

EXHIBIT 1

7C7ARIC Conference
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

ARISTA RECORDS, et al.,
Plaintiffs,

v.

06 CV 5936 (GEL)

LIME WIRE LLC, et al.,
Defendants.

-----X

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

7C7ARIC Conference

(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

8 and terms of service, the plaintiffs say they have provided the
9 relevant custodians and supplied the relevant search terms. I
10 am satisfied with that, except the custodian list does not, as
11 far as I can see, include anybody from RIAA. And that seems to
12 me to be an organization that in principle could have very
13 significant information to impart. And it seems to me someone
14 should identify some possible custodian who is the right person
15 whose files should be searched on that issue.

16 Last, on the defendants' list, there is a question
17 relating to the plaintiffs' restriction of answers in
18 interrogatories to the current employees who have the most
19 knowledge. I'm satisfied with the most knowledge part. I
20 think it would be burdensome and would yield little benefit to
21 expand the category to anybody who has any knowledge or
22 something like that, or try to figure out who out of all these
23 employees may have been involved in something relevant.

24 But, I do think that given that the allegations in
25 this copyright misuse claim go back as far as 2000, the

10

7C7ARIC Conference

1 plaintiffs should also identify the most relevant former
2 employees who might be served with interrogatories for
3 third-party discovery, and that restricting the answers to
4 interrogatories to current employees is not likely adequate.

5 All right. Now turning to the plaintiffs' laundry
6 list. The request for protective order I think is denied,
7 except to the extent that I have made these various rulings and
8 that seems to deal with the problem and be the way of dealing
9 with these issues.

10 The plaintiffs move to compel production of documents
11 from David Ruth and Amy Gordon who are close relatives, indeed
12 nuclear family members, of Mr. Mark Gordon, who is the CEO of
13 Limewire. The fact that they're family members doesn't seem to
14 me to make them different from shareholders to the extent of
15 the likelihood of producing any -- of having any relevant
16 information. And the fact that they're family members tends to
17 increase the risk that serving them with discovery documents is
18 just harassment, so that will be denied.

19 Next there is a question of bifurcation. I think I've
20 essentially dealt with that by separating out the test case
21 copyrights. I think that's a more sensible way to do it than
22 simply bifurcating damages issues, or at least maybe that means
23 I am bifurcating at least damages issues to the extent they go
24 to how many copyrights or something like that.

25 But I'm not -- I think I'd rather not phrase it as no

11

7C7ARIC Conference

1 discovery with respect to damages issues. Because that's the
2 kind of order that tends to produce more trouble than it's
3 worth, as the parties then fight over whether a given demand is
4 or isn't in which half of the bifurcation.

5 I think I've made clear the way to proceed here with
6 respect to what I think is the principal issue or problem,
7 which is the disclosure of copyright ownership issues, is just
8 to proceed with a small subset of those in the first instance.

9 Finally, I think it's finally, the plaintiff seeks
10 some additional deadlines and the defendants seek various
11 extensions. Now, some of this has been mooted or changed or
12 affected just by the process of events. I'm sorry that it took
13 so long to deal with the motion, but that's life in the big
14 city. There are a lot of other motions on the list. This was

15 a somewhat demanding one, it resulted in a lengthy opinion, it
16 took me a while to get to it.

17 But having taken that time, the plaintiffs' proposed
18 discovery deadline is now past. And it seems to me that based
19 on all of the things that I've covered today from the parties'
20 joint request, it is just not realistic to think that this work
21 is not going to get done -- I'm sorry -- is going to get done
22 in a very short period of time, particularly with the holidays
23 intervening.

24 It does seem to me, on the other hand, appropriate to
25 require that document discovery be substantially complete by

12

7C7ARIC Conference

1 January 31; that fact depositions be done in February and March
2 and be completed by March 31; that expert reports be provided
3 by I guess basically the same time, the end of March; rebuttal
4 reports by the end of April; expert depositions then to be
5 conducted in May and be finished by May 31.

6 And I think that's enough deadlines to keep everybody
7 occupied, and we can think about summary judgment motions at a
8 conference to be held after that process is done.

9 It seems to me, though, it would be productive to
10 schedule a conference for the very beginning of April. Just to
11 find out, get some progress report on the completion of fact
12 discovery, and see whether progress is sufficiently being made
13 and give the parties a deadline that is a real hearing in court
14 deadline to concentrate the mind on what needs to be done in
15 the interim.

16 So that is what I thought after reading the joint
17 letter. Is there anything really huge that I've missed, any
18 major topic heading that I haven't addressed that the parties
19 need guidance on? Or anything that you think from the point of
20 view of your client I've gotten grotesquely wrong in these
21 rulings? And basically, you've each got about one, and if it's
22 not terribly wrong, if you can't persuade me on one, then your
23 second best is not going to be heard.

24 Do you have one or are people content to live with
25 this for now?

13

7C7ARIC Conference

1 MS. FORREST: Your Honor, I just have a couple of very
2 brief points. One is on a couple of the rulings that your
3 Honor has stated today, they do rely upon the copyright misuse
4 affirmative defense still being in the case.

5 If we could, your Honor, let me just ask if Limewire
6 could define for us what the parameters of that copyright
7 misuse defense are, because we have seen it both in its letter
8 briefs and in its filings before the Court in various places
9 change. It's gone from both being overlapping with the
10 antitrust case, to now in the most recent November 16 letter
11 brief, having some bearing on ownership issues.

12 Your Honor, I would also suggest that if copyright
13 misuse is only in the case or was only in the case for
14 antitrust, if the counterclaims are truly gone, your Honor,
15 then I would ask how is it that that discovery is still
16 relevant here. If the rulings, your Honor, relating to misuse
17 are for some other purpose, we'd like to have the parameters of
18 that spelled out.

19 That relates to the couple of the rulings, the label
20 level searching, the actual investments, the prices in terms of
21 service.