

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

SONY BMG CD
TECHNOLOGIES LITIGATION

Case No. 1:05-cv-09575-NRB

**DECLARATION OF JOSEPH E. LEVI IN THE SUPPORT OF PLAINTIFFS'
CLASS COUNCELS' APPLICATION FOR ATTORNEYS' FEES AND
REINMURSEMENT OF EXPENSES**

I, Joseph E. Levi declare as follows:

1. I am an attorney in good standing, duly licensed and admitted to practice in New York, and before the Southern District Court and Eastern District Courts of New York. I am a Partner at Zimmerman, Levi & Korsinsky, LLP, counsel of record for Mark Jacoby in Jacoby v. Sony BMG Music Entertainment Corp., Index No. 116679/05. A true and correct copy of my firm resume is attached hereto as Exhibit A and incorporated by reference herein.
2. I submit this declaration in support of Plaintiffs' Class Counsels' application for attorneys' fees and reimbursement of expenses in the above-entitled matter. The testimony set forth in this declaration is based on first-hand knowledge, about which I would and could testify competently in open court if called upon to do so, and on contemporaneously-generated records kept in the ordinary course of business.
3. The total number of professional hours expended in the litigation by Zimmerman, Levi & Korsinsky, LLP is 42.75 hours. The total lodestar amount for attorney, paralegal and professional staff time expended by Zimmerman, Levi & Korsinsky, LLP in the course of the litigation, based upon current rates, is \$19,037.50. The chart attached hereto as Exhibit B was prepared at my direction and presents a summary of the time spent from November 21, 2005 through January 10, 2006 on the litigation by attorneys, paralegals, and professional staff of the firm. The chart includes the name of each attorney, paralegal and professional staff member who has worked on the case, his or her current hourly billing rate, and the number of hours expended by each professional on this matter. The time reflected in this declaration was time actually spent, in the exercise of reasonable judgment, by the lawyers and staff involved, and includes drafting and filing a complaint, drafting discovery requests and communicating with defense counsel.

My firm was careful not to expend unnecessary hours and not to duplicate work done by others.

4. This firm expended a total of \$1,035.00 in unreimbursed expenses in connection with prosecution of the litigation on behalf of Mark Jacoby. The expenses incurred in this case are reflected in the books and records of the firm. These books and records are prepared from expense vouchers, check records, and other contemporaneously-recorded billing records, are an accurate record of expenses incurred in this litigation. Exhibit B, also details these expenses.

I declare under penalty of perjury under the laws of the United States of America and the State of New York that the foregoing is true and correct.

Executed this 28th day of March, 2006, at New York, NY.



JOSEPH E. LEVI

ZIMMERMAN, LEVI & KORSINSKY, LLP

THE FIRM

Zimmerman, Levi & Korsinsky, LLP is a national law firm that primarily concentrates in the areas of securities, antitrust, consumer and other class actions. Our firm is also active in patent enforcement litigation. We represent both plaintiffs and defendants and are currently involved in dozens of class action lawsuits and patent enforcement litigations in both state and federal courts across the country.

One of the members of our firm has been involved in nearly one hundred class action litigations and has obtained multi-million dollar recoveries in class action lawsuits. We have also achieved significant recoveries on behalf of clients in numerous patent enforcement cases. Our firm has offices in New York and New Jersey and is comprised of three partners: Jean-Marc Zimmerman, Joseph Levi and Eduard Korsinsky.

OUR EXPERIENCE

Set forth on the following pages is information relating to the qualifications of the firm. Section I identifies some of the class action lawsuits filed by our firm, Section II describes the experience of the members of our firm, and Section III describes our firm's experience in patent enforcement litigation.

I. CLASS ACTIONS

1. *Troost v. Bennet Environmental, et. al.*, 04 CV 06632, U.S. District Court, Southern District of New York.
2. *Gainnoit v. Pacific Bell Wireless, et. al.*, Case No. 04CC00563, Superior Court of the State of California, County of Orange.
3. *McCarney v. Accelaron Corp., et. al.*, Case No. RG 04-145685, Superior Court of California, County of Alameda.
4. *Pfeiffer v. Bjurman, Barry & Associates, et. al.*, 03 CV 9741, U.S. District Court, Southern District of New York.
5. *Zucker v. Aim Advisors, Inc., et al.*, H-03-5653, U.S. District Court, Southern District of Texas.
6. *Lieber v. Invesco Funds Group, Inc. et al.*, H-03-5744, U.S. District Court, Southern District of Texas.

