

No. 09-2571

United States Court Of Appeals  
For the First Circuit

SAMUEL BARTLEY STEELE; BART STEELE PUBLISHING; STEELE  
RECORDZ

Plaintiffs – Appellants

v.

TURNER BROADCASTING SYSTEM, INC.; TIME WARNER, INC.;  
JON BONGIOVI, individually and d/b/a Bon Jovi Publishing; RICHARD  
SAMBORA, individually and d/b/a Aggressive Music; WILLIAM FALCONE,  
individually and d/b/a Pretty Blue Songs; FOX BROADCASTING CO.;  
MAJOR LEAGUE BASEBALL PROPERTIES, INC.; MLB  
PRODUCTIONS, A&E; A&E/AETV; BON JOVI; AEG LIVE, LLC; MARK  
SHIMMEL MUSIC; VECTOR MANAGEMENT; AGGRESSIVE MUSIC,  
a/k/a Sony ATV Tunes; BON JOVI PUBLISHING; UNIVERSAL MUSIC  
PUBLISHING GROUP; UNIVERSAL POLYGRAM INTERNATIONAL  
PUBLISHING, INC., PRETTY BLUE SONGS; SONY ATV TUNES;  
KOBALT MUSIC PUBLISHING AMERICA, INC.; BOSTON RED SOX

Defendants – Appellees

THE AMERICAN SOCIETY OF COMPOSERS; FOX TELEVISION  
STATIONS, INC.; ISLAND RECORDS, a/k/a Island Def Jam Records;  
BIGGER PICTURE CINEMA CO.,

Defendants

Christopher A.D. Hunt  
The Hunt Law Firm LLC  
10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300

**APPELLANTS' MOTION TO SUPPLEMENT MOTION FOR  
SANCTIONS OR, ALTERNATIVELY, FOR JUDICIAL NOTICE**

Appellants Samuel Bartley Steele, Bart Steele Publishing, and Steele

Recordz ("Appellants") move, pursuant to Fed.R.App.P. 27, to supplement Appellants' September 15, 2010 Motion for Sanctions ("Appellants' Motion") with a recent and critical exchange of letters between counsel for Appellants and counsel for Appellees ("Correspondence") that confirmed a pillar of Appellants' Motion, specifically fraud on the Court.<sup>1</sup>

Alternatively, Appellants move this Court to take judicial notice of said correspondence pursuant to Fed.R.Evid. 201. See also E.I. Du Pont Nemours v. Cullen, 791 F.2d 5, 7 (1st Cir. 1986) (First Circuit has "adequate authority" to take judicial notice of state court complaint where neither party disputes its authenticity: "[F]ederal courts, in appropriate circumstances, may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue," quoting Green v. Warden, U.S. Penitentiary, 699 F.2d 364, 369 (7th Cir. 1983)).

### Introduction

The Correspondence arose from a separate U.S. District Court action that Steele filed case against four Appellees and other defendants, including

---

<sup>1</sup>The Correspondence, which consists of letters between counsel dated October 11, 2010 and October 14, and two dated October 20, 2010, are attached as Exhibits 1-4, respectively.

Appellees' counsel on July 20, 2010, alleging improper removal or alteration of copyright management information to conceal infringement, in violation of 17 U.S.C. §§ 1202 and 1203. See Steele v. Bongiovi, et al., No. 10-11218-DPW (D. Mass) (Woodlock, J.) ("Steele II").<sup>2</sup>

The impetus for the Correspondence was the September 27, 2010 Memorandum and Order in the underlying case to this appeal, Steele v. TBS No. 08-11727-NMG (D. Mass) (Gorton, J.) ("Steele I"), which the undersigned realized had the potential to undermine the viability of Steele II ("Steele I Order").<sup>3</sup>

Accordingly, on October 11, 2010 Appellants offered to withdraw Steele II based on the Steele I Order - once MLBAM confirmed that it had authorized removal of the MLBAM copyright from the MLB Audiovisual in Steele I. See Exhibit 1.

