

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|-----------------------------------|---|------------------------------|
| ----- | X | |
| CAPITOL RECORDS, LLC, CAPITOL | : | 12 CV 00095 (RJS) |
| CHRISTIAN MUSIC GROUP, INC. and | : | |
| VIRGIN RECORDS IR HOLDINGS, INC., | : | |
| | : | JOINT PROPOSED |
| Plaintiffs, | : | <u>PRETRIAL ORDER</u> |
| | : | |
| -against- | : | |
| | : | |
| REDIGI INC., JOHN OSSENMACHER and | : | |
| LARRY RUDOLPH a/k/a LAWRENCE S. | : | |
| ROGEL, | : | |
| | : | |
| Defendants. | : | |
| ----- | X | |

Pursuant to the Court's order of October 13, 2015 (Docket No. 177) and Fed. R. Civ. P.

26(a)(3), the parties submit this Joint Pretrial Order.

1. **IDENTIFICATION OF TRIAL ATTORNEYS**

For Plaintiffs:

Richard S. Mandel
Jonathan Z. King
COWAN, LIEBOWITZ & LATMAN, P.C.
1133 Avenue of the Americas
New York, New York 10036
Tel.: (212) 790-9200
Fax: (212) 575-0671

For Defendant ReDigi Inc.:

Gary Adelman
Sarah M. Matz
ADELMAN MATZ P.C.
1173A Second Avenue, Suite 153
New York, New York 10065
Tel.: (646) 650-2207
Fax: (646) 650-2108

For Defendant John Ossenmacher (Pro Se):

John Ossenmacher
c/o ReDigi Inc.
Cambridge Innovation Ctr., 14th Fl.
1 Broadway
Cambridge, MA 02142

For Defendant Larry Rudolph (Pro Se):

Larry Rudolph
c/o ReDigi Inc.
Cambridge Innovation Ctr., 14th Fl.
1 Broadway
Cambridge, MA 02142

2. **SUBJECT MATTER JURISDICTION**

Plaintiffs assert that this Court has subject matter jurisdiction over the federal copyright claims under 28 U.S.C. §§ 1331 and 1338(a), and has supplemental jurisdiction over the related state law cause of action under 28 U.S.C. § 1367(a). Defendants do not contest the existence of subject matter jurisdiction.

3. **CLAIMS AND DEFENSES THAT REMAIN TO BE TRIED**

Plaintiffs:

The sole issues that remain to be tried are as follows:

- a. The number of infringed sound recordings owned by or exclusively licensed to Plaintiffs.
- b. The amount of statutory damages to be awarded Plaintiffs under the U.S. Copyright Act for each post-1972 sound recording infringed by Defendants.
- c. Any nominal damages to be awarded Plaintiffs under New York common law for each pre-1972 sound recording infringed by Defendants.
- d. Any punitive damages to be awarded Plaintiffs under New York common law.

Defendants:

- a. What sound recordings if any are owned by or exclusively licensed to Plaintiffs.
- b. Whether Plaintiffs still own the right to sue for infringement for sound recordings previously owned by Plaintiffs and/or previously exclusively licensed to Plaintiffs.
- c. Whether any of Plaintiffs' claims as to certain alleged sound recordings are barred by the doctrine of fair use i.e. those uploaded to the cloud and offered for sale but not sold.
- d. Whether any of Plaintiffs' claims as to certain alleged sound recordings are barred as a result of an express or implied license and/or iTunes Terms of Service.
- e. Whether Plaintiffs' claim to damages under New York common law for any claimed pre-1972 sound recordings are barred by Plaintiffs' failure to mitigate damages.
- f. Whether Plaintiffs failed to mitigate their damages and as a result Defendants are entitled to a reduction of statutory damages for the 134 sound recordings purchased by Plaintiff Capitol through its investigator Coleen Hall.
- g. Whether Defendants' are entitled to a reduction based on their innocent intent.
- h. Whether Plaintiffs' claims to certain alleged sound recordings are barred by Plaintiffs' failure to establish ownership of a valid copyright, exclusive license and/or registration in one or more of the works it seeks to recover damages for.
- i. Whether Plaintiffs' claims to certain alleged sound recordings that were merely offered for sale through the ReDigi marketplace are barred as sound recordings offered for sale are not "distributions" within the meaning of 17 U.S.C. 106(3).
- j. Whether Plaintiffs should be awarded statutory, nominal and/or punitive damages for the 134 sound recordings that Plaintiff Capitol purchased through its investigator Ms.

Coleen Hall prior to commencing the instant action and whether those purchases were “unauthorized distributions” as those sound recordings were sold to the alleged copyright owner.

4. **NUMBER OF DAYS ESTIMATED FOR JURY TRIAL**

The case is to be tried with a jury, and the parties estimate that the trial will take two to three days.

5. **CONSENT TO TRIAL BY MAGISTRATE JUDGE**

The parties have not consented to trial of the case by a Magistrate Judge.

6. **STIPULATIONS**

- a. Plaintiff Capitol Records, LLC ("Capitol") is a Delaware limited liability company with its principal place of business in Los Angeles, California.
- b. Plaintiff Capitol Christian Music Group, Inc. ("CCMG") is a California corporation with its principal place of business in Los Angeles, California. Plaintiff Virgin Records IR Holdings, Inc. ("Virgin") is a Delaware corporation with its principal place of business in Los Angeles, California. Capitol, CCMG and Virgin are collectively referred to as Plaintiffs.
- c. ReDigi Inc. ("ReDigi") is a Delaware corporation with its principal place of business at Cambridge Innovation Ctr., 14 Floor, 1 Broadway, Cambridge, MA 02142.
- d. John Ossenmacher is a co-founder and the CEO of ReDigi.
- e. Larry Rudolph is a co-founder and Chief Technical Officer of ReDigi. ReDigi, Ossenmacher and Rudolph are collectively referred to as “Defendants.”

