EXHIBIT 11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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ARISTA RECORDS, et al.,

Plaintiffs,

v. 06 CV 5936 (GEL)

LIME WIRE LLC, et al.,

Defendants.

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New York, N.Y.
December 7, 2007
5:00 p.m.

Before:

HON. GERARD E. LYNCH,

District Judge

APPEARANCES

CRAVATH, SWAINE & MOORE
Attorneys for Plaintiffs
BY: KATHERINE B. FORREST
TEENA-ANN V. SANKOORIKAL
JOANNE M. GENTILE

PORTER & HEDGES
Attorneys for Defendants
BY: CHARLES S. BAKER
JOSEPH D. COHEN

(In open court)

THE DEPUTY CLERK: Arista Records v. LimeWire LLC.

MS. FORREST: Katherine Forrest with Cravath, Swaine & Moore for plaintiffs.

MS. SANKOORIKAL: Teena-Ann Sankoorikal from Cravath for plaintiffs.

MS. GENTILE: Joanne Gentile for plaintiffs.

MR. BAKER: Your Honor, Charles Baker on behalf of the defendants.

THE COURT: Good afternoon, Mr. Baker.

MR. COHEN: Joe Cohen from Porter & Hedges in Houston, also for the defendants.

THE COURT: Mr. Cohen, good afternoon. It probably wasn't the wisest thing to schedule this so late in the day that had four sentencings in the afternoon. But that's where we are.

Fortunately, the parties have submitted a very thorough joint letter that set forth the various issues that divide them on discovery, and I've carefully reviewed that and so I'm able to rule on most of these issues.

Now, since that letter was written, the circumstances have changed in that I've dismissed the antitrust counterclaims that underlay some of these discovery issues. Though as I trace through it, that may make less difference than I might have thought. Partly because the defendants have other arguments as to why they need the discovery that they seek, and partly because some of what they seek I wouldn't have granted even if the antitrust counterclaims were there.

So I am going to try and just go through these and make rulings, and I've asked the court reporter to stay around so that everyone wouldn't have to be quite so frantically taking notes, and we'll have a record of what I actually ordered.

First, there is an issue with respect to the proof of copyright ownership and what discovery needs to be provided on that front. It seems to me that the sensible resolution here is the plaintiffs' alternative suggestion, that we simply take some subset of copyrighted works and sever the claims as to those for the initial purpose of deciding whether there is liability or not.

There is not likely to be a serious dispute about whether the plaintiffs own the copyrights to at least some of the material that is at issue here. That's not what this case is about. But of course, if we ever get there and there is a damages assessment, the extent of whatever the alleged infringement might be, might be relevant to that, and it might be necessary to figure out what of the material here really is copyrighted.

But, it's not necessary to have more than a single item, as far as I'm concerned, in order to address the basic liability issues that are what the case is about. And since you never do anything with a single item because you need at least a belt and suspenders and probably a rope and a couple of other things to avoid errors and things becoming moot and unforeseen events, a relatively small subset of copyrighted items will suffice.

And if the plaintiffs provide the discovery as to those, we can worry about the others if, as and when we get to damages phase, or if, as and when it becomes necessary or appropriate to address the rest of the copyrighted materials.

Second, there is an issue as to whether EMI and UMG, two of the plaintiffs, are required to search for documents prior to February 2006. Notwithstanding that they take the position that all documents relevant to the case that existed prior to February 2006 were produced in prior antitrust government investigations and lawsuits, and therefore, have been produced to the defendants in this case.

Now, I note two things about this. Number one, the antitrust claims have been dismissed. And while it is true that the plaintiffs maintain that the antitrust counterclaims are simply some species of copyright abuse and therefore necessary for the defense of the plaintiffs' claims, the contingency of whether there really is an abusive copyright defense in this circuit and what exactly it would consist of and the fact that at any rate it is not congruent completely with the alleged antitrust violations, and the fact that the principal antitrust violation that can be at issue here has to do with the refusal to provide hashes, which seems to have occurred in 2006 and not before it, suggests that so long as the parties are looking for documents post-February 2006, and given that they've produced, as I understand it, the materials that had been produced in prior antitrust matters, the only thing that I will order here is that the plaintiffs provide the defendants with information regarding what the specific document requests were that led to these productions in the prior matters which may enable the defendants to focus on what, if anything, they specifically need for the defenses that are still in the case that might not be covered by the prior productions. And if there is such a thing, then they can seek it. And if there is still an issue, that can come before the Court at some future point.

Given the status of the case, it is hard for me to believe that greater discovery on that front will be ordered.

Next there is a question of whether the record labels themselves, the so-called subsidiaries, shall be required to produce responsive documents for certain requests with respect to communications about LimeWire. And it seems to me that since those are the actual defendants, and they may have material that is relevant to the copyright misuse defense, that they should have to produce, and not simply inherent companies.

Next there is a issue with respect to custodial lists, organizational charts. I think the only issue here as far as I can figure out that is of any interest is whether the custodial lists are sufficient. It seem to me the plaintiffs are correct that those lists include the persons most likely to possess documents related to the claims or defenses of the parties. And I am not going to direct that any further discovery be provided as to the process by which the plaintiffs selected these custodians.

