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8 Word Music, LLC, Dayspring Music, LLC, Wordspring Music,
9 LLC, Unichappell Music, Inc., Chappell & Co., Inc., Cotillion
10 Music, Inc., Rightsong Music, Inc., Walden Music, Inc.,
11 Warner/Tamerlane Publishing Corp., and WB Music Corp.

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA

15 MEDIOSTREAM, INC.,

16 Plaintiff,

17 v.

18 PRIDDIS MUSIC, INC. AND
19 WARNER/CHAPPELL MUSIC, INC., et. al.

20 Defendants.

CASE NO. C 07 2127 PJH

**JOINT STIPULATION OF THE PARTIES
REQUESTING A FOUR-WEEK
CONTINUANCE OF THE SEPTEMBER
27, 2007 CASE MANAGEMENT
CONFERENCE**

21 Plaintiff Mediostream, Inc. ("Mediostream") and Defendants Priddis Music, Inc.
22 ("Priddis"), Warner/Chappell Music, Inc., Word Music, LLC, Dayspring Music, LLC, Wordspring
23 Music, LLC, Unichappell Music, Inc., Chappell & Co., Inc., Cotillion Music, Inc., Rightsong
24 Music, Inc., Walden Music, Inc., Warner/Tamerlane Publishing Corp., and WB Music Corp. (the
25 defendants other than Priddis collectively are referred to hereafter as the "Warner Defendants")
26 through their respective counsel, hereby jointly submit this Stipulation and Proposed Order
27 seeking to continue the Case Management Conference currently scheduled for September 27, 2007
28 until October 25, 2007 (exactly four weeks). This Stipulation is made and entered into by the
parties based on the following facts:

1 1. On April 17, 2007, Mediostream filed its complaint – seeking declaratory relief
2 (against Warner/Chappell Music, Inc. and Priddis) and indemnity (against Priddis) – in the above-
3 entitled action. Mediostream sought declaratory relief concerning allegations made by the Warner
4 Defendants that Mediostream had infringed their rights in certain musical compositions as used in
5 Mediostream’s karaoke sound recordings. Mediostream sought indemnification from Priddis in
6 connection with the Warner Defendants’ infringement claims.

7
8 2. On May 8, 2007, ten (10) affiliates/subsidiaries of Warner/Chappell Music, Inc.
9 (the “Nashville Plaintiffs”), but not Warner/Chappell Music, Inc. itself, filed a lawsuit in the
10 United States District Court for the Middle District of Tennessee against Mediostream, Priddis,
11 Prosound Karaoke, Ltd., Richard L. Priddis, DJ Miller Music Distributors, Inc. and Dale S. Miller,
12 individually, for copyright infringement, styled as Word Music, LLC et al. v. Priddis Music et al.,
13 Case No. 3:07-0502 (M.D. Tenn.) (the “Tennessee Action”). In the Tennessee Action, the
14 Nashville Plaintiffs allege that the defendants therein, via the defendants’ karaoke sound
15 recordings, infringed the Nashville Plaintiffs’ rights in certain musical compositions.

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17 3. On May 14, 2007, Mediostream filed its First Amended Complaint, naming the
18 Nashville Plaintiffs as additional defendants herein.

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20 4. On June 1, 2007, Priddis filed a motion to dismiss the Tennessee Action for lack of
21 personal jurisdiction, or alternatively, to transfer the action to the Northern District of California.
22 On July 2, 2007, the Nashville Plaintiffs filed a motion for a preliminary injunction in the
23 Tennessee Action. On July 27, 2007, Mediostream joined Priddis’ motion to dismiss the
24 Tennessee Action. Both motions – the motion to dismiss/transfer and the motion for a preliminary
25 injunction – are pending before the Middle District of Tennessee.

26
27 5. On July 16, 2007, Mediostream, Priddis, and the Warner Defendants (the “parties”)
28 filed a joint stipulation requesting that the Court continue the case management conference in this

1 action (originally scheduled for July 26, 2007) on the basis that the parties were attempting to
2 resolve, informally, the issue of where this action was to proceed (i.e., in this Court or in the
3 Middle District of Tennessee). The Warner Defendants also noted that if the matter could not be
4 resolved informally, they intended to file a motion to dismiss the action. On July 23, 2007, the
5 Court granted the parties' request and continued the case management conference to September
6 27, 2007.

7
8 6. The parties were unable to resolve the venue issue by the end of July 2007.
9 Accordingly, on August 3, 2007, the Warner Defendants filed a motion to dismiss this action, or,
10 alternatively, to transfer or stay the action, in light of the parallel Tennessee Action. The Warner
11 Defendants' motion to dismiss initially was noticed for September 19, 2007 (over one week prior
12 to the case management conference). However, at the Court's request, the motion was re-noticed
13 for September 26, 2007 – just one day prior to the rescheduled case management conference.

14
15 7. Because the Warner Defendants' motion to dismiss is not scheduled to be heard
16 until September 26, the parties will not have a ruling on that motion prior to the time they will be
17 required to conduct an early meeting of counsel, prepare a case management statement, and
18 prepare for the case management conference.

19
20 8. In addition to the foregoing, the parties have agreed to mediate this dispute. A
21 mediation is being scheduled for mid-October 2007.

22
23 9. In light of the Warner Defendants' pending motion to dismiss and the parties'
24 pending mediation – and with the express reservation that the entry into this Stipulation shall not
25 prejudice any party's rights or be raised as a defense to Defendants' objections to the
26 jurisdiction/venue of this Court, including in any ensuing motion to dismiss/transfer/stay these
27 proceedings – the parties believe that at this time it is premature to attend a case management
28 conference, prepare a case management statement, or exchange initial disclosures in this action.

1 Most notably, a ruling on the Warner Defendants' motion to dismiss this action, a ruling on
2 Mediostream's and Priddis' motion to dismiss the Tennessee Action, and/or the outcome of the
3 parties' mediation would fundamentally impact the case management conference. (Indeed, in the
4 event that the Warner Defendants' motion to dismiss is granted, the parties decide to litigate the
5 claims in Tennessee, or the parties settle the case, then the case management conference may not
6 be necessary at all.) The parties believe that the requested four-week extension of the case
7 management conference is necessary to resolve the uncertainty concerning the venue issue, as well
8 as to determine whether this action will proceed at all, including whether it will be dismissed or
9 settled. The parties believe that the case management conference will be far more productive if
10 held after these issues are resolved.

11
12 10. This is the parties' second request for a continuance of the case management
13 conference (or for any deadlines) in this case. The parties believe that such a continuance would
14 not impact the overall schedule for this case. No trial date has yet been set for this case.

15
16 11. The parties collectively have agreed that they are available for a case management
17 conference on October 25, 2007, at 2:30 p.m. Accordingly, the parties jointly and respectfully
18 request that the case management conference be re-set for that date.

19
20 DATED: September 12, 2007

MARC E. MAYER
MITCHELL SILBERBERG & KNUPP LLP

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22
23 By: /s/ Marc E. Mayer
24 Marc E. Mayer
25 Attorneys for the Warner Defendants
26
27

1 DATED: September 12, 2007

FREAR STEPHEN SCHMID
ATTORNEY AT LAW

2
3 By: /s/ Frear Stephen Schmid
4 Frear Stephen Schmid
5 Attorneys for Plaintiff Mediostream, Inc.

6 DATED: September 12, 2007

DANIEL R. RICHARDSON
LAW OFFICES OF DANIEL RICHARDSON

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8 By: /s/ Daniel R. Richardson
9 Daniel R. Richardson
10 Attorneys for Defendant
11 Priddis Music, Inc.
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