

# RAC, RIAA Clash Over Recordings' Work For Hire Status

BY BILL HOLLAND

WASHINGTON, D.C.—Attorneys representing the Recording Industry Assn. of America (RIAA) and member record companies involved in Napster litigation

have asked the court to dismiss a "friend of the court" brief filed Nov. 7 by the Recording Artists Coalition (RAC).

That brief, filed in U.S. District Court, Northern District of California,

asks Judge Marilyn Hall Patel to reject sound-recording copyright registrations presented by the labels that claim work-for-hire status as evidence of authorship and ownership of those

recordings. The majority of registrations submitted to the court by the record company plaintiffs in the case claim authorship and ownership of the sound recordings as works for hire.

Label lawyers in the case have no comment on the development and are referring inquiries to the RIAA. An RIAA spokesperson tells *Billboard*: "[The RAC's] decision to file is as baffling as it is irrelevant. It's irrelevant because there can be no doubt that the record company plaintiffs own or control the copyrights at issue. The artists don't contend this issue. It's baffling because artists have as much at stake in protecting copyrights online as do record companies."

Patel ruled Oct. 9 against the label plaintiffs' request for an immediate ruling on whether the service is in violation of copyright law. She also informed all parties of her intention to name a third-party "special master" to address infringement abuse and sound-recording ownership issues, including work-for-hire status of the disputed copyrighted works. She also voiced concerns that the labels' licensing focus was on their own planned MusicNet and Pressplay subscription services.

The Napster case dates back to Dec. 6, 1999, when the RIAA, member companies, and music publishers filed infringement

lawsuits with the court. Patel then initiated a temporary injunction against Napster's file-swapping service.

The RAC submitted a similar brief in last year's UMG vs. MP3.com case, arguing to the New York court that a sound recording cannot be a work for hire because the Copyright Act does not identify sound recordings as eligible for work-for-hire status. The industry argues that sound recordings, while not a category, nevertheless fit the work-for-hire definitions of a "collective work" or a "compilation" in the current act. That court did not rule on the issue.

The eventual court decision on work-for-hire status of sound recordings could change the course of the industry and determine whether recording artists have the right granted to other authors to regain control of their sound recordings after a period of assigned exploitation, or whether record companies own the masters in perpetuity.

RAC counsel Jay Rosenthal responds, "The RIAA knows full well that the RAC is not contesting their right to bring a copyright infringement action, but [that it] is contesting their claim to the sound recordings as works for hire. They also know full well that RAC supports strong copyright infringement enforcement, as well as pay services like Napster. What is truly baffling is that the RIAA cannot seem to understand, after dealing with this work-for-hire issue for almost four years, what is or is not truly relevant to recording artists."

The registrations relate to the damages section of the trial and will dictate how many infringements the label plaintiffs can claim. The companies are also pressing for a summary judgment of the case.

The RAC's brief asks the court not to rule "as a matter of law" that a sound recording can be eligible for work-for-hire status under the U.S. Copyright Act. It asks the court to order record company plaintiffs to re-file the sound-recording copyright registrations, correctly identifying the recording artist



## NOVEMBER 24 2001 Billboard VIDEO MONITOR

THE MOST-PLAYED CLIPS AS MONITORED BY BROADCAST DATA SYSTEMS "New Ons" are reported by the networks (not by BDS) for the week ahead