7. **WITNESSES**

Plaintiffs' Trial Witnesses

1. Alasdair J. McMullan, Esq. (in person)
Senior Vice President
Universal Music Group
2220 Colorado Avenue
Santa Monica, CA 90404
2. John Ossenmacher (in person and deposition testimony)
Chief Executive Officer
ReDigi Inc.
Cambridge Innovation Center
1 Broadway
Cambridge, MA 02142
3. Larry Rudolph a/k/a Lawrence Rogel (in person and deposition testimony)
Chief Technical Officer
ReDigi Inc.
Cambridge Innovation Center
1 Broadway
Cambridge, MA 02142

Defendants' Trial Witnesses

1. John Ossenmacher (in person)
Chief Executive Officer
ReDigi Inc.
Cambridge Innovation Center
1 Broadway
Cambridge, MA 02142
2. Larry Rudolph a/k/a Lawrence Rogel (in person)
Chief Technical Officer
ReDigi Inc.
Cambridge Innovation Center
1 Broadway
Cambridge, MA 02142
3. Alasdair J. McMullan, Esq. (in person and deposition testimony)
Senior Vice President
Universal Music Group
2220 Colorado Avenue
Santa Monica, CA 90404

4. Coleen Hall (in person and/or deposition testimony)
Paralegal
EMI Music
150 Fifth Avenue
New York, New York 10011
5. Mark Piibe (in person and/or deposition testimony)
Executive Vice-President
Global Business Development for EMI Music North America ("EMI")
150 Fifth Avenue
New York, New York 10011

8. **DEPOSITION TESTIMONY**

Plaintiffs' Designations

1. Deposition of John Ossenmacher

a. June 19, 2012

| Designation | Defendants Objections | Cross Designations | Objections to Cross Designations |
|---------------|-----------------------------------|--------------------|----------------------------------|
| 38:10-45:6 | Relevance; Form; legal conclusion | 45:7-48:10 | |
| 52:12-23 | Relevance; Form, legal conclusion | 52:24-54:8 | |
| 111:9-17 | Relevance | | |
| 135:9-17 | Relevance; Form | | |
| 142:15-144:14 | Relevance; Form | | |
| 145:14-146:8 | Relevance | 146:9 – 146:11 | |
| 148:7-152:19 | Relevance; Form | 152:20-155:4 | Relevance; Beyond Scope |
| 155:5-157:3 | Relevance | | |
| 183:9-22 | Relevance | | |
| 192:25-194:15 | Relevance | | |

b. July 11, 2013

| Designation | Defendants Objections | Cross Designations | Objections to Cross Designations |
|--------------|-----------------------|--------------------|----------------------------------|
| 302:17-21 | Relevance; cumulative | | |
| 324:5-329:15 | Relevance; legal | | |

| | |
|--------------|------------------|
| | conclusion; Form |
| 339:19-340:5 | Relevance |
| 373:16-376:5 | Relevance |

2. Deposition of Larry Rudolph

a. June 18, 2012

| Designation | Defendants Objections | Cross Designations | Objections to Cross Designations |
|---------------|--|--------------------|----------------------------------|
| 21:4-18 | Relevance; Form | | |
| 24:10-20 | Relevance; Form | | |
| 26:3-10 | Relevance; Form | | |
| 30:6-14 | Relevance | | |
| 33:11-18 | Relevance | 32:22-33:10 | Relevance |
| 35:8-21 | Relevance | | |
| 37:14-19 | Relevance | | |
| 42:16-22 | Relevance | | |
| 45:4-25 | Relevance; Form | | |
| 60:2-14 | Relevance; Confusing/misleading | | |
| 70:18-71:3 | Relevance; misleading | 71:4-8 | |
| 76:6-77:15 | Relevance; form; misleading/confusing | | |
| 78:8-79:3 | Relevance; form; misleading/confusing | | |
| 80:12-20 | Relevance | | |
| 103:22-105:23 | Relevance | | |
| 123:6-25 | Relevance | | |
| 132:10-21 | Relevance; Form, misleading/confusing | | |
| 134:10-135:15 | Relevance | | |
| 139:8-13 | Relevance | | |
| 150:20-151:5 | Relevance; form | 151:6 -152:7 | Relevance; Beyond Scope |
| 204:4-210:10 | Relevance; form, misleading/confusing | | |
| 211:22-214:7 | Relevance; Form; misleading/confusing | | |
| 236:4-20 | Relevance; form; misleading/confusing | 236:21-25 | Relevance |
| 254:8-17 | Relevance | | |

| | | | |
|----------|-----------|---------------|-----------|
| 255:3-15 | Relevance | 255:14-256-10 | Relevance |
|----------|-----------|---------------|-----------|

b. July 12, 2013

| Designation | Defendants Objections | Cross Designations | Objections to Cross Designations |
|---------------|------------------------|--------------------|----------------------------------|
| 278:9-279:4 | Relevance | | |
| 280:12-25 | Relevance; cumulative | | |
| 284:19-285:5 | Relevance | | |
| 291:3-292:7 | Relevance; cumulative | | |
| 295:9-296:5 | Relevance | | |
| 304:22-305:25 | Relevance | | |
| 312:12-313:25 | Relevance | | |
| 314:7-11 | Relevance | | |
| 366:7-23 | Relevance; cumulative | | |
| | Relevance; cumulative; | | |
| 370:5-373:23 | confusing | | |
| 374:4-25 | Relevance; confusing | | |
| | Relevance; Form; | | |
| 396:20-398:5 | prejudicial | | |

Defendants' Designations

1. Deposition of Alasdair J. McMullan, Esq.

| Designation | Plaintiffs' Objections | Cross Designations | Objections to Cross Designations |
|--------------|------------------------|--------------------|----------------------------------|
| 18:6 – 19:14 | Relevance | | |
| 21:3 – 22:22 | Relevance | | |
| 37:9 – 39:4 | Relevance | | |
| 60:8 - 19 | Relevance | | |
| 73:4 - 24 | Relevance | 72:22-25 | Relevance |
| | | 73:25-74:10 | Relevance |

2. Deposition of Coleen Hall

| Designation | Plaintiffs' Objections | Cross Designations | Objections to Cross Designations |
|-------------|------------------------|--------------------|----------------------------------|
| 6:10-25 | Relevance | | |

| | |
|---------------|-----------|
| 7:2-11 | Relevance |
| 20:4-25 | Relevance |
| 21:2 -25:8 | Relevance |
| 28:2-29:23 | Relevance |
| 31:3-24 | Relevance |
| 33:22-25 | Relevance |
| 34:3-6 | Relevance |
| 36:21-37:3 | Relevance |
| 38:25 -41:8 | Relevance |
| 43:8 – 48:22 | Relevance |
| 49:24 – 50:10 | Relevance |

3. Deposition of Mark Piibe

| Designation | Plaintiffs' Objections | Cross Designations | Objections |
|-----------------|------------------------|-----------------------|------------|
| 150:22 – 151:13 | Relevance | | |
| 178:13 – 180:23 | Relevance | | |
| 182:9 - 23 | Relevance | | |
| 185:22 – 188:8 | Relevance | | |

9. **EXHIBITS**

Plaintiffs' Exhibits

A list of exhibits Plaintiffs in good faith presently expect to offer on their case-in-chief, other than those to be used for rebuttal or impeachment purposes, is attached as Exhibit A to this Joint Pretrial Order. Any objections to such exhibits are listed in Exhibit A. Plaintiffs reserve the right not to introduce any of the exhibits listed on Exhibit A, to introduce only parts of those exhibits, and to introduce additional exhibits which cannot be identified until the time of trial, for impeachment or rebuttal purposes.

Defendants' Exhibits

A list of exhibits Defendants in good faith presently expect to offer on their case-in-chief, other than those to be used for rebuttal or impeachment purposes, is attached as Exhibit B to this

Joint Pretrial Order. Any objections to such exhibits are listed in Exhibit B. Defendants reserve the right not to introduce any of the exhibits listed on Exhibit B or A, to introduce only parts of those exhibits, and to introduce additional exhibits which cannot be identified until the time of trial, for impeachment or rebuttal purposes.

10. **VERDICT**

The parties do not consent to less than a unanimous verdict.

Dated: March 11, 2016

COWAN, LIEBOWITZ & LATMAN, P.C.

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Christian Music Group, Inc. and Virgin Records IR
Holdings, Inc.

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/s/ Gary Philip Adelman
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Attorneys for Defendant ReDigi Inc.