---

<sup>2</sup> Specifically, Steele II alleges removal of the MLBAM copyright notice, without MLBAM's authority, from the version of the infringing MLB Audiovisual that Appellees filed in Steele I and in this Court (and falsely swore to as a "true and correct copy").

<sup>3</sup> The Steele I Order found that MLBAM was - contrary to MLB's assertions - properly served in, and a party to, Steele I, which raised the question of whether MLBAM authorized removal of its copyright notice from the version of the infringing MLB Audiovisual that Appellees filed in Steele I. If so, Steele II would no longer be viable. Steele, in good faith, sought to determine whether MLBAM authorized removal so as to avoid unnecessary litigation.

Appellees' October 14, 2010 response failed to confirm whether MLBAM had authorized removal of its copyright notice. See Exhibits 2, 3. Appellees did, however - perhaps inadvertently - admit that they had not filed a "true and correct copy" of the infringing work in Steele I and subsequently on appeal. See Exhibits 2 & 3.

Given the significance of this development - confirming Appellees' filing of false evidence and making false statements to the Court - Appellants respectfully request that their Motion for Sanctions be supplemented with the attached Correspondence. Alternatively, as there is no "reasonable question" as to the source and content of the Correspondence, including Appellees' October 14, 2010 letter, this Court may take judicial notice thereof. See Fed.R.Evid.

201. See also E.I. Du Pont Nemours 791 F.2d at 7.

What the Correspondence Reveals: The Ostensible "True and Correct Copy" Filed in Steele I Rendered a Mere "Version" for Purposes of Steele II

*Steele I:*

Appellants have addressed the missing MLBAM copyright notice in Appellants' Opening Brief, Reply, and Motion for Sanctions. Appellants' filings specifically noted that Appellees filed an altered version of the infringing

work rather than a "true and correct copy."

Appellees attempted to downplay their fraudulent submission, calling it Appellants' "alteration theory... [in which] [Appellants] assert[] in conclusory fashion that the [Appellees] 'submitted an altered or otherwise inaccurate copy of its Audiovisual.'" See Appellees' Brief at 47 (emphasis supplied) (quoting Appellants' Opening Brief at 18).

Appellees, in fact, went on to proclaim in no uncertain terms that "Defendants submitted a copy of the TBS promo to the District Court not once, but three separate times." See Appellees' Brief at 48 (emphasis supplied). Appellees later reiterated their purported submission of a "copy" in their September 30, 2010 Response to Motion for Sanctions at 4.

*Steele II:*

Two weeks later, on October 14, 2010, faced with Steele II's specific allegation, pursuant to 17 U.S.C. § 1202, of unauthorized removal of the MLBAM copyright notice "conveyed in connection with [Appellants'] cop[y]" of the audiovisual filed in Steele I, Appellees' counsel Skadden Arps did an abrupt - though deceptively subtle - about-face.

In an attempt to dodge the issue raised by § 1202, Appellees

retrospectively re-classified their former “true and correct copy” as a version – specifically the “version... submitted by [Appellees] to Judge Gorton in “*Steele I*,” so as to enable them to deny removal of the copyright notice from that version. See Exhibit 2 at 1; Exhibit 3 at 1-3. As stated in Appellants’ October 20, 2010 letter, however, the “version” Appellees filed in *Steele I* did not have the copyright notice, so denying it was removed from that “version” is meaningless.

The issue under § 1202 – and in this appeal and related Motion for Sanctions – is whether Appellees’ “version... submitted... in *Steele I*” was a “true and correct” copy of the undisputed, original, and published infringing MLB Audiovisual. Appellees’ attempt to redefine their evidentiary submission in *Steele I* from “copy” to “version” provides the answer.

Appellees’ mutually exclusive arguments that their audiovisual was a “true and correct copy” (which necessarily would have included the copyright notice) for *Steele I* purposes but also merely a “version” (already lacking the copyright notice, negating § 1202’s requirement of authority for its removal) for *Steele II* purposes, conclusively proves that Appellees’ *Steele I* Court-filed “version” was not a “true and correct copy” of the actual infringing work. See

Exhibit 3.