In the joint letter I couldn't find anything that gave me any reason to think that the plaintiffs had not identified the right people, and as those people are -- any of those people are deposed or as further discovery proceeds, if the defendants have some actual reason to think there is some deficiency, maybe that could be raised at some future point. But I don't think there is a need, given the volume of discovery that has been made and its limited relevance to the core issues in the case, that we need to have some further inquiry into the process by which the discovery was made.

Next, there is an issue of communications related to digital distribution licensing agreements. And it seems to me that the plaintiffs' representation that they've agreed to provide the licensing agreements related to digital downloading and the negotiation files associated with those agreements is adequate to deal with that issue.

propose to explore in depositions related to the copyright misuse defense, and what basis in the documentary record there is for formulating some concrete, this is what we think the plaintiffs did, this is what evidence we've already got that suggests they did it, here is why as a matter of law that is a defense, and here is who we're going to have to talk to, to develop this further.

MR. BAKER: If I may speak to that point. You may have wondered why I have this stack of documents here. This is the privilege logs that they have produced. They produced to us a month -- about six weeks ago. Just on the prior antitrust productions. I've got another box over here of a privilege log from the RIAA. They haven't given us the most recent production on the privilege log. This is going to take a long, long time to go through. They have claimed a lot of material as privileged.

THE COURT: That's because a lot of material is probably privileged. You can make -- you know, take your shot. Do what you need to do. But we are not going to be doing this forever. If there is some plausible objection you have to these assertions of privilege, we'll deal with that. But we're moving forward. I told you what I think this case is about. I've given you a lot of leeway. Don't push it. The leeway is you're getting these documents on claims that have been dismissed as counterclaims based on a pretty amorphous defense that may not even exist in this circuit. The idea is you are getting a lot of material. It may not be everything you want. If there is something they're withholding that they're improperly withholding, we can litigate that. But you've had your fun. You've had months of pursuing this stuff. By the end of January, if there is something that you've got, I expect to know what it is.

That's all I am saying. We are going to be moving forward into that process. We are going to be doing depositions. We are going to get to the end of this someday. And the heart of this story still is whether there is something about this peer-to-peer system that escapes from the plaintiffs' contention that it is a violation of copyright.

I don't know much, so I don't have any real opinion about that at this point. But it certainly doesn't seem to me to be a foregone conclusion that the way to defend this case has to be to somehow avoid a straightforward adjudication that you are doing something wrong. It seems to me there is -- my mind is completely open to the possibility you haven't done anything wrong at all. That is one piece of this. That's the big piece of this, in my view.

Because I am not that sympathetic, frankly, to the idea that -- if you were just stealing their intellectual property, I don't know what this copyright misuse thing is all about. It wouldn't have a lot of traction.

Anyway, enough said. I think I've ruled on the things I ruled on. If we are going to have something more, bring it on. Don't expect it is going to lead to a lot of delay, and don't expect we are going to be getting special masters, and don't expect we are going to just consume our lives with this. I am going to shoot from the hip. Do it from horseback. Try to get this case to someplace where it gets litigated. And that's what we are doing here.

I don't feel obliged to review every document in these files and decide whether it's privileged. That's not a good use of my time. Given the nature of the case, I don't think it is a good use of any judicial officer's time. And I am going to take responsibility. I am going to do it at the level I think I can devote to it that's going to get the case moving.

Anything else? Or can we all go home, especially the court reporter.

MS. FORREST: I have one final issue, if I might, your Honor, to raise. Which is we had previewed in our letter brief, the joint letter brief of November 16, that we would be adding some additional tracks into our schedule A, which is at the back of the complaint. This does not change a single word of any substantive allegation in the complaint. As we said in paragraph 74 of our complaint originally, we would be spending some time during the discovery period trying to solidify what the list of tracks were that we were going to be suing upon.

We have that ready. We understand from LimeWire that they object to our putting that forward, so we raise it with the Court, though we didn't actually think this was something that needed to be raised to the level of any kind of judicial

intervention.

THE COURT: I wouldn't have thought so. Maybe I'm just not getting it, but isn't this related to this bifurcation or carving up business?

MS. FORREST: It is, your Honor. It is going to add some sound recording registrations to the schedule at the back of complaint. So that now is going to be bifurcated, we'll give that list to LimeWire now, but the issue should be sort of off the table, if you will.

THE COURT: I would think so. I don't see any reason, particularly given that discovery hasn't progressed on this front and now isn't going to progress on this front, why there is any prejudice to amending the complaint to in effect add more allegedly copyrighted materials. That is because we have plenty of time if, as and when we get there to do that discovery and go through it all. But we are not going to add that at this point.

MR. BAKER: After today's ruling, your Honor, that's fine with us. If they would just supply -- one of the reasons I've tried to ask why are you doing this, so we would have some justification to our client to allow this to happen.

THE COURT: Okay. I think we're done for today. Thank you very much. Again, I'm sorry not to have had more time to discuss this with you all. But other people have other business, some of which involves their liberty. See you next

time I see you.

Tom will work out with you a date for some next conference just to be on the calendar in early April, but it may be that we'll be seeing more of each other between now and then anyway.

Thank you. Happy holidays to everybody.

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