For week ending NOVEMBER 11, 2001

BET	CMT	MUSIC TELEVISION	MUSIC FIRST
<p>1 LUDACRIS, FATTY GIRL</p> <p>2 MICHAEL JACKSON, YOU ROCK MY WORLD</p> <p>3 USHER, U GOT IT BAD</p> <p>4 BUSTA RHYMES, BREAK YA NECK</p> <p>5 ALICIA KEYS, A WOMAN'S WORTH</p> <p>6 ANGIE STONE, BROTHA</p> <p>7 AALIYAH, ROCK THE BOAT</p> <p>8 NELLY, #1</p> <p>9 JAY-Z, GIRLS, GIRLS, GIRLS</p> <p>10 P. DIDDY, DIDDY</p> <p>11 'N SYNC, GONE</p> <p>12 MR. CHEEKS, ACTION</p> <p>13 FAT JOE, WE THUGGIN</p> <p>14 JAGGED EDGE, GOODBYE</p> <p>15 DR. DRE, BAD INTENTIONS</p> <p>16 DMX, WHO WE BE</p> <p>17 MAXWELL, LIFETIME</p> <p>18 GERALD LEVERT, MADE TO LOVE YA</p> <p>19 LUTHER VANDROSS, CAN HEAVEN WAIT</p> <p>20 FAITH EVANS, YOU GETS NO LOVE</p> <p>21 LUDACRIS, ROLL OUT (MY BUSINESS)</p> <p>22 CRAIG DAVID, 7 DAYS</p> <p>23 BRIAN MCKNIGHT, LOVE OF MY LIFE</p> <p>24 B2K, UH HUH</p> <p>25 MARY J. BLIGE, FAMILY AFFAIR</p> <p>26 BUBBA SPARKXX, UGLY</p> <p>27 GINUWINE, DIFFERENCES</p> <p>28 FABLOUS, CAN'T DENY IT</p> <p>29 JANET, SON OF A GUN</p> <p>30 RAY J, FORMAL INVITE</p> <p>31 RAYVON, 2-WAY</p> <p>32 PETEY PABLO, RAISE UP</p> <p>33 JA RULE, LIVIN' IT UP</p> <p>34 JUVENILE, FROM HER MAMA (MAMA SOTA*)</p> <p>35 JA RULE, ALWAYS ON TIME</p> <p>36 BABYFACE, WHAT IF</p> <p>37 BENZINO, BOOTIE</p> <p>38 NATE DOGG, I GOT LOVE</p> <p>39 DUNGEON FAMILY, TRANS D.F. EXPRESS</p> <p>40 DESTINY'S CHILD, EMOTION</p> <p><b>NEW ONS</b></p> <p>R. KELLY, THE WORLD'S GREATEST</p> <p>JD, WELCOME TO ATLANTA</p> <p>MDBB DEEP, HEY LUV (ANYTHING)</p> <p>TODD SHORT, I LUV</p> <p>MACK 10, HATE IN YO EYES</p>	<p>1 TOBY KEITH, I WANNA TALK ABOUT ME</p> <p>2 TRACE ADKINS, I'M TRYIN</p> <p>3 BROODKS &amp; DUNN, ONLY IN AMERICA</p> <p>4 PAT GREEN, CARRY ON</p> <p>5 TRISHA YEARWOOD, INSIDE OUT</p> <p>6 BRAD PASKLEY, WRAPPED AROUND</p> <p>7 ALISON KRAUSS, THE LUCKY ONE</p> <p>8 GARY ALLAN, I WAN DE ME</p> <p>9 DAVID BALL, RIDING WITH PRIVATE MALONE</p> <p>10 JO DEE MESSINA, BRING ON THE RAIN</p> <p>11 MONTGOMERY GENTRY, COLO ONE COMIN' ON</p> <p>12 MARK WILLS, LOVIN' EVERY MINUTE</p> <p>13 CHRIS CAGLE, I BREATHE IN, I BREATHE OUT</p> <p>14 TRAVIS TRITT, LOVE OF A WOMAN</p> <p>15 BILLY GILMAN, ELISABETH</p> <p>16 NICKEL CREEK, THE LIGHTHOUSE'S