

1 ELECTRONIC FRONTIER FOUNDATION
 FRED VON LOHMANN #192657
 2 KURT OPSAHL #191303
 CORYNNE MCSHERRY #221504
 3 454 Shotwell Street
 San Francisco, CA 94110
 4 Telephone: (415) 436-9333
 Facsimile: (415) 436-9993
 5 Email: fred@eff.org; kurt@eff.org
 corynne@eff.org

KELLY M. KLAUS (SBN 161091)
 Kelly.Klaus@mto.com
 MELINDA E. LEMOINE (SBN 235670)
 Melinda.LeMoine@mto.com
 MUNGER, TOLLES & OLSON LLP
 355 South Grand Avenue
 Thirty-Fifth Floor
 Los Angeles, CA 90071-1560
 Telephone: (213) 683-9100
 Facsimile: (213) 687-3702

6 FOLGER LEVIN & KAHN LLP
 7 MICHAEL F. KELLEHER
 SUZANNE ELIZABETH RODE
 8 275 Battery Street, Suite 2300
 San Francisco, CA 94111
 9 Telephone: (415) 986-2800
 Facsimile: (415) 986-2827
 10 Email: mkelleher@flk.com; srode@flk.com

Attorneys for Defendants

E-Filed 9/14/2009

11 KEKER & VAN NEST LLP
 ASHOK RAMANI - #200020
 12 MICHAEL S. KWUN -#198945
 MELISSA J. MIKSCH - #249805
 13 710 Sansome Street
 San Francisco, CA 94111-1704
 14 Telephone: (415) 391-5400
 Facsimile: (415) 397-7188
 15 Email: aramani@kvn.com; mkwun@kvn.com
 Email: mmiksch@kvn.com

Attorneys for Plaintiff

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA
 19 SAN JOSE DIVISION

21 STEPHANIE LENZ,
 Plaintiff,
 22 v.
 23 UNIVERSAL MUSIC CORP., UNIVERSAL
 24 MUSIC PUBLISHING, INC., and
 25 UNIVERSAL MUSIC PUBLISHING
 GROUP,
 26 Defendants.

Case No. C 07-03783-JF

**STIPULATION AND [PROPOSED]
 ORDER RE [1] STAYING PART C.4 OF
 MAGISTRATE JUDGE SEEBORG'S
 AUGUST 25, 2009 ORDER,
 [2] DISCOVERY MATTERS, AND
 [3] MODIFYING THE CASE
 MANAGEMENT SCHEDULE**

Judge: The Hon. Jeremy Fogel

1 Plaintiff Stephanie Lenz (“Plaintiff”) and Defendants Universal Music Corp., Universal
2 Music Publishing, Inc. and Universal Musical Publishing Group (“Defendants”), by and through
3 their respective counsel of record, hereby declare and stipulate as follows:

4 WHEREAS, on July 11, 2009, this Court adopted the following Case Management
5 Schedule:

- 6 a) Fact discovery cutoff: September 24, 2009
- 7 b) Designation of affirmative experts: October 15, 2009.
- 8 c) Designation of rebuttal experts: November 16, 2009.
- 9 d) Expert discovery cut-off: December 15, 2009.
- 10 e) Last day to file dispositive motions: January 14, 2010.
- 11 f) Pretrial conference: March 5, 2010.
- 12 g) Trial: March 19, 2010;

13 WHEREAS Magistrate Judge Seeborg entered an order on August 25, 2009 (the
14 “Order”), ordering each party to produce additional documents within 20 days of the Order (i.e.
15 September 14, 2009);

16 WHEREAS Defendants on August 28, 2009 filed a motion before Magistrate Judge
17 Seeborg for leave to file a motion for reconsideration of the portion of the Order requiring them
18 to add Raul Gonzalez as an additional custodian for purposes of its document production (the
19 “Motion for Leave”), and Magistrate Judge Seeborg on September 1, 2009 ordered that Plaintiff
20 file a response to the Motion for Leave;

21 WHEREAS Defendants on September 9, 2009 filed before Judge Fogel objections to the
22 portion of the Order (Section II.C.4) that overruled their assertion of privilege over certain
23 communications between Defendants and Prince (the “Objections”);

24 WHEREAS Plaintiff expects that the documents that are the subject of the Motion for
25 Leave and the Objections would, if produced, affect her preparation for the taking of the
26 depositions of Defendants’ witnesses;

