

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
Case No. 04-CV-4995 EMC**

BRAYTON PURCELL LLP, a California partnership

Plaintiff,

v.

RECORDON & RECORDON, a California partnership, APPTOMIX, INC., a  
California corporation, and JONATHAN LEE, an individual,

Defendants,

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RECORDON & RECORDON, a California professional corporation,

Cross-Complainant,

v.

APPTOMIX, INC., a California corporation, and JONATHAN LEE, an individual,

Cross-Defendants.

**ORDER OF ARBITRATOR**  
**M. John Carson – 5/17/2006**

After reviewing all of the information submitted, the arbitrator finds as follows:

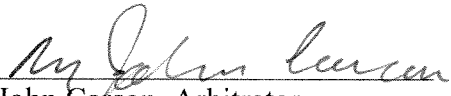
1. Recordon has directly infringed the copyrights of Brayton Purcell
2. Recordon had the right to control and/or supervise the website development and therefore is vicariously liable.
3. Recordon is liable for Brayton Purcell's development expenses, as statutory damages, and 1/3 of its attorneys fees and costs in connection with this litigation to date.
4. Apptomix supervised and/or had the right to supervise Mr. Tarle.
5. Apptomix had a financial interest in the work product it produced for Recordon.
6. Willful infringement by Tarle has been admitted.
7. Apptomix and Lee are:
  - A. Jointly and severally liable.
  - B. Liable for an amount equal to twice the amount of the development expenses, as statutory damages, and 2/3 of its attorneys fees and costs
8. Recordon's Cross-Complaint is denied.

NOW, THEREFORE, it is ordered that:

- A. Recordon pay to Brayton Purcell \$24,327.00, as statutory damages, and \$36,827.00 for fees and costs; and
- B. Apptomix and Lee, jointly and severally, pay to Brayton Purcell \$48,654.00, as statutory damages, and \$73,655.00 for fees and costs.

**SO ORDERED.**

Dated: May 17, 2006

  
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M. John Carson, Arbitrator