/s/ John Ossenmacher
Defendant John Ossenmacher

/s/ Larry Rudolph
Defendant Larry Rudolph

EXHIBIT A

PLAINTIFFS' EXHIBIT LIST

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-----------------------|--|--|
| P1. | November 10, 2011 letter from Jennifer Pariser, Esq. of RIAA to John Ossenmacher (Ossenmacher Dep. Ex. 21) | Authentication (901); Hearsay (802); Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion/Waste of Time (403) |
| P2. | Declaration of John Ossenmacher in opposition to motion for preliminary injunction (Ossenmacher Dep. Ex. 23) | Relevance (401) |
| P3. | ReDigi Inc. Subscription Agreement (Ossenmacher Dep. Ex. 24) | Relevance (401); Hearsay (802); Confidentiality. Prejudice (403) Document admissible only for a limited purpose (105); limiting instruction Authentication (901); |
| P4. | Excerpts from ReDigi website as of January 17, 2012 (Ossenmacher Dep. Ex. 25) | Relevance (401) Authentication (901); |
| P5. | New York Times November 14, 2011 article on ReDigi (Ossenmacher Dep. Ex. 26) | Authentication (901); Hearsay (802); Relevance (401) Document admissible only for a limited purpose (105); limiting instruction Prejudice (403) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|--|
| P6. | March 31, 2011 ReDigi Inc. business plan (Ossenmacher Dep. Ex. 27) | Relevance (401) Authentication (901); |
| P7. | ReDigi Newsletter (Ossenmacher Dep. Ex. 28) | Relevance (401) |
| P8. | February 2, 2011 email from John Ossenmacher to Larry Rudolph with attached draft press FAQ (Ossenmacher Dep. Ex. 29) | Relevance (401) Confidential |
| P9. | December 1, 2011 ReDigi press release (Ossenmacher Dep. Ex. 31) | Relevance (401) |
| P10. | ReDigi presentation (Ossenmacher Dep. Ex. 33) | Relevance (401) Confidential |
| P11. | United States Patent Application Pub. No. US 2011/0162086 A1 (Rudolph Dep. Ex. 2) | Relevance (401); |
| P12. | ReDigi Memorandum of Law in Opposition to Motion for Preliminary Injunction (Rudolph Dep. Ex. 3) | Relevance (401) |
| P13. | Printout from ReDigi website re "Using The Media Manager" (Rudolph Dep. Ex. 5) | Relevance (401) |
| P14. | ReDigi email re "Welcome to ReDigi" (Rudolph Dep. Ex. 6) | Relevance (401) |
| P15. | ReDigi email re offering songs for sale (Rudolph Dep. Ex. 7) | Relevance (401) |
| P16. | ReDigi email notification re sale of song (Rudolph Dep. Ex. 8) | Relevance (401) |
| P17. | ReDigi email re ordering of song (Rudolph Dep. Ex. 9) | Relevance (401) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|--|
| P18. | ReDigi email notification re purchase of song (Rudolph Dep. Ex. 10) | Relevance (401) |
| P19. | ReDigi email notification re low on credit (Rudolph Dep. Ex. 11) | Relevance (401) |
| P20. | ReDigi form suspension notice (Rudolph Dep. Ex. 12) | Relevance (401) |
| P21. | Spreadsheet re Capitol recordings stored in cloud only (Rudolph Dep. Ex. 14) | Relevance (401) Prejudice/Confusion/Waste of Time (403) Document admissible only for a limited purpose (105); limiting instruction |
| P22. | Spreadsheet re Capitol recordings stored in cloud and offered for sale (Rudolph Dep. Ex. 15) | Relevance (401) Prejudice/Confusion (403) Document admissible only for a limited purpose (105); limiting instruction |
| P23. | Spreadsheet re Capitol recordings sold (Rudolph Dep. Ex. 16) | Prejudice/Confusion (403) Document admissible only for a limited purpose (105); limiting instruction |
| P24. | Summary chart of ReDigi track information (Rudolph Dep. Ex. 17) | Relevance (401) Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion (403) |
| P25. | Declaration of Larry Rudolph in opposition to motion for preliminary injunction (Rudolph Dep. Ex. 18) | Relevance (401) |
| P26. | December 1, 2011 email from Larry Rudolph to multiple recipients (Rudolph Dep. Ex. 19) | Relevance (401) |
| P27. | March 2, 2011 email from John Ossenmacher to Larry Rudolph and attached draft press FAQ (Rudolph Dep. Ex. 20) | Relevance (401) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|--|
| P28. | Tutorial video from ReDigi website (Exhibit 4 to McMullan preliminary injunction declaration) | Relevance (401) Best Evidence |
| P29. | Printout from ReDigi website dated July 2, 2013 (Ossenmacher Dep. Ex. 36) | Relevance (401) |
| P30. | Summary of Capitol recordings offered for sale on ReDigi (Rudolph Dep. Ex. 38) | Relevance (401) Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion (403) |
| P31. | Summary of Capitol recordings sold by one ReDigi user to another (Rudolph Dep. Ex. 39) | Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion (403) |
| P32. | Summary of Capitol Recordings purchased by ReDigi from ReDigi users (Rudolph Dep. Ex. 40) | Relevance (401) Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion (403) |
| P33. | Summary of Capitol Recordings offered for sale by ReDigi (Rudolph Dep. Ex. 41) | Relevance (401) Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion (403) |
| P34. | Summary of Capitol Recordings sold by ReDigi to ReDigi users (Rudolph Dep. Ex. 42) | Relevance (401) Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion (403) |
| P35. | Consolidated summary chart of activity on ReDigi site concerning Capitol recordings (Rudolph Dep. Ex. 43) | Relevance (401) Document admissible only for a limited purpose (105); limiting instruction Prejudice/Confusion (403) |
| P36. | List of identifying information for customers who offered, bought or sold Capitol recordings on ReDigi (Rudolph | Relevance (401); Confidentiality; Prejudice/Confusion/Waste of Time |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | Dep. Ex. 44) | (403) |
| P37. | Screen shots of ReDigi website (CAP 000001-000059) | Relevance (401) Authentication (901, 902); |
| P38. | Screen shots of ReDigi website as of April 4, 2012 | Relevance (401); Authentication (901, 902); Improper Identification |
| P39. | Summary of Plaintiffs' sound recordings infringed by Defendants under U.S. Copyright Act | Authentication (901); Hearsay (802); Prejudice/Confusion (403) Not a Proper Chart as it contains commentary/explanation and is inaccurate. Limiting instruction needed. |
| P40. | Copies of copyright registrations in name of Capitol Records, LLC (CAP 1726-28, 1761-63, 1784-1791, 1802-06, 1808-11, 1879-82, 1911-13, 1981-82, 2082-83) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P41. | Copies of copyright registrations in name of Capitol Records, Inc. (CAP 1665-66, 1670-77, 1684-85, 1688-1693, 1700-01, 1719-20, 1745-46, 1764-71, 1796-99, 1818-21, 1827-30, 1837-42, 1847-48, 1889-92, 1914-20, 1923-25, 1931-32, 1942-43, 1975-76, 1979-80, 1983-84, 1993-94, 1997-2000, 2015-16, 2019-20, 2054-55, 2060-61, 2072-73, 2080-81) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P42. | Certificate of conversion re: Capitol Records, Inc. to Capitol Records, LLC (CAP 1340-44) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P43. | Album copies, label copy and Copyright Office printouts for various albums registered in name of Capitol Records, Inc. | Authentication (901, 902); Hearsay (802); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | (CAP 8718, 8720, 8728-31, 8736-39, 8742-43, 8750-57, 8909-14, 8927-31, 8949-52, 8999-9002) | Relevance (401) |
