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UNITED STATES DISTRICT COURT  
Northern District of California

RICK JAMES, by and through THE JAMES  
AMBROSE JOHNSON, JR., 1999 TRUST, his  
successor in interest, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

UMG RECORDINGS, INC., a Delaware  
corporation,

Defendant.

No. C 11-1613 SI (MEJ)

**ORDER REGARDING  
DISCOVERY DISPUTE LETTER  
(DKT. NO. 146)**

Before the Court is the parties' supplemental joint letter pursuant to the Court's November 29, 2012 Discovery Order. Jt. Ltr., Dkt. No. 146. On November 29, the Court ordered Plaintiffs to respond to UMGR's Interrogatory No. 9. Discovery Order, Dkt. No. 138. This Interrogatory asks Plaintiffs to state whether each of UMGR's agreements with music download providers, such as iTunes, require the provider to compensate UMGR for downloads on a (1) flat rate or flat fee basis, (2) cent rate basis, (3) royalty rate basis, or (4) some other basis. Jt. Ltr. at 1. In its Order, the Court noted that "requiring Plaintiffs to respond to this interrogatory for 436 agreements is a burdensome task," and therefore instructed the parties that Plaintiffs could respond only as to "a reasonable number" of these 436 agreements "that can be used as a representative sample for this discovery response and others." Order at 3. The Court instructed the parties to meet and confer on this "reasonable number," and file a second joint letter if they could not agree. *Id.* As seems to have become a pattern in this case, the parties could not reach an agreement and have now submitted

1 the present joint letter. Upon review of the parties' positions, the Court ORDERS Plaintiffs to  
2 provide 40 agreements selected at random. Prior to providing the agreements, the parties shall meet  
3 and confer to determine the best manner by which to select the 40 agreements. Both parties should  
4 be mindful that the agreements are intended to provide a representative sample and not be hand-  
5 picked samples showing only the best and worst examples. If the parties are unable to agree on the  
6 manner of selection, they shall file another joint letter.

7 **IT IS SO ORDERED.**

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9 Dated: January 24, 2013

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12 Maria-Elena James  
13 United States Magistrate Judge  
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