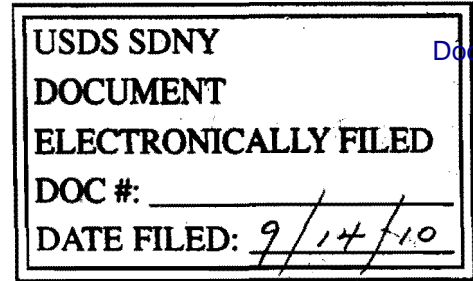


Arista Records LLC et al v. Lime Wire LLC et al



Doc. 319

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ARISTA RECORDS LLC; ATLANTIC RECORDING CORPORATION; ARISTA MUSIC, fka BMG MUSIC; CAPITOL RECORDS, INC; ELEKTRA ENTERTAINMENT GROUP INC; INTERSCOPE RECORDS; LAFACE RECORDS LLC; MOTOWN RECORD COMPANY, L.P.; PRIORITY RECORDS LLC; SONY MUSIC ENTERTAINMENT, fka SONY BMG MUSIC ENTERTAINMENT; UMG RECORDINGS, INC; VIRGIN RECORDS AMERICA, INC.; and WARNER BROS. RECORDS INC.,

06 CV 5936 (KMW)

PRETRIAL
SCHEDULING ORDER

Plaintiffs,

-against-

LIME GROUP LLC; LIME WIRE LLC; MARK GORTON; GREG BILDSON; and M.J.G. LIME WIRE FAMILY LIMITED PARTNERSHIP,

Defendants.

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KIMBA M. WOOD, U.S.D.J.:

The parties have submitted a joint proposed pretrial schedule, and have submitted letter briefs on a number of pretrial and scheduling disputes.

A. Pretrial Schedule

Having considered the parties' letter briefs, the Court orders the following pretrial schedule:

Event	Deadline
Completion of opening productions per August 9 and August 31, 2010 Orders	Twenty-one (21) days after issuance of the Court's order on the discovery disputes raised in the parties' August 20, 2010 letter briefs
Last day for parties to serve disclosure of expert witness testimony pursuant to Fed. R. Civ. P. 26(a)(2) on any issue where that side bears the burden of proof at trial	September 30, 2010
Last day for all fact discovery	November 15, 2010

Last day for parties to disclose rebuttal expert reports	December 1, 2010
Last day for parties to exchange and file trial exhibit lists, trial witness lists, and designations of deposition testimony for trial	December 17, 2010
Last day for rebuttal expert discovery	December 20, 2010
Last day for parties to file motions <i>in limine</i>	December 29, 2010
Last day to exchange and file objections to trial exhibit lists, trial witness lists and designations of deposition testimony for trial	December 31, 2010
Parties to file pretrial order	January 3, 2011
Last day to file briefs in opposition to motions <i>in limine</i>	January 7, 2011
Last day to file reply briefs in support of motions <i>in limine</i>	January 11, 2011
Trial	January 18, 2011

B. Other Pretrial Matters

1. Clarification of Issues for Trial

Defendants seek an order requiring Plaintiffs to clarify what specific issues they intend to try as part of the January 2011 trial. Plaintiffs stated in a recent email to Defendants that they “contemplate trying, and have the right to try, all claims that were not resolved on summary judgment, as well as damages for the claims that were resolved.” The Court orders Plaintiffs to clarify to the Court and opposing counsel the issues they intend to try as part of the January 2011 trial. Plaintiffs shall provide such notice in writing no later than September 23, 2010.

2. “Final” List of Sound Recordings for which Plaintiffs Seek Damages

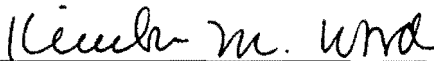
The Court has directed Plaintiffs to provide a “final list of sound recordings for which they intend to seek damages” no later than September 16, 2010. (Discovery Order at 3, August 9, 2010, as modified by August 31, 2010 Order.) Plaintiffs have stated via email to Defendants that “the list of sound recordings that Plaintiffs will produce on September 16 will represent those sound recordings that Plaintiffs are electing to proceed to trial on in this case; that does not mean that any Plaintiff[] is waiving any claim it may have regarding any work that is not on that

list.” Defendants seek an order that the September 16 list of sound recordings be deemed a final and definitive list of sound recordings for which Plaintiffs may seek monetary damages in light of the Court’s May 25, 2010 Opinion and Order finding that Defendants are liable for secondary copyright infringement.

This Court has stated that, at this stage of the litigation, Plaintiffs are “entitled to supplement their list of sound recordings for which they seek monetary damages. This stage of the litigation is the proper time for Plaintiffs to identify all such sound recordings.” (Discovery Order at 3-4, August 9, 2010 (emphasis added).) Plaintiffs’ counsel has in fact agreed to provide a “definitive list” of sound recordings for which they seek damages. (Conference Tr. at 13, June 7, 2010.) It is essential that the January 2011 trial provide a complete and final monetary remedy for Defendants’ secondary copyright infringement of Plaintiffs’ sound recordings. Accordingly, the list of sound recordings to be provided to Defendants no later than September 16, 2010, shall, absent a showing of good cause, be deemed the final list of sound recordings for which Plaintiffs may seek a monetary remedy in this litigation.

SO ORDERED.

Dated: New York, New York
September 13, 2010



Kimba M. Wood
United States District Judge