| P44. | Copies of copyright registrations in name of Capitol Records (CAP 1944-47) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P45. | Copies of copyright registrations in name of fictitious business names of divisions/record labels of Capitol Records, LLC (CAP 1664, 1729-31, 1749-50, 1783, 1800-01, 1807, 1824-26, 1831-32) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P46. | Assumed name filings for Virgin Records, Capitol Records Nashville, Capitol Latin, EMI Records (CAP 1338-39, 2091-94, 2182-84, 8216-19) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P47. | Label copy for albums registered in names of EMI Records and Suburban Noize Records (CAP 8921-26, 8987-92) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P48. | October 10, 1997 agreement between Capitol Records, Inc. and Kottonmouth Kings (CAP 5154-5234) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P49. | Copies of copyright registrations in the name of Virgin Records America, Inc. (CAP 1652-55, 1678-79, 1759-60, 1772-73, 1814-17, 1860-61, 1867-70, 1895-98, 1938-39, 1948-51, 1970, 1977-78, 2027-28, 2067-69, 2077) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P50. | Merger of Virgin Records America, Inc., Caroline Records, Inc. et al. into Capitol Records, LLC (CAP 1455-58) | Authentication (901, 902); Hearsay (802); Relevance (401) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | | |
| P51. | Album copies and label copy for various albums registered in name of Virgin Records America, Inc. (CAP 8732-35, 8748-49, 8762-65, 8896-8908, 8993-98) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P52. | January 1, 2005 amendment between Stacie Orrico and Virgin Records America, Inc. (CAP 6806-6809) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P53. | Copies of copyright registrations in the name of Charisma Records America, Inc. (CAP 1757-58, 2013-14) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P54. | Merger of Charisma Records America, Inc. into Virgin Records America, Inc. (CAP 2095-2102) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P55. | Copy of The Cross of Changes album by Enigma registered in name of Charisma Records America, Inc. (CAP 8746-47) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P56. | Copies of copyright registrations in the name of Caroline Records (Astralwerks) (CAP 1864-66) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P57. | Assumed name filing re Astralwerks (CAP 2088-2090) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P58. | WITHDRAWN | |
| P59. | WITHDRAWN | |
| P60. | WITHDRAWN | |
| P61. | WITHDRAWN | |
| P62. | WITHDRAWN | |
| P63. | WITHDRAWN | |
| P64. | Copy of copyright registration for | Authentication (901, 902); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | Document album by R.E.M. in name of International Record Syndicate, Inc. (CAP 1845-46) | Hearsay (802); Relevance (401) |
| P65. | Agreement re Seventh Avenue Music, Inc. purchase of International Record Syndicate, Inc. (CAP 8299-8362) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P66. | Certificate of merger of Seventh Avenue Music, Inc. into Capitol Records, Inc. (CAP 2150-51) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P67. | Copy of album "Document" by R.E.M. (CAP 8760-61) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P68. | Copies of copyright registrations in the name of Chrysalis Records, Inc. (CAP 1680-81, 1862-63, 2007-08, 2035-36) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P69. | Certificate of merger of Chrysalis Records, Inc. into Capitol Records, Inc. (CAP 8296-97) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P70. | Label copy for albums registered in the name of Chrysalis Records, Inc. (CAP 8953-55, 8967-70) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P71. | Copies of copyright registrations in the names of third party entities that granted exclusive licenses to Capitol Records, LLC (CAP 1663, 1731, 1793-95, 1822-23, 1855-56, 1873-74, 2066) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P72. | May 5, 2011 agreement between Capitol Records Nashville and ACR Records, LLC (CAP 2589-2637) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P73. | September 21, 2010 agreement between Dom and EMI Music North America (CAP 3987-4030) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P74. | Fictitious business name filing re EMI | Authentication (901, 902); Hearsay (802); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | Music North America (CAP 2103-2106) | Relevance (401) |
| P75. | August 29, 2005 agreement between Korn Partnership and Virgin Records America, Inc. (CAP 8183-8215) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P76. | Agreement between Little Big Town, LLC and Capitol Records Nashville (CAP 5527-5535) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P77. | August 22, 2011 agreement between Paxamericana Recording Co. and EMI Music North America (CAP 6389-6434) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P78. | August 17, 1971 agreement between Haworth Enterprises and Capitol Records, Inc. and amendment (CAP 8070-8092) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P79. | Copy of album "Fly Like An Eagle" by Steve Miller Band (CAP 8770-71) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P80. | Copies of copyright registrations in the name of foreign affiliates of Capitol Records, LLC (CAP 1660, 1682-83, 1694-98, 1702-16, 1752, 1755-56, 1776-82, 1792, 1843-44, 1849-50, 1871-72, 1875-78, 1885-86, 1926-29, 1973-74, 2025-26, 2043-46, 2051, 2064-65, 2076) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P81. | Matrix Exchange Agreements and related side letter agreements (CAP 1526-1651, 9182-88) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P82. | Merger of Virgin Records Sweden into EMI Music Sweden (CAP 4581-4584) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P83. | Album copies and label copy for various albums registered in the name of foreign affiliates of Capitol Records, LLC (CAP 8744-45, 8766-69, 8890-95, 8936-44, 9025-27) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P84. | Name change certificate from The | Authentication (901, 902); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | Gramophone Company, Ltd. to EMI Records, Ltd. (CAP 2135-36) | Hearsay (802); Relevance (401) |