7. *Pfeiffer v. Golden State Vintners, Inc., et al.*, CA 305-N, Court of Chancery of the State of Delaware County of New Castle.
8. *Chiarenza v. Dover Investments Corp., et al.*, CA 203-N, Court of Chancery of the State of Delaware County of New Castle.
9. *Nekritz v. Canary Capital Partners, et al.*, U.S. District Court for the District of New Jersey.
10. *In re Biovail Corp. Securities Litigation*, Master File No. 03-CV-8917, U.S. District Court, Southern District of New York.
11. *Mintz v. Putnam American Government Income Fund, et al.*, 03-CV-9149, U.S. District Court, Southern District of New York.
12. *Weiser v. PBHG Growth Fund, et al.*, U.S. District Court for the Eastern District of Pennsylvania.
13. *Mintz v. Morgan Stanley 21st Century Trend Fund, et al.*, 03-CV-9150, U.S. District Court, Southern District of New York.
14. *Pfeiffer v. Nortel Networks Corp., et al.*, 04-CV-02233, U.S. District Court, Southern District of New York.
15. *Korsinsky v. Royal Dutch Petroleum Company, et al.*, U.S. District Court for the District of New Jersey.
16. *Unger v. JetBlue Airways Corp., et al.*, U.S. District Court, Southern District of Florida, Miami Division.
17. *Pfeiffer v. Whitehall Jewelers, Inc., et al.*, 04C-1285, U.S. District Court, Northern District of Illinois.
18. *Trebitsch v. Sonus Networks, et al.*, 04-CV-10307, U.S. District Court for the District of Massachusetts.
19. *Pfeiffer v. Friedman's, Inc., et al.*, 1:03-cv-3564, U.S. District Court, Northern District of Georgia.
20. *Peltz v. El Paso Corp., et al.*, H-04-0701, U.S. District Court, Southern District of Texas. Lead Counsel.
21. *Trebitsch v. Wave Systems Corp., et al.*, 04-266, U.S. District Court For the District of New Jersey.

II. THE ATTORNEYS

EDUARD KORSINSKY, admitted to bar, 1996, New York; New Jersey (1996); United States District Court, Southern District of New York (1998); United States District Court, Eastern District of New York (1998). *Education*: Brooklyn College, B.S., *Summa cum laude*; Brooklyn Law School, J.D.; New York University School of Law, LL.M, Master of Law(s) Taxation. Mr. Korsinsky, through association with prior firms, has been representing clients in class action lawsuits since 1997. Cases which Mr. Korsinsky has litigated and/or in which his prior firm(s) served as lead counsel or co-lead counsel include: *In re NCS Healthcare, Inc. Securities Litigation*, CA 19786, Court of Chancery of the State of Delaware, County of New Castle (case settled for approximately \$100 million); *Paraschos, et al. v. YBM Magnex International, Inc.*, et al., No. 98-CV-6444, U.S. District Court, Eastern District of Pennsylvania (United States and Canadian cases settled for \$85 million Canadian); *In re Quintiles Transnational Corp., et. al.*, 02 CVS 5348, State of North Carolina, County of Durham; *Key Equity Investors, Inc., et. al. v. Lexent Inc., et al.*, CA 20177, Court of Chancery of the State of Delaware County of New Castle; *In re Livent, Inc. Securities Litigation*, 98-CIV-5686 (RWS), U.S. District Court, Southern District of New York.; *In re Shopping.com, Inc. Securities Litigation*, No. C-98-3255-ER (BQRx), U.S. District Court, Central District of California. (\$4.5 million settlement); *In re Advanced Health Corporation Securities Litigation*, 98-CV-4647 (BDP), U.S. District Court, Southern District of New York (settlement of \$2,954,790 plus attorneys' expenses); *In re Schein Pharmaceutical, Inc. Securities Litigation*, Master Docket No. 98-4311 (JCL), U.S. District Court, District of New Jersey (\$8 million settlement); *In re CyberCare Inc. Securities Litigation*, Case No.: 00-8404-CIV-RYSKAMP/VITUNAC, U.S. District Court, Southern District of Florida (settled for \$3.1 million in cash plus 4,000,000 shares in CyberCare stock); *In re ThermoRetec Securities Litigation*, No. 17601-NC, Court of Chancery of the State of Delaware, New Castle County (settled for \$750,000 plus expenses); *Adler, et. al. v. Ribozyme, et. al.*, No. 99-B-2235, U.S. District Court, District of Colorado (settled for \$3 million); *Lacoff v. Buena Vista Publ., Inc.*, No. 606005/98, Supreme Court of the State of New York, New York County, 2000 N.Y. Misc. LEXIS 25, January 28, 2000 (co-lead counsel with former New York State Attorney General G. Oliver Koppel)(settled for non-cash consideration valued at several million dollars); *Pavel v. E-Stamp Corp.*, CV 798624, Superior Court of the State of California, County of Santa Clara (settled for non-cash consideration valued at approximately \$2.2 million); *Chiarenza v. Curtis International Ltd.*, 01 Civ. 5381 (MGC), U.S. District Court, Southern District of New York (settled for approximately \$615,000).

JEAN-MARC ZIMMERMAN, admitted to the bar 1989, New Jersey; 1990, New York; Connecticut 1990; United States Patent and Trademark Office, 1993; United

States District Court, District of New Jersey (1989); United States District Court, Southern District of New York (1990); United States District Court, Eastern District of New York (1990). *Education*: University of Delaware, B.E.E. (1985); Seton Hall Law School, J.D. (1989), *Seton Hall Law Review*. In addition to his class action practice, Mr. Zimmerman has successfully represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications and information processing and has been instrumental in obtaining substantial awards and settlements.

JOSEPH E. LEVI, admitted to bar, 1996, New York; New Jersey (1996); United States Patent and Trademark Office (1997), United States District Court, Southern District of New York (1997); United States District Court, Eastern District of New York (1997). *Education*: Polytechnic University, B.S. (1984), *Summa cum laude*, MS (1986); Brooklyn Law School, J.D. (1995), *Magna cum laude*. In addition to his class action practice, Mr. Levi has successfully represented numerous patent holders in enforcing their patent rights in areas including computer hardware, software, communications and information processing and has been instrumental in obtaining substantial awards and settlements.

III. PATENT ENFORCEMENT LITIGATION

Our firm has successfully enforced and licensed patent portfolios in a variety of technologies such as data compression (U.S. Patent Nos. 4,472,747 and 4,636,876), information processing (U.S. Patent Nos. 5,258,855, 5,369,508, 5,625,465, 5,768,416 & 6,094,505), document imaging (U.S. Patent No. 5,191,525), communication devices (U.S. Patent Nos. 4,543,450, 4,603,320, 4,686,506 and 4,972,470), telephony (U.S. 4,475,009) and virus detection (U.S. Patent No. 4,975,950 and 5,121,345). Listed below are patent enforcement cases that are either pending or that the firm has successfully concluded.

1. *Digital Development Corp v. International Business Machines*, 03 CV 2905 (JGK), U.S. District Court, Southern District of New York.
2. *Digital Development Corp v. ASUS Computer International*, 04 CV 2158 (DLC), U.S. District Court, Southern District of New York.
3. *Audio Compression Inc. v. Sony Corporation*, 03-803 (WGB), U.S. District Court for the District of New Jersey.
4. *Audio Compression Inc. v. TDK Corporation*, 02 CV 2920 (ARL), U.S. District Court, Eastern District of New York.
5. *Forward Technologies LLC v. SBC Corp.*, C 03 1254 (MMC), U.S. District Court, Northern District of California.

6. *Acticon Technologies LLC v. TDK Corporation*, U.S. District Court, Eastern District of New York.
7. *Acticon Technologies v. Psion PLC*, 02 CV 2471 (MGC), U.S. District Court, Southern District of New York.
8. *Millennium LP v. Kofax Image Products*, CV 02 3049 (JS), U.S. District Court, Eastern District of New York.
9. *Millennium LP v. AnyDoc Software Inc.*, 03 CV 3899 (GBD), U.S. District Court, Southern District of New York.
10. *Millennium LP v. Dakota Imaging Inc.*, MJG-04-7073, U.S. District Court for the District of Maryland.
11. *Millennium LP v. Datacap Inc.*, 03 CV 1840 (JES), U.S. District Court, Southern District of New York.
12. *Millennium LP v. Fairfax Imaging*, 2:02 CV 5141 (JCL), U.S. District Court for the District of New Jersey.
13. *Millennium LP Filenet Corp.*, 03 CV 7311 (NRB), U.S. District Court, Southern District of New York.
14. *Millennium LP v. Readsoft Inc.*, 02 CV 0152 (JFS), U.S. District Court, Southern District of California.
15. *Millennium LP v. Recognition Research Inc.*, 03 CV 1839 (SHS), U.S. District Court, Southern District of New York.
16. *Millennium LP v. Top Image Systems LTD.*, 02 CV 10102 (LTS), U.S. District Court, Southern District of New York.

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Re: Jacoby v. Sony BMG Music Entertainment Corp., Index No. 116679/05

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Nov-21-05	drafted complaint	6.25	2,812.50	JL
Nov-22-05	drafted complaint	4.50	2,025.00	JL
Nov-28-05	drafted complaint	6.25	2,812.50	JL
Nov-28-05	drafting and finalizing state class action complaint	4.50	1,912.50	EK
Nov-30-05	drafting and finalizing complaint and summons	4.50	1,912.50	EK
Nov-30-05	drafting and finalizing the rogs and document demands; Telephone call with Defense Counsel (Jacobson re: case and process of service)	5.50	2,337.50	EK
Dec-01-05	drafted discovery requests	7.25	3,262.50	JL
Dec-05-05	review letter from Defense counsel and send letter to Jacobson	0.50	212.50	EK
Jan-10-06	Telephone call with Scott Kamber; Telephone call with JJ; review Settlement documents	3.50	1,750.00	EK
	Totals	42.75	\$19,037.50	
	Disbursements			
	Filing Fee		\$210.00	
	Computer Searches		\$825.00	
	Totals		\$1,035.00	
	Total Fee & Disbursements		\$20,072.50	

JL- JOSEPH E. LEVI
EK- EDUARD KORSINSKY