

Making Circumstantial Proof of Distribution Available

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In a recent case that made national headlines, Capitol Records and a number of other record companies sued Jammie Thomas, a single mother from Brainerd, Minnesota, for copyright infringement of numerous sound recordings that resided on her computer.¹ Much of the press coverage focused on the fact that this was the first record company law suit against an individual to go to a jury.² Making the case even more newsworthy was the jury's award of \$222,000 against Thomas for the twenty-four sound recordings found to have been infringed.³ Given that these songs could have been purchased lawfully for under twenty five dollars, some claimed that the award was disproportionate to the harm.⁴ But the jury award was not the only newsworthy event in the trial.

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¹ See Complaint for Copyright Infringement, *Capitol Records, Inc. v. Thomas*, No. 06-CV-1497, 2006 WL 1431921 (D. Minn. Apr. 19, 2006).

² See, e.g., Posting of David Kravets to Wired Threat Level Blog, *RIAA Jury Finds Minnesota Woman Liable for Piracy, Awards \$222,000*, <http://blog.wired.com/27bstroke6/2007/10/riaa-jury-finds.html> (Oct. 4, 2007, 17:34 EST).

³ See *id.* Apparently, it took the jury only five minutes to reach this decision of willful infringement, but it then spent another five hours on the proper amount of the damage award. See Posting of David Kravets to Wired Threat Level Blog, *RIAA Juror: 'We Wanted to Send a Message'*, <http://blog.wired.com/27bstroke6/2007/10/riaa-juror-we-w.html> (Oct. 9, 2007, 13:17 EST).

⁴ In fact, the defendant alleged that the amount of the award was unconstitutional. See Defendant's Motion for New Trial, Or In the Alternative, for Remittitur, *Thomas*, No. 06-