| P85. | Copies of copyright registrations in name of entity that assigned or exclusively licensed rights to a foreign affiliate of Capitol Records, LLC (CAP 1658-59, 1661-62, 1667-69, 1721-24, 1736-40, 1753-54, 1833-34, 1883-84, 1893-94, 1899-1903, 1956-57, 2007-12) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P86. | Album copies and label copy for various albums registered in name of entity that assigned or exclusively licensed rights to a foreign affiliate of Capitol Records, LLC (CAP 8758-59, 8886-89, 8945-48, 8971-74, 9003-9012) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P87. | Agreements re recordings on Virgin Suicides soundtrack (CAP 2572-2578) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P88. | Agreement between Aircheology and EMI Music France (CAP 2584-88) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P89. | Agreement between The Echo Label Ltd. and EMI Records Ltd. (CAP 2793-2856) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P90. | Agreements among Daft Life Limited, Daft Trax and Virgin Records Ltd/Virgin France (CAP 4510-4580) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P91. | Agreement between Jones/Tortaretto and EMI Records Ltd. (CAP 5083-5092) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P92. | Agreement between Gum Prod/What A Music and EMI France (CAP 3787-3792) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P93. | Agreement between The Sleep Jackson Pty Ltd and EMI Music Australia Pty Ltd. (CAP 4031-4048) | Authentication (901, 902); Hearsay (802); Relevance (401) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| P94. | Agreement between Circa Records Ltd. and Massive Attack Ltd., agreement substituting Virgin Records Ltd. (CAP 5770-5826) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P95. | Agreement between Pink Floyd Music Limited and EMI Records Ltd. (CAP 9013-9022) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P96. | Agreement between Thirteen Limited and EMI Records Ltd. (CAP 7044-49) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P97. | EMI Records Ltd. purchase of Tritec Music Ltd. (CAP 7128-7544) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P98. | Agreement between Disturbing London Records Limited and EMI Records Ltd. (CAP 7969-7985) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P99. | Copy of copyright registration for album "Give Us Rest" by David Crowder Band in name of EMI Christian Music Group, Inc. (CAP 1960-61) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P100 | Certificate re name change from EMI Christian Music Group, Inc. to Capitol Music Christian Music Group, Inc. (CAP 2185-86) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P101 | Copies of copyright registrations in name of record labels of Tooth & Nail LLC (CAP 1656-57, 1933-35, 1971-72, 1987-90, 1995-96, 2049-50, 2074-75, 2084-87) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P102 | Limited liability company agreement re Tooth & Nail LLC (CAP 2213-2245) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P103 | Distribution agreement between Tooth & Nail LLC and EMI Christian Music Group, Inc. (CAP 2187-2212) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P104 | Amended and restated limited liability | Authentication (901, 902); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | company agreement re Virgin Records IR Holdings, Inc. acquisition of additional 25% interest in Tooth & Nail LLC (CAP 2246-2261) | Hearsay (802); Relevance (401) |
| P105 | February 2013 membership purchase agreement re Virgin Records IR Holdings, Inc. acquisition of remaining 25% interest in Tooth & Nail LLC (CAP 2301-2337) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P106 | February 23, 2013 copyright assignment from Tooth & Nail LLC to EMI Christian Music Group, Inc. (CAP 8635-8717) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P107 | Label copy for album "Emotion is Dead" by The Juliana Theory registered in name of Tooth & Nail Records (CAP 8963-66) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P108 | Copies of copyright registrations in the name of Sparrow Records (CAP 1732-33, 1774-75, 1954-55, 1991-92, 2003-04, 2029-30, 5081-82) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P109 | Assumed name filing re Sparrow Records (CAP 2152-53) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P110 | Copy of album "Church Music" by David Crowder Band registered in name of Sparrow Records (CAP 8740-41) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P111 | Copies of copyrights in the name of The Forefront Communications Group, Inc./Forefront Records (CAP 1741-44, 1904-10, 1940-41, 2037-42) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P112 | Merger of The Forefront Communications Group, Inc., Jubilee Communications Group, Inc. into EMI Christian Music Group, Inc. (CAP 2144-49) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P113 | Fictitious name filing re Forefront Records (CAP 2131-34) | Authentication (901, 902); Hearsay (802); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|--|
| | | Relevance (401) |
| P114 | Copy of copyright registration for album "Take Me To Your Leader" by Newsboys registered in name of Jubilee Communications, Inc. (CAP 2062-63) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P115 | Label copy for album "Take Me To Your Leader" by the Newsboys registered in name of Jubilee Communications, Inc. (CAP 8932-35) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P116 | Copy of copyright registration of album "Straight Ahead" by Amy Grant registered in name of Word, Inc. (CAP 2052-53) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P117 | Copyright office record of assignment of copyright in "Straight Ahead" album from Word, Inc. to Amy Grant (CAP 8632-34) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P118 | Agreement between Amy Grant and EMI Christian Music Group, Inc. (CAP 2690-2721) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P119 | Copy of album "Straight Ahead" by Amy Grant (CAP 8726-27) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P120 | Copy of copyright registrations for Demon Hunter recordings in name of Tooth & Nail Records (CAP 1966-69) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P121 | Assignment of copyright from Tooth & Nail LLC to Brandon Ebel's company without right to sue for past infringements (CAP 2338-2349) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P122 | Chart of Pre-1972 sound recordings alleged to be infringed (Exhibit B to Second Amended Complaint) | Hearsay (802); Document admissible only for a limited purpose (105); limiting instruction; Authentication (901, 902); Cumulative/Confusing/Misleading/Prejudicial (403) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | | |
| P123 | February 23, 1968 agreement between Capitol Records, Inc. and Hideout Records and Distributors, Inc. re Bob Seger (CAP 8865-8875) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P124 | February 2, 1959 agreement between Capitol Records, Inc. and Dean Martin (CAP 4487-4494) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P125 | April 1953 agreement between Capitol Records, Inc. and Frank Sinatra (CAP 8144-52) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P126 | November 7, 1989 agreement among Capitol Records, Inc., members of Beatles et al. (CAP 9028-9134, 9161-79) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P127 | January 1, 2006 agreement between Yoko Ono and Capitol Records, Inc. et al.; April 1, 2009 agreement between Yoko Ono and Capitol Records, LLC (CAP 9135-9160) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P128 | Agreement between Edith Piaf and Les Industries Musicales et Electriques Pathe Marconi (CAP 4506-09) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P129 | October 27, 1967 agreement between Capitol Records, Inc. and Steve Miller Band (CAP 8014-8038) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P130 | Agreements between Chrysalis Productions Limited and members of Ten Years After (CAP 6206-6229) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P131 | Agreements between Capitol Records, Inc. and members of The Band (CAP 6230-6249) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P132 | Agreements between Capitol Records, Inc. and members of The Beach Boys (CAP 6971-83) | Authentication (901, 902); Hearsay (802); Relevance (401) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| P133 | August 24, 2006 agreement between Capitol Records Nashville and Darius Rucker (CAP 3720-53) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P134 | November 8, 2004 agreement between Capitol Records Nashville and Eric Church (CAP 4049-4079) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P135 | June 20, 2007 agreement between Capitol Records, Inc. and Katy Perry (CAP 1040-1083) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P136 | November 1, 1996 agreement between Capitol Nashville and The Ranch (Keith Urban) (CAP 1258-1327) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P137 | May 31, 2007 agreement between Capitol Records Nashville and Lady Antebellum (CAP 1162-1203) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P138 | November 29, 2005 agreement between Capitol Records, Inc. and The Decemberists (CAP 7004-7043) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P139 | Agreements between Capitol Records, Inc. and Trace Adkins (CAP 7689-7794) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P140 | April 30, 2003 agreement between Capitol Records, Inc. and Wynton Marsalis Enterprises, Inc. (CAP 7857-7897) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P141 | August 15, 2002 agreement between Baha Men Entertainment Ltd./Mipmch Productions Inc. and S-Curve Records, LLC; February 1, 2005 assignment to EMI Music North America (CAP 2722-2792) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P142 | Agreements between Capitol Records, Inc. and Beastie Boys (CAP 482-703, 2883-3029) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P143 | Agreements between Hideout Records and Distributing Inc. and Capitol Records, Inc. | Authentication (901, 902); Hearsay (802); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | (CAP 3438-3459, 3466-3535) | Relevance (401) |
| P144 | July 1, 2000 agreement between Virgin Records Nashville, Inc. and Chris Cagle; certificate of merger of Virgin Records Nashville, Inc. into Capitol Records, Inc. (CAP 3536-3606, 8298) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P145 | April 19, 1984 agreement between Capitol Records, Inc. and Aquarius Records, Ltd. re Corey Hart (CAP 3668-3719) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P146 | May 11, 1993 agreement between Capitol Records, Inc. and Deana Carter (CAP 3879-3930) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P147 | Agreements between Capitol Records, Inc. and Cinema Records, Inc. re Eric Johnson (CAP 4080-4162) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P148 | Agreement between Capitol Records, Inc. and Everclear (CAP 4163-4281) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P149 | Agreement between Capitol Records, Inc. and Heart (CAP 5093-5153) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P150 | Agreements between Capitol Records, Inc. and J. Geils Band (CAP 4787-4838) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P151 | May 16, 1997 agreement between Capitol Records, Inc. and W&R Group re Julie Reeves (CAP 4964-5036) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P152 | January 30, 2003 agreement between EMI Recorded Music North America and Liam Lynch (CAP 5469-5526) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P153 | May 16, 2005 agreement between Capitol Records, Inc. and Luke Bryan (CAP 5543-5574) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P154 | June 23, 1988 agreement between Capitol | Authentication (901, 902); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | Records, Inc. and M.C. Hammer (CAP 5827-5880) | Hearsay (802); Relevance (401) |
| P155 | October 31, 1995 agreement between Capitol Records, Inc. and Meredith Brooks (CAP 5944-5968) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P156 | November 14, 2006 agreement between Capitol Records, Inc. and Urban Box Office, Inc. re MIMS (CAP 5994-6000) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P157 | Agreement between Capitol Records, Inc. and Mindy McCready (CAP 6001-6055) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P158 | May 1, 2002 agreement between Capitol Records, Inc. and Nitty Gritty Dirt Band (CAP 6083-6131) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P159 | April 10, 2001 agreement between Capitol Records, Inc. and O.K. Go (CAP 6132-6205) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P160 | December 2, 1999 agreement between Capitol Records, Inc. and Rodney Carrington (CAP 6343-6386) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P161 | Agreement between EMI Svenska AB and Roxette; name change from EMI Svenska AB to EMI Music Sweden AB (CAP 6387-88, 8294-95) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P162 | August 24, 1994 agreement between Capitol Records, Inc. and Shenandoah (CAP 6479-6535) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P163 | October 12, 2004 agreement between Capitol Records, Inc. and Grand Bud AB re Shout Out Louds (CAP 6536-45) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P164 | June 29, 1985 agreement between Capitol Records, Inc. and Tanya Tucker, Inc. re Tanya Tucker (CAP 6925-6970) | Authentication (901, 902); Hearsay (802); Relevance (401) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| P165 | July 25, 2005 agreement between Capitol Records, Inc. and Panic Channel (CAP 7092-7127) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P166 | May 2, 2002 agreement between Capitol Records, Inc. and Yellowcard (CAP 7898-7968) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P167 | May 2009 agreement between EMI Music North America and AIC Entertainment LLC re Alice in Chains (CAP 2638-2689) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P168 | March 21, 2002 agreement between Capitol Records, Inc. and Dierks Bentley (CAP 704-757) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P169 | February 10, 2010 agreement between EMI Music North America and Joey Montana (CAP 4925-4963) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P170 | October 27, 1995 agreement between EMI Records and Marcy Playground, Inc. (CAP 5644-5721) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P171 | Agreement between Immortal Records, LLC and 30 Seconds To Mars; dissolution of Immortal Records, LLC (CAP 430-481; 1363-1454) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P172 | March 13, 2009 agreement between Virgin Records America, Inc. and 30 Seconds To Mars (CAP 2367-2414) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P173 | Agreement between Virgin Records America, Inc. and A Perfect Circle Partnership re A Perfect Circle (CAP 2415-2481) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P174 | July 28, 1993 agreement between Virgin Records America, Inc. and Ben Harper (CAP 3030-3092) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P175 | September 3, 1987 agreement between Virgin Records Limited and Goldcrest | Authentication (901, 902); Hearsay (802); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | Distributors Limited re The Mission soundtrack (CAP 8363-8389) | Relevance (401) |
