

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

CAPITOL RECORDS, INC., et al.,

Case No.: 06-cv-1497-MJD-RLE

Plaintiffs,

JUDGE: Michael J. Davis

vs.

MAGISTRATE: Raymond L. Erickson

Jammie Thomas,

**JOINT MOTION TO EXTEND
BRIEFING DEADLINES AND
RESET ORAL ARGUMENT DATE**

Defendant.

On May 15, 2008, the Court entered an Order directing the parties to file briefs regarding whether the Court committed a manifest error of law in instructing the jury that “making copyrighted sound recordings available for electronic distribution on a peer-to-peer network, without license from the copyright owners, violates the copyright owners’ exclusive right of distribution, regardless of whether actual distribution has been shown.” (Doc. No. 139.) The Court directed the parties to file opening briefs by May 29, 2008 and reply briefs by June 5, 2008, and set oral argument on the issue for July 1, 2008 at 10:00 a.m.

For the reasons set forth below, the parties respectfully request that the briefing schedule be extended by 21 days and that the Court reset the date for oral argument. Specifically, undersigned counsel for Defendant is set to begin a jury trial June 2, 2008, in a matter captioned *United States v. Johnnie* before the Hon. John R. Tunheim. Likewise, undersigned counsel for Plaintiffs is involved in significant briefing in another matter pending in the United States District Court for the District of Oregon, *Atlantic Recording Corp. v. Andersen*, Civil No. 05-933-AC, and has eight depositions scheduled in two other matters, one pending in the United States District Court for the Eastern District of New York, *UMG Recordings, Inc. v. Lindor*, No. 05-cv-1095 (DGT) (RML), and another pending in the United States District Court for the

Western District of Texas, *UMG Recordings, Inc. v. Greubel*, No. 4:06-cv-868-Y, over the next two weeks. Finally, Colorado Governor Bill Ritter recently appointed lead counsel for Plaintiffs, Richard L. Gabriel, to serve as a judge on the Colorado Court of Appeals, and Mr. Gabriel will be leaving Holme Roberts & Owen in a few weeks. As such, Mr. Gabriel is in the process of transferring his significant case responsibilities to others in the firm, which will result in some unavoidable delays, as others come up to speed on Mr. Gabriel's cases.

For these reasons, the parties respectfully submit that good cause exists for a 21 day extension of the briefing schedule and for rescheduling oral argument.

The parties have sought no previous extensions of the briefing schedule, and, for the reasons set forth above, no party would be prejudiced were this Court to grant the requested extension and reset the July 1, 2008 hearing.

WHEREFORE, the parties respectfully request a 21 day extension of the briefing schedule set forth in the Court's May 15, 2008 Order, and that the July 1, 2008 oral argument on the above issue be rescheduled for another date that is convenient for the Court and for the parties.

Respectfully submitted this 19th day of May 2008.

/s/ Richard L. Gabriel

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