

Ridout & Maybee LLP

CANADA'S INTELLECTUAL PROPERTY AND TECHNOLOGY LAW FIRM

Reply to: Pauline Bosman
pbosman@ridoutmaybe.com

Via FACSIMILE & ORDINARY MAIL

March 22, 2006

Mr. Nicholas McHaffie
Stikeman Elliott LLP
Barristers & Solicitors
Suite 1600, 50 O'Connor Street
Ottawa, Ontario K1P 6L2

Dear Mr. McHaffie:

**Re: Musicrypt Inc. ats Destiny Media Technologies, Inc. et al
Court File No. T-413-06**

We have been retained by the Defendant, Musicrypt Inc. in respect of the above-noted matter. Your clients' Statement of Claim seeks relief pursuant to subsections 60(1) and 60(2) of the *Patent Act*. Pursuant to subsection 60(3) of the *Patent Act* your clients were required before proceeding to give security for costs of the patentee in an amount directed by the Federal Court. Our search of the court file in respect of this matter indicates that security for costs has not been given.

Accordingly, we require that your clients consent to an order setting aside service of the Statement of Claim on the basis that they have failed to comply with the provisions of subsection 60(3), and that they apply to the court to have the amount of security for costs fixed. The amount fixed should approximate the amount normally awarded by a court when security for costs are set (see *Power-Up Canada Ltd. v. Bishop* (1990) 34 CPR (3d) 429), and in the circumstances should be at least \$20,000.00.

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In the event that we do not receive your clients' agreement in respect of the foregoing by **March 28, 2006** our client will have no choice but to bring a motion setting aside service of the Statement of Claim. If such a motion is necessary, we will be seeking costs of the motion against your client on a solicitor and client scale.

Yours truly,

RIDOUT & MAYBEE LLP



Pauline Bosman
SC

cc: John Heaven

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