Once called out, Appellees did not even attempt to offer an explanation for their attempted duplicitousness. See Exhibit 4. As with Appellees' counsel's failed stipulation "set up," detailed in Appellants' Motion for Sanctions at 16-19, Appellees' counsel were simply "caught out," unable to defend their attempted deceit. See Exhibit 4.

### Conclusion

Appellees' October 14, 2010 admission, Exhibit 2, confirms as fact what Appellees had previously mocked as Appellants' "alteration theory:" Specifically, that Appellees "submitted an altered or otherwise inaccurate copy of [the MLB] Audiovisual." See Appellees' Brief at 47 (emphasis supplied).

The primary source facts contained in the Correspondence attached hereto, the authenticity of which is undisputed, will assist the Court in its consideration of the pending appeal and Motion for Sanctions.

WHEREFORE, Appellants' respectfully request that this Honorable Court allow Appellants to supplement their September 15, 2010 Motion for Sanctions with the attached correspondence, Exhibits 1-4, or, alternatively, to take judicial notice thereof.

Respectfully submitted, Samuel Bartley  
Steele, Steele Recordz, Bart Steele  
Publishing,  
By their counsel,

/s/Christopher A.D. Hunt  
Christopher A.D. Hunt  
MA BBO# 634808  
Court of Appeals Bar #61166  
THE HUNT LAW FIRM LLC  
10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
[cadhunt@earthlink.net](mailto:cadhunt@earthlink.net)

Dated: November 8, 2010



CERTIFICATE OF SERVICE

I, Christopher A.D. Hunt, hereby certify that on November 8, 2010, I caused this Reply Brief of Appellants Samuel Bartley Steele, Bart Steele Publishing, and Steele Recordz, filed through the ECF system, to be served electronically by the Notice of Docket Activity upon the ECF filers listed below.

Clifford M. Sloan  
Skadden, Arps, Slate, Meagher & Flom LLP  
1440 New York Avenue, NW  
Washington, DC 20005  
[csloan@skadden.com](mailto:csloan@skadden.com)

Kenneth A. Plevan  
Skadden, Arps, Slate, Meagher & Flom LLP  
One Beacon Street  
31<sup>st</sup> Floor  
Boston, MA 02108  
[kplevan@skadden.com](mailto:kplevan@skadden.com)

Scott D. Brown  
Skadden, Arps, Slate, Meagher & Flom LLP  
One Beacon Street  
31<sup>st</sup> Floor  
Boston, MA 02108  
[sbrown@skadden.com](mailto:sbrown@skadden.com)

Christopher G. Clark  
Skadden, Arps, Slate, Meagher & Flom LLP  
One Beacon Street  
31<sup>st</sup> Floor  
Boston, MA 02108  
[sbrown@skadden.com](mailto:sbrown@skadden.com)

Matthew J. Matule  
Skadden, Arps, Slate, Meagher & Flom LLP  
One Beacon Street  
31<sup>st</sup> Floor  
Boston, MA 02108  
[sbrown@skadden.com](mailto:sbrown@skadden.com)

Dated: November 8, 2010

/s/ Christopher A.D. Hunt  
Christopher A.D. Hunt

# EXHIBIT 1

THE HUNT LAW FIRM LLC

10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
(508) 478-0595 (fax)  
cadhunt@earthlink.net

VIA ELECTRONIC MAIL

October 11, 2010

Clifford M. Sloan, Esq.  
Skadden Arps Slate Meagher & Flom LLP  
1440 New York Ave., N.W.  
Washington, DC 20005-0000

Re: Steele II Status Following Court's September 27, 2010 Order  
Steele v. Bongiovi, et al., No. 1:10-cv-11218-DPW (Steele II)

Dear Attorney Sloan:

I write about a fact issue relating to Steele II arising from to the Court's September 27, 2010 Order ("Order") in Steele I (08-11727). Steele II is based on 17 U.S.C. §§ 1202 and 1203, prohibiting removal or alteration of copyright management information, e.g., a copyright notice. The factual basis of Steele II is defendants' unauthorized removal of MLBAM's copyright notice from the MLB Audiovisual:

Defendant[s], without the authority of the copyright owner or law, intentionally removed or altered, or knowingly and materially contributed to the intentional removal or alteration of, copyright management information from the MLB Audiovisual, including information set forth in MLBAM's notice of copyright... See, generally, Steele II Complaint (emphasis supplied).

