CD disappear
Pest Patrol CD repair refund
rootkit class action
sony bmg
sony bmg cd settlement
sony bmg class action
sony bmg settlement

sony cd class action
sony cd copy protection
Sony CD damage
Sony CD disable
Sony CD disappear
Sony CD repair refund
sony cd protection
sony cd settlement
sony class action
sony copy control
sony copy protection
sony digital rights management
sony drm
sony exchange program
sony settlement
sony uninstall
sun comm.
Sunncomm
Texas Sony settlement
water mark
watermark music
watermark software
watermarking
watermarking software
xcp
xcp cd
xcp settlement
xcp software
xcp software uninstall
xcp uninstall

ARTISTS

Acceptance Phantoms
Aha Shake Heartbreak
Alicia Keys Unplugged
All Star Luther Vandross
Amerie Touch
Amici Forever Defined
Angie Stone Love
Anthony Hamilton Coming
Art Blakey Drum Suit
Babyface Grown
Backstreet Boys Never Gone
Bad Plus Suspicious
Best of Shel Silverstein

Bette Midler Peggy Lee
Billie Holiday Songbook
Black Rebel Motorcycle Club Howl
Bob Brookmeyer Friends
Britney Spears Hitme
Buddy Jewell Times
Burt Bacharach Time
Cassidy Hustla
Celine Dion Change Pas
Chapter 3 The Flesh
Charlie Wilson Last Name
Charlotte Martin Shore
Chayanne Cautivo
Chieftains Dublin
Chris Botti Love Again
Chris Brown
Citizen Cope Clearance
Clay Aiken Christmas
Cook Dixon Young Volume
Coral Invisible Invasion
Cyndi Lauper Acoustic
Dave Matthews Band Stand Up
David Gray Slow Motion
Dead 60s
Dexter Gordon Manhattan
Dido Live
Dido White Flag
Dirtiest Thirtieth
Earl Scruggs Saw Light
Elkland Golden
Emma Roberts Unfabulous
Essential Dion
Essential Pete Seeger
Faso Latido
Foggy Mountain Jamboree
Foo Fighters Honor
Forever Faithless
Frank Sinatra Songbook
G3 Live in Tokyo
George Jones Special Guests
Gerry Mulligan Jeru
Get Right With the Man
Harmonies for the Haunted
Healthy Paranoid Times
Hood Hop
Horace Silver Blue

Imogen Heap Speak
Jane Monheit Season
Jim Brickman Grace
Jon Randall Walking
Judd Maggie Subjects
Kasabian
King's Record Shop
Kottke Gordon Steps
Life of Agony Broken Valley
Louis Armstrong Songbook
Loveless Dreamin
Maroon 5 Live
Mary Mary
Montgomery Gentry Proud
Morning Jacket Z
Mourning After
Natasha Bedingfield Unwritten
Neil Diamond 12 Songs
Nivea Complicated
Nodesha Hot
Raheem Devaughn Love Experience
Rappa Ternt Sanga
Ray Charles Friendship
Rayne Know
Relaxation Windham Hill
Rosanne Cash Interiors
Sahara Hotnights Kiss
Santana All That I Am
Sara McLachlan Afterglow
Sarah McLachlan Bloom
Seven Year Ache
Shelly Fairchild Ride
Silvertide Show
Songs Brown Hotel
Susie Suh
Switchfoot Nothing is Sound
Teena Marie Robbery
This Niecy
Three Chord Country
Velvet Revolver Contraband
Vivian Green
Wakefield Which Side
XXX Soundtrack State
YoungbloodZ Everybody

Exhibit C

EXHIBIT C

TERMS AND CONDITIONS OF THE SETTLEMENT BENEFITS

XCP Exchange Program

1. SONY BMG shall offer all Texas consumers possessing any XCP CD the opportunity to exchange such XCP CD for an identical CD title that does not contain any Content Protection Software. SONY BMG shall also offer any such Texas consumer the opportunity to download non-content protected MP3 versions of the music contained on any such XCP CD that he or she is exchanging
2. SONY BMG shall offer the additional incentives specified below (the "Incentives") to induce Texas consumers to exchange their XCP CDs for CDs that do not contain Content Protection Software.
3. SONY BMG will use commercially reasonable efforts to advise its authorized resellers that SONY BMG will accept returns from that reseller of XCP CDs in any condition, and SONY BMG will provide full refunds to the reseller for those returned XCP CDs. Although SONY BMG cannot compel its resellers to accept such returns from consumers, or dictate the consideration (*i.e.*, refunds, store credit or exchanges) that its resellers will offer upon the return of XCP CDs, SONY BMG will use commercially reasonable efforts to encourage resellers to provide at least an even exchange of that XCP CD, and to provide a receipt for the exchange so that Texas consumers may readily claim the Incentives by sending the receipt to SONY BMG.
4. If a Texas consumer returns an XCP CD to a reseller, and wishes to claim the Incentives, he or she may do so by filling out a Claim Form (identical to that used in the Class Action, provided however, that it shall be updated to reference the Attorney General settlement), and by sending that Claim Form and the exchange receipt by mail or electronic mail to the address specified on the Claim Form.
5. SONY BMG also will offer Texas consumers the option of returning their XCP CDs to SONY BMG by U.S. Mail, or another shipping method, at no charge to the Texas consumer. SONY BMG may administer this exchange program itself or it may, at its option, engage a vendor of its choosing to administer the exchange program.
6. If a Texas consumer returns an XCP CD to SONY BMG using the procedure specified above in Paragraph 5., that Texas consumer may claim the Incentives by completing the Claim Form.
7. Texas consumers who exchange XCP CDs shall be entitled, by submitting the Claim Form, to claim either of the following Incentives from SONY BMG:

- A. *Incentive #1.* For each XCP CD returned by a Texas consumer, the Texas consumer may elect to receive a cash payment of seven dollars and fifty cents (\$7.50), payable (at SONY BMG's sole option) by check or debit card, and a promotional code allowing the holder of the code to download the contents of any one (1) of the albums specified on the list attached hereto as Exhibit C-1; or
 - B. *Incentive #2.* For each XCP CD returned by a Texas consumer, the Texas consumer may elect to receive a promotional code allowing the holder of the code to download the contents of any three (3) of the albums specified on the list attached hereto as Exhibit C-1.
- 8. For both Incentive #1 and Incentive #2, Texas consumers will be able to select promotional codes usable to download the specified album contents from any one of three (3) major download services. SONY BMG will use commercially reasonable efforts to ensure that one of the three download services offered as an option to Texas consumers is the "iTunes" service. The promotional codes will be fully transferable, and will expire no less than 180 days after they are issued.
 - 9. To claim entitlement to the Incentives, a Texas consumer shall (i) return one or more XCP CDs to SONY BMG, or provide SONY BMG with a receipt indicating the return or exchange of an XCP CD at the place of purchase after November 14, 2005; and (ii) complete an on-line or hard-copy Claim Form, which shall include an affirmation that, if the Texas consumer has installed the XCP Software, he or she has run the XCP Uninstaller or the XCP Update. If a Texas consumer who returns the XCP CD to the place of purchase elects to send the Claim Form by any means other than electronic mail, the Texas consumer shall be responsible for the costs of postage for that Claim Form.

MediaMax 3.0 Compensation

- 10. A Texas consumer who purchased one or more MediaMax CDs containing MediaMax 3.0 before December 31, 2007, and who provides proof of such purchase under the terms specified below in Paragraph 12, will be entitled to receive, for each such CD purchased, the opportunity to download non-content protected MP3 versions of the music contained on such MediaMax 3.0 CD.

MediaMax 5.0 Compensation

- 11. A Texas consumer who purchased one or more MediaMax CDs containing MediaMax 5.0 before December 31, 2007, and who provides proof of such purchase under the terms specified below in Paragraph 12, will be entitled to receive, for each such CD purchased, (i) the opportunity to download non-content protected MP3 versions of the music contained on such MediaMax 5.0 CD; and (ii) a transferable promotional code allowing the holder of the code to download, from any one of the three (3) major download services, the contents of any one (1)

of the albums specified on the list attached hereto as Exhibit C-1. The promotional code described in clause (ii), above, will expire no less than 180 days after it is issued.

12. The benefits to MediaMax CD purchasers described above shall be referred to collectively herein as the "MediaMax Compensation." To claim entitlement to the MediaMax Compensation, a Texas consumer shall complete the on-line or hard-copy Claim Form, which shall include an affirmation that, if the Texas consumer installed the MediaMax Software, he or she has run the MediaMax Update or the MediaMax Uninstaller, and submit with the Claim Form one of the following proofs of purchase for each MediaMax CD for which compensation is sought: (i) the original UPC code, cut out from the cover artwork of the MediaMax CD; (ii) a purchase receipt (including but not limited to an electronic purchase confirmation from any on-line retailer), credit card or bank statement reflecting the purchase, or cancelled check reflecting the purchase, or (iii) the MediaMax CD itself (in which case, SONY BMG will not be required to return the MediaMax CD to the Texas consumer). If the Texas consumer sends the Claim Form and requisite proof of purchase specified in clause (ii), above, by means other than electronic mail, the Texas consumer shall be responsible for the costs of postage or shipment for that Claim Form and proof of purchase. The proof of purchase specified in clauses (i) and (iii), above, must be sent by U.S. Mail or other method of shipment, and the Texas consumer shall be responsible for the costs of postage or shipment for the Claim Form and proof of purchase.
13. Texas consumers who are entitled to receive promotional codes usable to download one or more of the albums from the list attached to Exhibit C-1, and who do not use those promotional codes by their expiration date (i.e., 180 days after issuance), because, for example, they do not have access to a broadband internet connection and do not wish to download music over a dial-up connection, may, within 60 days after the expiration of the codes, return the codes to the SONY BMG, and receive in exchange a payment of two dollars (\$2.00), payable by check, for each unused code.
14. If, in particular instances, SONY BMG cannot, within a reasonable time and at commercially reasonable cost, provide (i) a non-content protected CD with the music on the XCP CD returned pursuant to Paragraph 1., or (ii) MP3 downloads of the music on an XCP CD or a MediaMax CD pursuant to Paragraphs 1, 10, or 11, then SONY BMG will provide a refund of the demonstrated purchase price of the affected CD or \$15.00 to such Texas consumers.