

EXHIBIT 1

12IFARIA
1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----X
2
3 ARISTA RECORDS LLC, et al,
3
4 Plaintiff,

5 v. 06 CV 5936 (KMW)

6 LIME WIRE LLC, et al,
6
7 Defendant.

8 -----X
8 New York, N.Y.
9 February 18, 2011
9 12:10 p.m.

10 Before:

11 HON. KIMBA M. WOOD,
12 District Judge

13 APPEARANCES

14 MUNGER TOLLES & OLSON, LLP
15 Attorneys for Plaintiff
15 GLENN POMERANTZ
16 KELLY KLAUS
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21 GREG JOSEPH
22 PAMELA JARVIS
22 TODD COCENZA

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1 MR. BAIO: That's correct, your Honor.

2 THE COURT: All right. And when will those
3 depositions take place?

4 MR. POMERANTZ: We haven't discussed that, your Honor,
5 but we would try to make them available as soon as they're
6 available and the defendant's counsel ready to take them. If
7 your Honor wants to set a deadline, that's fine. Otherwise
8 I'll just work it out with them.

9 THE COURT: I would ask you to work it out and have it
10 be as soon as possible and send me a letter letting me know
11 when they're taking place.

12 MR. POMERANTZ: We will do that.

13 Next, Judge Freeman's order of yesterday or the day
14 before, among other things, asked that Mr. Wells be deposed
15 within five days. He is in Hong Kong next week and we have
16 agreed that his deposition will take place sometime the
17 following week, the week of February 28, which is outside the
18 five days, but because of his unavailability, the parties have
19 agreed to move it beyond that, and we just wanted to be sure
20 that was okay.

21 THE COURT: It's fine with me.

22 MR. POMERANTZ: Another aspect of Judge Freeman's
23 order required us to produce certain documents related to the
24 album-single issue, and asked us to do so by February 23. It's
25 clear from some of our clients that that date is not going to

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1 be attainable. We would like to have an opportunity to discuss
2 this with defendant's counsel. This is one of the issues I
3 have not yet had a chance to discuss, I didn't have all of the
4 information, but we are working on an expedited rolling
5 production. We do not believe we would be able to get it done
6 by February 23. But as soon as we know when we're going to get
7 it done, we will discuss it with defense counsel. If we can
8 reach agreement, we will notify Judge Freeman. If not, we'll
9 call Judge Freeman and explain our situation.

10 THE COURT: All right. I'm moving now to the fact of
11 simultaneous issuance of both single and albums. Are most of
12 the works since the date you gave me on the phone, were they
13 mostly simultaneously issued?

14 MR. POMERANTZ: I'm not sure -- I'm sorry, your Honor,
15 I'm not sure I understand the question.

16 THE COURT: Okay. I believe that during the telephone
17 conversation plaintiff's counsel told me that after iTunes
18 became available, there was simultaneous issuance of individual
19 songs and albums.

20 MR. POMERANTZ: In the overwhelming majority of cases,
21 the album and the individual tracks would be released on iTunes
22 on the same day.

23 THE COURT: Now, do you have any agreement among
24 yourselves as to how that should be treated? Song versus
25 album.

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1 MR. POMERANTZ: Treated for discovery purposes?
2 THE COURT: No, treated for damages.
3 MR. POMERANTZ: No. We do not have an agreement.
4 That's probably one of the issues we will be briefing.
5 THE COURT: If you don't, then I'd like you to brief
6 that. Can you brief that within three business days?
7 MR. POMERANTZ: That's the briefing we discussed at
8 the outset, your Honor, that we will file next Tuesday, they'll
9 file Thursday, we'll file Friday.
10 THE COURT: I understand. If you're going to follow
11 that schedule, that's fine with me. You limited it to album
12 versus single and now I'm asking you to include the
13 simultaneous issue.
14 MR. POMERANTZ: We intend to do that.
15 THE COURT: Is there anything else?
16 MR. POMERANTZ: No. I guess what we should do is get
17 back to Judge Freeman on Monday, if that's all right with Judge
18 Freeman as far as the February 23rd --
19 JUDGE FREEMAN: Court is closed on Monday.
20 MR. POMERANTZ: We'll do it Tuesday. Ultimately we'll
21 have an agreement, but if not we'll request the opportunity to
22 discuss it with your Honor.
23 JUDGE FREEMAN: Just so you know, I'll be in a
24 settlement mediation all morning on Tuesday. I teach as an
25 adjunct usually Monday evenings, but because Monday is a

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