The Order found that "MLBAM was adequately served with process," Order at 9, leaving open the possibility that MLBAM was aware of, and authorized, removal of the MLBAM copyright notice from the MLB Audiovisual filed with the Court. If MLBAM did, in fact, authorize removal of the copyright notice, Steele, in good faith, would have no choice but to dismiss Steele II.

However, as the record stands, MLBAM's authority or lack thereof is an open question. If MLBAM will confirm in writing that it authorized the removal of its copyright notice from the MLB Audiovisual filed in Steel I, Steele will dismiss Steele II. Out of an abundance of caution, dismissal of Steele II would be without prejudice. However, barring new or newly discovered evidence contrary to MLBAM's confirmation that it authorized removal of the copyright notice (if provided), Steele will not re-file or otherwise assert §§1202 and 1203 violations arising from the MLB Audiovisual filed in Steele I.

## THE HUNT LAW FIRM LLC

10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
(508) 478-0595 (fax)  
cadhunt@earthlink.net

Accordingly, I ask that you provide confirmation that MLBAM authorized removal of its copyright notice from the MLB Audiovisual, if possible, at which point Steele will immediately dismiss Steele II. If, on the other hand, MLBAM did not authorize removal of its copyright notice or if you are unwilling or unable to determine whether MLBAM gave such authorization, please so advise. In that event, Steele will have no choice but to maintain Steele II.

At this point, the Steele II summonses have not yet been forwarded to the U.S. Marshal's office for service of process. Given the Order, Steele decided that, without providing MLBAM the opportunity to clarify its authority or lack thereof, Steele could not pursue Steele II in good faith.

Accordingly, I request that you respond at your earliest convenience. If we do not hear from you by Thursday, October 14, 2010, we will have no choice but to assume MLBAM did not authorize removal of its copyright notice and will proceed with service of process. If you need additional time to procure MLBAM's written confirmation, please so advise as soon as possible and we will endeavor to accommodate any reasonable request.

In the meantime, if you need any further clarification or have any questions, please do not hesitate to contact me.

Thank will you for your attention to this matter.

Very truly yours,



Christopher A.D. Hunt

cc: Kenneth A. Plevan, Esq. (via e-mail)  
Scott D. Brown, Esq. (via e-mail)  
Matthew J. Matule, Esq. (via e-mail)  
Christopher G. Clark, Esq. (via e-mail)

## EXHIBIT 2

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
FOUR TIMES SQUARE  
NEW YORK 10036-6522

TEL: (212) 735-3000  
FAX: (212) 735-2000  
www.skadden.com

FIRM/AFFILIATE OFFICES

BOSTON  
CHICAGO  
HOUSTON  
LOS ANGELES  
PALO ALTO  
SAN FRANCISCO  
WASHINGTON, D.C.  
WILMINGTON

BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
MUNICH  
PARIS  
SÃO PAULO  
SHANGHAI  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO  
VIENNA

DIRECT DIAL  
(212) 735-3410  
DIRECT FAX  
(917) 777-3410  
EMAIL ADDRESS  
KENENTH.PLEVAN@SKADDEN.COM

October 14, 2010

**BY EMAIL AND FIRST CLASS MAIL**

Christopher A.D. Hunt, Esq.  
The Hunt Law Firm LLC  
10 Heron Lane  
Hopedale, Massachusetts 01747

RE: Steele II

Dear Mr. Hunt:

This letter responds to your October 11, 2010 letter, addressed to my colleague Clifford M. Sloan, regarding *Steele v. Bongiovi*, No. 10-11218-DPW (D. Mass. filed July 20, 2010) (Woodlock, J.) ("*Steele II*").