TALE</p> <p>17 MARTINA MCGIBBIE, WHEN GOD FEARS WOMEN GET THE BLUES</p> <p>18 ALAN JACKSON, I'M A SLAVE 4 U</p> <p>19 CYNDI THOMPSON, WHAT I REALLY MEANT TO SAY</p> <p>20 AARON TIPPIN, WHERE THE STARS AND STRIPES AND THE EAGLE FLY</p> <p>21 JAMIE O'NEAL, SHIVER</p> <p>22 DIAMOND RIO, ONE MORE DAY</p> <p>23 KEITH URBAN, WHERE THE BLACKTOP ENDS</p> <p>24 JAMIE O'NEAL, WHEN I THINK ABOUT ANGELS</p> <p>25 RADNEY FOSTER, TEXAS IN 1880</p> <p>26 JESSICA AND REWS, WHO I AM</p> <p>27 CAROLYN DAWN JOHNSON, COMPLICATED</p> <p>28 TRISHA YEARWOOD, I WOULD'VE LOVED YOU ANYWAY</p> <p>29 SARA EVANS, I COULD NOT ASK FOR MORE</p> <p>30 JEFF CARSON, REAL LIFE</p> <p>31 NICKEL CREEK, WHEN YOU COME BACK DOWN</p> <p>32 EARL SCRIBNER, FOGGY MOUNTAIN BREAKDOWN</p> <p>33 CLINT BLACK &amp; USA HARTMAN BLACK, EAST FOR ME TO SAY</p> <p>34 BLAKE SHELTON, AUSTIN</p> <p>35 LEE ANN WOMACK, I HOPE YOU DANCE</p> <p>36 JEFFREY STEELE, SOMETHIN' IN THE WATER</p> <p>37 JESSICA AND REWS, HELPLESSLY, HOPELESSLY</p> <p>38 LONESTAR, WITH ME</p> <p>39 FAITH HILL, T-HERE YOU'LL BE</p> <p>40 ALAN JACKSON, WHEN SOMEBODY LOVES YOU</p> <p><b>NEW ONS</b></p> <p>STEVE HOLY, 3000 MORNING BEAUTIFUL</p>	<p>1 'N SYNC, GONE</p> <p>2 DMX, WHO WE BE</p> <p>3 BRITNEY SPEARS, I'M A SLAVE 4 U</p> <p>4 JANET, SON OF A GUN</p> <p>5 ENRIQUE IGLESIAS, HERO</p> <p>6 SHAKIRA, WHENEVER, WHEREVER</p> <p>7 AALIYAH, ROCK THE BOAT</p> <p>8 PINK, GET THE PARTY STARTED</p> <p>9 JAY-Z, GIRLS, GIRLS, GIRLS</p> <p>10 JA RULE, ALWAYS ON TIME</p> <p>11 LINKIN PARK, IN THE END</p> <p>12 ALL STAR TRIBUTE, WHAT'S GOING ON</p> <p>13 NICKELBACK, HOW YOU REMIND ME</p> <p>14 P.O.D., ALIVE</p> <p>15 MICHAEL JACKSON, YOU ROCK MY WORLD</p> <p>16 SUM 41, IN TOO DEEP</p> <p>17 BUSTA RHYMES, BREAK YA NECK</p> <p>18 FAITH EVANS, YOU GETS NO LOVE</p> <p>19 USHER, U GOT IT BAD</p> <p>20 INCUBUS, I WISH YOU WERE HERE</p> <p>21 STROKES, LAST NITE</p> <p>22 NO DOUBT, HEY BABY</p> <p>23 JAGGED EDGE, GOODBYE</p> <p>24 O-TOWN, WE FIT TOGETHER</p> <p>25 SYSTEM OF A DOWN, CHOP SUEY</p> <p>26 BACKSTREET BOYS, DROWNING</p> <p>27 CITY HIGH, CAMEL</p> <p>28 FAT JOE, WE THUGGIN</p> <p>29 STAINED, FADE</p> <p>30 KID ROCK, FOREVER</p> <p>31 THE CALLING, WHEREVER YOU WILL GO</p> <p>32 PETEY PABLO, RAISE UP</p> <p>33 ALIEN ANT FARM, MOVIES</p> <p>34 MISSY ELLIOTT, TAKE AWAY</p> <p>35 U2, STUCK IN A MOMENT YOU CAN'T GET OUT OF</p> <p>36 OZZY OSBOURNE, GETS ME THROUGH</p> <p>37 ROB ZOMBIE, FEEL SO NUMB</p> <p>38 KITTIE, WHAT I ALWAYS WANTED</p> <p>39 JENNIFER LOPEZ, AIN'T IT FUNNY</p> <p>40 BLINK-182, STAY TOGETHER FOR THE KIDS</p> <p><b>NEW ONS</b></p> <p>REMY ZERO, SAVE ME</p> <p>DAVE MATTHEWS BAND, EVERYDAY</p> <p>SEVENDUST, PRAISE</p> <p>R. KELLY, THE WORLD'S GREATEST</p> <p>KID ROCK, FOREVER</p> <p>CREED, MY SACRIFICE</p>	<p>1 NICKELBACK, HOW YOU REMIND ME</p> <p>2 NELLY FURTADO, TURN OFF THE LIGHT</p> <p>3 ENRIQUE IGLESIAS, HERO</p> <p>4 LENNY KRAVITZ, DIG IN</p> <p>5 U2, STUCK IN A MOMENT YOU CAN'T GET OUT OF</p> <p>6 JEWEL, STANDING STILL</p> <p>7 MARY J. BLIGE, FAMILY AFFAIR</p> <p>8 ENYA, ONLY TIME</p> <p>9 AEROSMITH, SUNSHINE</p> <p>10 TRAIN, SOMETHING MORE</p> <p>11 MADDONNA, MADDONNA MEGAMIX</p> <p>12 FIVE FOR FIGHTING, SUPERMAN</p> <p>13 3 DOORS DOWN, BE LIKE THAT</p> <p>14 DESTINY'S CHILD, EMOTION</p> <p>15 ELTON JOHN, I WANT LOVE</p> <p>16 RYAN ADAMS, NEW YORK, NEW YORK</p> <p>17 JOHN MELLENCAMP, PEACEFUL WORLD</p> <p>18 ALICIA KEYS, FALLIN</p> <p>19 ALIEN ANT FARM, SMOOTH CRIMINAL</p> <p>20 STAINED, IT'S BEEN AWHILE</p> <p>21 MICHAEL JACKSON, YOU ROCK MY WORLD</p> <p>22 SMASH MOUTH, PACIFIC COAST PARTY</p> <p>23 SUGAR RAY, ANSWER THE PHONE</p> <p>24 INCUBUS, I WISH YOU WERE HERE</p> <p>25 WEEZER, ISLAND IN THE SUN</p> <p>26 PAUL MCCARTNEY, FREEDOM</p> <p>27 NATALIE MERCHANT, JUST CAN'T LAST</p> <p>28 ALICIA KEYS, A WOMAN'S WORTH</p> <p>29 AALIYAH, ROCK THE BOAT</p> <p>30 COLDPLAY, TROUBLE</p> <p>31 CRAIG DAVID, FILL ME IN</p> <p>32 SHAKIRA, WHENEVER, WHEREVER</p> <p>33 MOBY, SOUTH SIDE</p> <p>34 STING, FRAGILE</p> <p>35 BON JOVI, IT'S MY LIFE</p> <p>36 BACKSTREET BOYS, DROWNING</p> <p>37 NO DOUBT, SIMPLE KIND OF LIFE</p> <p>38 FATBOY SLIM, WEAPON OF CHOICE</p> <p>39 MATCHBOX TWENTY, IF YOU'RE GONE</p> <p>40 MATCHBOX TWENTY, BENT</p> <p><b>NEW ONS</b></p> <p>MICK JAGGER, GOD GAVE ME EVERYTHING</p> <p>DAVE MATTHEWS BAND, EVERYDAY</p> <p>AEROSMITH, JUST PUSH PLAY</p> <p>ALL STAR TRIBUTE, WHAT'S GOING ON</p> <p>MACY GRAY, SEXUAL REVOLUTION</p>

## THE CLIP LIST

muchmusic usa	MUSIC TELEVISION 2	MUSIC TELEVISION EUROPE	COLLEGE TELEVISION NETWORK
<p>CREED, MY SACRIFICE (NEW)</p> <p>LUDACRIS, ROLL OUT (MY BUSINESS) (NEW)</p> <p>TRAIN, SOMETHING MORE (NEW)</p> <p><b>[OVEN FRESH]</b></p> <p>RADIOHEAD, I MIGHT BE WRONG</p> <p>INTERNATIONAL NOISE CONSPIRACY, CAPTAINS+STOLE MY VIRGINITY</p> <p>MARY J. BLIGE, NO MORE ORAMA</p> <p>DROWNING POOL, SINNER</p> <p>CRAIG DAVID, 7 DAYS</p> <p>CAKE, LOVE YOU MADLY</p> <p>GOLDFRAPP, UTOPIA</p> <p>WARREN G, LOOKIN' AT YOU</p> <p>THE SMASHING PUMPKINS, UNTITLED</p> <p>TIMBALAND &amp; MAGDO, ALL YATL</p>	<p><b>NEW</b></p> <p>SOIL, HALO</p> <p>FABLOUS, YOUNG'N (HOLLA BACK)</p> <p>CREED, MY SACRIFICE</p> <p>ANGIE STONE, BROTHA</p> <p>PUDDLE OF MUDD, BLURRY</p> <p>DAVE MATTHEWS BAND, EVERYDAY</p> <p><b>MUSIC</b></p> <p>CREED, MY SACRIFICE (NEW)</p> <p>CAKE, LOVE YOU MADLY (NEW)</p> <p>SOLITAIRE, EASY TO SLIP (NEW)</p> <p>AMANDA MARSHALL, EVERYBODY'S GOT A STORY (NEW)</p> <p>JAY-Z, GIRLS, GIRLS, GIRLS (NEW)</p> <p>ALIEN ANT FARM, MOVIES (NEW)</p> <p>BRASS TACKS, EMPIRES (NEW)</p> <p>DJ KEM, CLASH OF THE TITANS (NEW)</p> <p>NO DOUBT, HEY BABY (NEW)</p> <p>SMASH MOUTH, PACIFIC COAST PARTY (NEW)</p> <p>BUSTA RHYMES, BREAK YA NECK (NEW)</p> <p>SNYPAZ, PLANET HIP-HOP (NEW)</p> <p>BLINK-182, STAY TOGETHER FOR THE KIDS</p> <p>KID ROCK, FOREVER</p> <p>DEFAULT, WASTING MY TIME</p> <p>STAINED, FADE</p> <p>WAVE, I THINK IT OVER</p> <p>NICKELBACK, HOW YOU REMIND ME</p> <p>SUM 41, IN TOO DEEP</p> <p>BRITNEY SPEARS, I'M A SLAVE 4 U</p>	<p>KYLIE MINOGUE, CAN'T GET YOU OUT OF MY HEAD</p> <p>U2, WALK ON</p> <p>SUM 41, IN TOO DEEP</p> <p>BASEMENT JAXX, WHERE'S YOUR HEAD AT</p> <p>JANET, SON OF A GUN</p> <p>GARBAGE, ANDROGYNY</p> <p>ALICIA KEYS, FALLIN</p> <p>LINKIN PARK, IN THE END</p> <p>JENNIFER LOPEZ, I'M REAL</p> <p>MARY J. BLIGE, FAMILY AFFAIR</p> <p>DESTINY'S CHILD, EMOTION</p> <p>ANASTACIA, PAID MY DUES</p> <p>LIMP BIZKIT, BOILER</p> <p>BLINK-182, FIRST DATE</p> <p>WEEZER, ISLAND IN THE SUN</p> <p>MICHAEL JACKSON, YOU ROCK MY WORLD</p> <p>THE CRANBERRIES, ANALYSE</p> <p>BRITNEY SPEARS, I'M A SLAVE 4 U</p> <p>ALL STAR TRIBUTE, WHAT'S GOING ON</p> <p>CITY HIGH, WHAT WOULD YOU DO?</p>	<p>ALICIA KEYS, A WOMAN'S WORTH</p> <p>DAWN ROBINSON, ENVIQUS</p> <p>DUNGEON FAMILY, TRANS OF EXPRESS</p> <p>LUDACRIS, ROLL OUT (MY BUSINESS)</p> <p>MARIAH CAREY, DON'T STOP (FUNKIN' 4 JAMAICA)</p> <p>MERCURY REV, NITE AND FOG</p> <p>PINK, GET THE PARTY STARTED</p> <p>RYAN ADAMS, NEW YORK, NEW YORK</p> <p>SMASH MOUTH, PACIFIC COAST PARTY</p> <p>STEREOPHONICS, HAVE A NICE DAY</p> <p>SUGARCULT, STUCK IN AMERICA</p> <p>TENACIOUS D, WONDERBOY</p> <p>THE STROKES, LAST NITE</p> <p>TRAIN, SOMETHING MORE</p> <p><b>RAGE</b></p> <p>TV FOR U-NOT THEM -38</p> <p>1/2 hour weekly</p> <p>46 Gilford St, Brockton, MA 02401</p> <p>PRESSURE 4-5, BEAT THE WORLD</p> <p>HANDS ME DEVIL, MAKIN' MONEEY</p> <p>RAMSTEIN, ICH WILL</p> <p>REMY ZERO, SAVE ME</p> <p>COLDPLAY, TROUBLE</p> <p>THE CALLING, WHEREVER YOU WILL GO</p> <p>THE CRANBERRIES, ANALYSE</p> <p>DAVID GARZA, TOO MUCH</p> <p>JOVE NAVARRO, HUNGRY</p> <p>JOE BONAMASSA, LOVE YOU HATE YOU</p>

## Ruling Against Phil Spector Upheld

### Appellate Court Orders Payment Of Back Royalties

BY MELINDA NEWMAN

LOS ANGELES—Declaring it a victory for all artists, Ronettes' attorney Robert Donnelly is heralding the Nov. 13 decision by the New York Supreme Court's appellate division to uphold a lower court ruling that orders Phil Spector to pay the girl group nearly \$3 million in back royalties.

The five-judge panel unanimously upheld a June 2000 decision finding that, although a 1963 agreement between Spector and the Ronettes did not include synchronization and domestic licensing rights, the Ronettes were due payment for such usage based on industry customs and practices (*Billboard*, July 1, 2000).

"This ruling creates a legal precedent," Donnelly says. "Anyone, including contemporaries of [Ronettes' leader] Ronnie Spector's, whose con-

tract is silent on whether they are allowed to be paid on ancillary uses of this material on such things as soundtracks and commercials now [knows] that they are entitled to receive 50% of that ancillary income." Most contracts today include royalties for synch rights and licensing, but many older contracts do not provide for such rights. Donnelly is Ronnie Spector's music attorney; her litigator was Alex Peltz.

Ronnie Spector says, "Recording artists are fighting for their rights like never before, and I'm so proud to be part of that. I feel like a pioneer."

Phil Spector's attorney Andrew Bart says his client will petition the Court of Appeals in Albany, N.Y., for another hearing. "We believe this is a meritorious case and that it wasn't given an adequate hearing in the appellate court."