27 WHEREAS the parties have met and conferred about discovery scheduling in light of the
28

1 Order, the Motion for Leave, and the anticipated Objections;

2 WHEREAS, pursuant to Civil Local Rule 6-2(a)(1), the parties state that the time
3 modifications set forth below are requested for the following reason:

4 The parties have agreed to stipulate to modification of the Case Management Schedule
5 (as set forth below), in order to minimize the possible need to take depositions multiple times,
6 and/or to litigate over whether it is appropriate to re-open depositions;

7 WHEREAS, pursuant to Civil Local Rule 6-2(a)(2), the parties disclose that there have
8 been seven previous stipulated time modifications in this case (August 20, 2007 [Docket No. 8],
9 October 11, 2007 [Docket No. 19], November 16, 2007 [Docket No. 26], April 30, 2008 [Docket
10 No. 35], August 29, 2008 [Docket No. 46], April 15, 2009 [Docket No. 63], and September 3,
11 2009 [Docket No. 164]). These modifications related to the briefing schedules and hearing dates
12 for the prior Motions to Dismiss and Motion to Certify, the briefing schedule for Plaintiff's
13 Motion for a Protective Order, the date for the July 18, 2008 Case Management Conference, and
14 the briefing schedule for Plaintiff's Administrative Motion to Modify the Case Management
15 Schedule; and

16 WHEREAS, pursuant to Civil Local Rule 6-2(a)(3), the parties state that the requested
17 time modifications herein may, depending on the timing of additional events, require
18 rescheduling of the trial date as well as several pre-trial deadlines;

19 **ACCORDINGLY, THE PARTIES STIPULATE AS FOLLOWS:**

20 (1) Section II.C.4 of Magistrate Judge Seeborg's August 25, 2009 Order is STAYED. If
21 Judge Fogel vacates Section II.C.4 of that Order, the stay will terminate as moot. Otherwise, the
22 stay will terminate at the latest of the following dates:

- 23 a) Twenty days after the deemed denial of the Objections pursuant to Local Rule
24 72-2;
- 25 b) Twenty days after an order denying all or part of the Objections; or
- 26 c) If the Court denies all or part of the Objections, such period longer than twenty
27 days that the Court may grant upon Universal's request (Plaintiff reserves the
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

right to object to a longer period)..

(2) The current Case Management Schedule is VACATED. Upon resolution of the Motion for Leave and the anticipated Objections, the parties will meet and confer and submit a joint statement seeking entry of a new Case Management Schedule. The parties now stipulate, and the new Case Management Schedule shall provide, that:

- a) No further written fact discovery beyond that propounded prior to September 3, 2009 will be propounded, and absent leave of court, no fact depositions that were not noticed prior to September 3, 2009 will be taken;
- b) A party may move for leave to take additional depositions, and the agreement in (a) shall not preclude a party from making such a motion; and
- c) Insofar as is practical, the deadlines in the new case management schedule for deadlines after the close of fact discovery will roughly parallel the current schedule in terms of days allowed for each task.

(3) Plaintiff's pending Administrative Motion, filed August 31, 2009 (Doc. No. 160) is withdrawn as moot.

(4) The parties shall produce those documents that are subject to Magistrate Judge Seeborg's August 25, 2009 Order, and that are not the subject of Defendants' pending Motion for Leave or Defendants' Objections, by hand delivery or electronic transmission by noon on September 14, 2009.

(5) The deposition of Plaintiff Stephanie Lenz shall proceed, as noticed, on September 16, 2009, at 9:00 a.m., at the San Francisco office of Defendants' counsel.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO STIPULATED.

Dated: September 10, 2009

KEKER & VAN NEST LLP

By: /s/ Melissa J. Miksch
MELISSA J. MIKSCH
Attorneys for Plaintiff
STEPHANIE LENZ


Dated: September 10, 2009

MUNGER, TOLLES & OLSON LLP

By: /s/ Kelly M. Klaus*
KELLY M. KLAUS
Attorneys for Defendants
UNIVERSAL MUSIC CORP.,
UNIVERSAL MUSIC PUBLISHING,
INC. and UNIVERSAL MUSIC
PUBLISHING GROUP

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 9/14/2009

By: 
HON. JEREMY FOGEL
United States District Judge

* Electronically signed by Plaintiff's counsel with the concurrence of Defendants' counsel. N.D. Cal. G.O. 45 ¶ X.B.