While your letter purports to outline a course of action that could result in the withdrawal of *Steele II* without prejudice, in our view your letter was not sent in good faith. This is because the letter repeatedly *assumes* that a copyright notice was removed from the version of the "Turner Promo" submitted by defendants to Judge Gorton in "*Steele I*."<sup>1</sup> Indeed, your two-page letter employs the word "removal" ten times. However, as we have previously advised you,<sup>2</sup> no copyright notice was in fact removed from said version of the Turner Promo,

<sup>1</sup> *Steele v. Turner Broadcasting System, Inc.*, No. 08-11727-NMG (D. Mass. filed Oct. 8, 2008) (Gorton, J.)

<sup>2</sup> *See, e.g.*, Letter dated September 13, 2010 from Kenneth Plevan to Christopher A.D. Hunt at 2 ("[N]either this firm, nor any of its attorneys, removed an MLBAM copyright notice, or any other copyright notice, from what we had referred to as the 'Turner Promo' submitted to and considered by the Court in granting summary judgment dismissing Plaintiffs' copyright claim. Nor, to the knowledge of this firm and its attorneys, did any defendant 'remove' any copyright notice from the Turner Promo.").

Christopher A.D. Hunt, Esq.

October 14, 2010

Page 2

notwithstanding your repeated and baseless assertions to the contrary. Accordingly, having not removed any copyright notice, there was no occasion for any defendant in *Steele II* to have considered whether the consent of a copyright owner should be solicited or was required.

We note next that in connection with the series of *Steele* lawsuits, you have sent numerous such letters to one or more defendants. You then place each, and their responses, in the public record, leading us to conclude that (i) none have been sent in good faith, but in an effort to seek to gain a tactical advantage, and (ii) the letters are part of the effort by you and Mr. Steele to harass defendants with baseless litigation tactics.

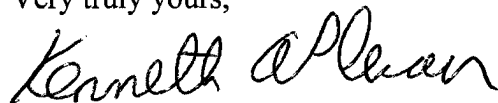
Next, we note that the so-called alteration/removal issue has been raised by plaintiffs in *Steele I* no less than *five times*. (See, e.g., Motion for Entry of Default as to MLBAM at 7-8; Reply Memorandum of Law in Support of Motion for Entry of Default as to MLBAM at 6; First Circuit Opening Brief at 18-19; First Circuit Reply Brief at 8-9; First Circuit Motion for Sanctions at 7-8.) You have never provided any proper rationale for using that allegation as the basis for an independent lawsuit.

Next, as you also know, after considering several of your filings raising the removal/alteration issue, the *Steele I* District Court concluded that although “Steele alleges that the Defendants . . . have made a number of misrepresentations to the Court . . . . Steele does not, however, explain how his allegations have any bearing on the Court’s decision with respect to these motions and offers no evidence of bad faith on the part of the Defendants.” (Memorandum & Order dated September 27, 2010 (Docket No. 136). That express rejection of Steele’s baseless removal/alteration allegation further confirms that *Steele II* is on its face meritless as a matter of law.

In conclusion, we note that there are several additional grounds for the dismissal of *Steele II* on the face of the Complaint as a matter of law, however, no useful purpose would be served by outlining them here.

You note that process in *Steele II* has not been served. You should withdraw *Steele II* with prejudice, as it is completely without merit and constitutes the kind of improper conduct regarding which you and Mr. Steele have now been “forewarned” by Judge Gorton. Defendants reserve the right to seek sanctions if the lawsuit is not promptly withdrawn with prejudice.

Very truly yours,



Kenneth A. Plevan

# EXHIBIT 3



THE HUNT LAW FIRM LLC

10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
(508) 478-0595 (fax)  
cadhunt@earthlink.net

VIA ELECTRONIC MAIL

October 20, 2010

Kenneth A. Plevan, Esq.  
Skadden Arps Slate Meagher & Flom LLP  
Four Times Square  
New York, NY 10036-6522

Re: Steele v. Bongiovi, et al., No. 1:10-cv-11218-DPW (Steele II)

Dear Mr. Plevan:

This will respond to your October 14, 2010 letter replying to my offer to conditionally withdraw Steele II.

Steele II does not allege that the MLBAM copyright notice was removed from "the version of the 'Turner Promo' submitted by defendants to Judge Gorton in '*Steele I*,'" or that a "copyright notice was in fact removed from said version of the Turner Promo," or that the notice was removed "from what [you] had referred to as the 'Turner Promo' submitted to and considered by the Court." See October 14, 2010 letter, 1-2, and 1 n.2 (emphasis supplied). Obviously, that "version" did not contain the MLBAM copyright notice, so there was nothing to "remove;" denying that the copyright notice was "removed" from a "version" that did not contain the copyright notice is meaningless.

The infringing audiovisual at issue in Steele I, and therefore in Steele II, is the actual final, published, and public audiovisual that Steele (and millions of others) saw beginning on August 27, 2007 at MLB.com and that was played at thousands of theaters, ballparks, and other public venues nationally and around the world. It displays the MLBAM copyright notice.

The infringing audiovisual at issue is not, and by definition could not be, the draft, unpublished, and non-public audiovisual dated August 20, 2007 and titled "VERSION: FINAL 2," which did not contain the MLBAM copyright notice, and which Defendants filed - and represented to the Court as a "true and correct" copy of the infringing audiovisual - with the Court in Steele I.<sup>1</sup>

---

<sup>1</sup> For clarity, I will refer to the infringing work at issue in Steele I and Steele II as the "MLB Audiovisual" and to the audiovisual Defendants filed in Steele I as "Defendants' Audiovisual."

## THE HUNT LAW FIRM LLC

10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
(508) 478-0595 (fax)  
cadhunt@earthlink.net

The issue in Steele II, therefore, is simple: whether Defendants submitted an accurate ("true and correct") copy of the infringing work at issue, i.e., the MLB Audiovisual, which, by definition, includes the MLBAM copyright notice. The answer is clearly no, which you now concede by referring only to the "version" (not copy) Defendants filed with the Court.

However, at the time of filing, Defendants represented - in Declarations (made under penalty of perjury) and in numerous other Court filings - that their Audiovisual was a "true and correct" copy of the MLB Audiovisual. Defendants never once represented to the Court that their Audiovisual was a "version" rather than a copy of the MLB Audiovisual, as Defendants now argue.

For example, In your December 8, 2008 filings in support of Defendants' Motion to Dismiss, Defendants refer to Steele's allegations that "Turner allegedly created an 'ad,'" and state that because "Steele has not included a copy of the allegedly infringing Turner Promo in his Complaint exhibits, it is submitted with the Brown Declaration as Exhibit 1 thereto." See Defendants Memorandum of Law in Support of Motion to Dismiss (Docket entry 18) at 3 and at 3 n.3.

The February 18, 2009 Declaration of Scott D. Brown in support of Defendants' Motion to Dismiss (Docket entry 50), states the following:

A true and correct copy of an audiovisual file of the promotional video (referred to by plaintiffs in the Amended Complaint as an "ad") that Defendant Turner Broadcasting System Inc. is alleged in paragraph 27 of the Amended Complaint to have created to promote the 2007 postseason (the "TBS Promo") is contained in the DVD submitted herewith as Exhibit 1.

See February 18, 2009 Brown Declaration at 2, ¶ 2.

Paragraph 27 of Steele's Amended Complaint (Docket entry 41) refers to the announcement of the "full length promo" of the audiovisual. See Steele Amended Complaint at ¶ 27. The "full-length promo" of the audiovisual as described in Paragraph 27 of Steele's Amended Complaint is, of course, the MLB Audiovisual, which contains the MLBAM copyright notice.

