IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS, LLC, CAPITOL CHRISTIAN MUSIC GROUP, INC., and VIRGIN RECORDS IR HOLDINGS, INC., Plaintiffs, v. REDIGI INC., JOHN OSSENMACHER, and LARRY RUDOLPH a/k/a LAWRENCE S. ROGEL, Defendants.	12-CV-00095 (RJS)

STIPULATION REGARDING SECOND AMENDED COMPLAINT

WHEREAS, on September 2, 2014, the Court in the above-captioned litigation denied John Ossenmacher and Larry Rudolph's (the "Individual Defendants") motion to dismiss Plaintiff, Capitol Records, LLC's ("Capitol") First Amended Complaint;[1]

WHEREAS, on October 16, 2014, the Court in the above-captioned litigation denied the Individual Defendants' motion for reconsideration of the Court's order denying the Individual Defendants' motion to dismiss the First Amended Complaint;[2]

WHEREAS, on October 30, 2014, Capitol filed a Second Amended Complaint that added two additional plaintiffs – Christian Music Group, Inc. and Virgin Records IR Holdings, Inc. (together "Plaintiffs") – but otherwise was materially the same as the First Amended Complaint;[3]

WHEREAS, Individual Defendants believe that the Plaintiffs' Second Amended Complaint is legally deficient for the same reasons that were raised in their motion to dismiss

[1] Opinion and Order, ECF No. 148 (filed Sept. 9, 2014).
[2] Order, ECF No. 155 (filed Oct. 16, 2014).
[3] Second Am. Compl., ECF No. 161 (filed Oct. 30, 2014).

and motion for reconsideration papers;

WHEREAS, in the interest of conserving the resources of Plaintiffs, Individual Defendants, and the Court ----

IT IS HEREBY STIPULATED AND AGREED, subject to the approval of this Court and further subject to the full and complete preservation of Individual Defendants' right to appeal the motion to dismiss and motion for reconsideration orders (the "Orders"), that Individual Defendants shall not be required to file a motion to dismiss the Second Amended Complaint in order to preserve their right to obtain appellate review of the Orders;

IT IS HEREBY FURTHER STIPULATED AND AGREED, subject to approval of this Court, Individual Defendants, by not filing a motion to dismiss, are not waiving, but rather are expressly reserving, their right to obtain appellate review of the Court's Orders, and, should an appellate court of competent jurisdiction reverse or vacate either or both of this Court's Orders in whole or in part, that Individual Defendants shall be permitted to seek appropriate relief on remand;

Dated: November 12, 2014

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SO ORDERED

DATED: _____, 2014
New York, New York

RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE