

September 3, 2003

Lawyers hit RIAA methods *Claim P2P users' privacy invaded*

By Brooks Boliek

WASHINGTON — Attorneys for one of the potential targets in a string of copyright lawsuits that the recording industry plans to file in the next few days claimed Tuesday that the methods the industry uses to track illegal downloads is exactly the kind of thing the courts need to stop.

In its filing, attorneys for the accused Internet pirate known by the screen name nycfashiongirl argue that the RIAA's use of high-tech tracking methods too easily allows the industry to violate a P2P user's privacy.

"It is precisely this evidence that a judge should review before issuing a subpoena that invades the privacy and other fundamental rights of peer-to-peer file sharers," wrote Glenn Peterson and Daniel Ballard, nycfashiongirl's attorneys. "RIAA has instead chosen to target peer-to-peer file sharers by using a subpoena statute created before peer-to-peer applications even existed. That statute, if it is constitutional at all, cannot be stretched to ensnare those who unwittingly permit others access

to their home computers."

Peterson and Ballard also took a shot at the RIAA's relationship with law enforcement officials, arguing that it opens up a question about the hand-in-glove relationships.

"Not even the solemnity of a federal court proceeding is sufficient to temper RIAA's relentless public scare campaign," Peterson said. "The scare campaign is a double-edged sword, however. Considering the very close relationship, including memorandums of understanding, between RIAA and law enforcement and its filing in this proceeding of an article describing a criminal copyright proceeding, RIAA is quite likely an agent of the government and its actions subject to the Fourth Amendment prohibition against unreasonable search and seizure. If so, all of the recently issued subpoenas are invalid."

Matt Oppenheim, senior vp business and legal affairs at the RIAA, dismissed the arguments as nonsensical.

"The legal arguments are so novel as concepts that no one's ever considered them, and with good reason," he said. "The RIAA is not the government. (Nycfashiongirl's attorneys) simply are putting forward arguments that have no colorable basis in law or fact." ■