The June 10, 2009 Declaration of Scott D. Brown contains nearly identical language, identifying the enclosed DVD- Exhibit 6 - as containing a "true and correct copy" of the "promotional video" identified by Steele in paragraph 27 of his Amended Complaint to have been

## THE HUNT LAW FIRM LLC

10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
(508) 478-0595 (fax)  
cadhunt@earthlink.net

created by "Defendant Turner Broadcasting System, Inc." See June 10, 2009 Brown Declaration, ¶11.

The same June 10, 2009 Brown Declaration states that Exhibit 1 to Steele's original Complaint "comprised of an overlay of the TBS Promo visuals with Steele's song." See Id. at ¶12 (emphasis supplied). The "visuals" to the "TBS Promo" (as defined by Defendants), contained in Exhibit 1 to Steele's original Complaint and referenced in the June 10, 2009 Brown Declaration, were visuals of the MLB Audiovisual, which contained the MLBAM copyright notice.

Defendants' Audiovisual would necessarily have to include all elements of the MLB Audiovisual, including the MLBAM copyright notice, in order to be a copy, rather than merely a "version."<sup>2</sup>

Defendants' Audiovisual, therefore, was not a "true and correct" copy of the MLB Audiovisual. The lack of MLBAM's copyright notice on Defendants' Audiovisual is the primary basis of Steele II. Whether the MLBAM copyright notice was deleted, omitted, or never a part of Defendants' Audiovisual is irrelevant to Steele II.<sup>3</sup>

What is relevant is that Defendants' Audiovisual did not contain the copyright management information "conveyed in connection with [a copy]" of the MLB Audiovisual, pursuant to §1202(c). Accordingly, the copyright management information (or lack thereof) conveyed in Defendants' Audiovisual was *de jure* removed and otherwise false. See 17 U.S.C. §§1202(a)(1), (b)(1), (c), (c)(1), (c)(3).

Accordingly, Steele rejects your attempt to sidestep the issue by referencing different "versions" of the audiovisual. Putting aside the inherent fraud of filing a materially different "version" with the Court - which you now not only explicitly acknowledge (in direct contradiction to your false representations of it as a "true and correct copy"), but brazenly attempt to use your false filing to defend Steele II - 17 U.S.C. §1202 is concerned with "copies," not "versions."

---

<sup>2</sup> Section 1202(c) defines the term "copyright management information" as information "conveyed in connection with copies" of a work identifying the work or the copyright owner of the work, including information contained in a copyright notice. See 17 U.S.C. §§1202(c), (c)(1), 1202 (c)(3).

<sup>3</sup> Though it certainly would have been relevant during the litigation of Steele I.

THE HUNT LAW FIRM LLC

10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
(508) 478-0595 (fax)  
cadhunt@earthlink.net

In sum, that Defendants' Audiovisual conveyed false and/or removed copyright management information "in connection with copies" of the MLB Audiovisual is incontrovertible. Your October 14, 2010 letter's attempt to improperly reframe the issue as one of different "versions" rather than one of "copies" merely confirms this fact.

Nonetheless, I now reiterate my offer to withdraw Steele II without prejudice if you provide a written statement from MLBAM confirming their authorization of Defendants' filing of Defendants' Audiovisual without MLBAM's copyright notice in Steele I. I am sure you realize that if MLBAM did authorize the filing of Defendants' Audiovisual, but for whatever reason you are unwilling to provide proof of that authorization now - and such evidence is later discovered - you will have forced unnecessary litigation upon the Steele II Defendants and the Court and wasted judicial resources, which is sanctionable conduct.

Conversely, if MLBAM did not authorize Defendants' filing of Defendants' Audiovisual, then the Steele II Defendants violated 17 U.S.C. §1202, and Steele II will be pursued in good faith.

If I do not hear from you by 5:00 p.m. today, I will assume MLBAM did not authorize Defendants' filing of the MLB Audiovisual and will commence service of process in Steele II.

The remaining issues raised in your letter of October 14, 2010 have little or no relevance to Steele II or my request, but nonetheless compel a response.

First, I take issue with your assertion that my letter and offer are not made in good faith. As with each and every prior correspondence to you requesting information, my purpose is to avoid unnecessary litigation, whether in the form of a new claim, as here, or attempting to avoid

THE HUNT LAW FIRM LLC

10 Heron Lane  
Hopedale, MA 01747  
(508) 966-7300  
(508) 478-0595 (fax)  
cadhunt@earthlink.net

unnecessary motion practice, as with my prior letters. I will continue, where appropriate, to seek information from you that may help avoid or minimize litigation, now or in the future.<sup>4</sup>

Second, as you point out, Steele has raised the issue of the missing MLBAM copyright notice several times ("no less than *five times*," according to your October 14 2010 letter). Defendants, of course, have also failed to explain the absence of the MLBAM copyright notice each of the "no less than *five times*" Steele has raised the issue.<sup>5</sup>

Finally, as to the Court's September 27 2010 Order, you are simply wrong. The Court made no "express" findings as to the issue of the removed MLBAM copyright notice whatsoever.

Thank you for your attention to this matter.

Very truly yours,



Christopher A.D. Hunt

- cc: Clifford Sloan, Esq. (via e-mail)
- Scott D. Brown, Esq. (via e-mail)
- Matthew J. Matule, Esq. (via e-mail)
- Christopher G. Clark, Esq. (via e-mail)

---

<sup>4</sup> As to any "tactical advantage" to Steele I can only say that any such advantage gained by Steele is the result of Defendants' inability or unwillingness to provide information in support of Defendants' claims and defenses, which Steele seeks solely to move this litigation to an expedient - but fair - conclusion. As to your claim of "harassment," you have the right - and have exercised the right - to ignore Steele's good faith requests; you also have the reciprocal right to request information or clarification from Steele. Seeking to avoid unnecessary litigation or motion practice is not "harassment," but is, in fact, lauded by the Courts.

<sup>5</sup> Steele has also explained in detail in previous court filings the significance the omitted MLBAM copyright notice. In particular that it is consistent with MLBAM's default (confirmed by the Court's September 27, 2010 Order) and other facts showing an effort to improperly remove MLBAM from Steele I and to otherwise conceal infringement.

# EXHIBIT 4

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

FOUR TIMES SQUARE  
NEW YORK 10036-6522

TEL: (212) 735-3000  
FAX: (212) 735-2000  
www.skadden.com

FIRM/AFFILIATE OFFICES

BOSTON  
CHICAGO  
HOUSTON  
LOS ANGELES  
PALO ALTO  
SAN FRANCISCO  
WASHINGTON, D.C.  
WILMINGTON

BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
MUNICH  
PARIS  
SÃO PAULO  
SHANGHAI  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO  
VIENNA

DIRECT DIAL  
(212) 735-3410  
DIRECT FAX  
(917) 777-3410  
EMAIL ADDRESS  
KENENTH.PLEVAN@SKADDEN.COM

October 20, 2010

BY EMAIL

Christopher A.D. Hunt, Esq.  
The Hunt Law Firm LLC  
10 Heron Lane  
Hopedale, MA 01747

RE: Steele, et al. v. Turner Broadcasting System,  
Inc., et al., No. 08-11727-NMG (D. Mass.)

Dear Mr. Hunt:

Responding briefly to your letter of today, October 20, 2010, you still have failed to explain how a copyright notice is either (i) part of a work of authorship protected by copyright, or (ii) would have in any way impacted Judge Gorton's analysis of the copyright infringement claim in *Steele I*. We can only surmise that the "removal" issue is one contrived by you post-dismissal, in a misguided effort to try to make an "end-run" around Judge Gorton's complete dismissal of Mr. Steele's copyright claims. The *Steele II* Complaint remains, in our view, meritless as a matter of law.

Very truly yours,

  
Kenneth A. Plevan