| P176 | May 12, 2006 agreement between Virgin Records America, Inc. and Ferras (CAP 4282-4330) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P177 | January 2, 2003 agreement between Virgin Records America, Inc. and Fountains of Wayne (CAP 4376-4443) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P178 | March 14, 1996 agreement between Virgin Records America, Inc. and Black Doll, Inc. re Janet Jackson (CAP 4839-4924) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P179 | March 29, 1989 agreement between Virgin Records America, Inc. and Lenny Kravitz (CAP 5413-5468) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P180 | September 28, 2007 agreement between Capitol Records, Inc. and Skiddco Music re Saving Abel (CAP 6435-78) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P181 | January 19, 2007 agreement between Virgin Records America, Inc. and RMR Music Group, Inc. re Sick Puppies (CAP 6546-69) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P182 | Agreements between Virgin Records America, Inc. and Smashing Pumpkins (CAP 8220-8293) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P183 | November 8, 2006 agreement between Virgin Records America, Inc. and Kurtis Henneberry and Mike Nadeau then known as Renata – now known as The Last Goodnight (CAP 7050-7091) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P184 | October 24, 2005 agreement between Virgin Records America, Inc. and The Red Jumpsuit Apparatus (CAP 7545-7588) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P185 | Agreements re Enigma (CAP 8772-8812) | Authentication (901, 902); Hearsay (802); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | | Relevance (401) |
| P186 | Agreement between Charisma Records America, Inc. and Gut Reaction Ltd. re Right Said Fred (CAP 6274-6342) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P187 | February 9, 2006 agreement between Caroline Records, Inc. and Thomas D'Arcy Music Inc. re Small Sins (CAP 6645-6688) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P188 | Certificate of incorporation on change of name from Chrysalis Productions Limited to Chrysalis Records Limited (CAP 9189-90) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P189 | May 31, 1982 agreement between International Record Syndicate and R.E.M. (CAP 6250-6273) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P190 | August 1, 1981 agreement between Chrysalis Records, Inc. and Billy Idol (CAP 3177-3216) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P191 | May 1, 1981 agreement between Chrysalis Records, Inc. and 2001 White Castle Way, Inc. re Pat Benatar (CAP 8093-8143) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P192 | August 7, 1985 agreement between Ensign Records Limited and Sinead O'Connor (CAP 8842-47) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P193 | March 1987 agreement between Chrysalis Records, Inc. and The Proclaimers (CAP 8860-64) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P194 | Agreement between Virgin France and Air; merger of Virgin France into EMI Music France (CAP 2580-83, 2567-71) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P195 | Agreement between Food Limited and Blur; purchase of Food Limited shares by EMI Records, Ltd. (CAP 3304-3437) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P196 | May 6, 2003 agreement between EMI | Authentication (901, 902); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| | Music Sweden and Caesars (CAP 8626-31) | Hearsay (802); Relevance (401) |
| P197 | March 1, 2010 agreement between EMI Records Ltd. and Chiddy Bang (CAP 8813-17) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P198 | July 18, 2007 agreement between EMI Records Ltd. and Coldplay (CAP 8876-8882) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P199 | April 22, 1999 agreement between EMI Records Ltd. and Coldplay (CAP 8883-85) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P200 | December 11, 2009 agreement between EMI Records Ltd. and Danger Mouse (CAP 8827-32) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P201 | October 1, 2008 agreement between EMI Records Ltd. and Eliza Doolittle (CAP 8818-26) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P202 | September 16, 1997 agreement between Virgin Records Ltd. and Gomez (CAP 8391-8457) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P203 | April 14, 2000 agreement between EMI Records Ltd. and Gorillaz (CAP 4585-4692) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P204 | December 19, 2006 agreement between EMI Records Ltd. and Hot Chip (CAP 4716-4786) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P205 | Agreement between EMI Music France and Keren Ann (CAP 8833-38) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P206 | June 16, 1999 agreement between EMI Records Ltd. and Darenote Limited and Kimberly Limited re Kylie Minogue (CAP 8848-55) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P207 | August 7, 2002 agreement between EMI | Authentication (901, 902); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | Music France and Dog Triumph Limited re Royksopp (CAP 8839-41) | Hearsay (802); Relevance (401) |
| P208 | July 13, 1995 agreement between Virgin Records Ltd. and Spice Girls (CAP 6689-6739); Sept | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P209 | September 1, 1997 agreement between Virgin Records Ltd. and Spice Girls (CAP 6740-6777) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P210 | Agreements with EMI Records UK re Supergrass (CAP 6844-6924) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P211 | April 18, 2000 agreement between Virgin Records Ltd. and Hope Sandoval re The Chemical Brothers (CAP 6984-7003) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P212 | July 6, 2004 agreement between Virgin Records Ltd. and The Kooks (CAP 8458-8532) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P213 | February 8, 1991 agreement between Capitol Records-EMI of Canada and Tom Cochrane; name change to EMI Group Canada Inc. (CAP 8544-98; 9180-81) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P214 | December 5, 1996 agreement between EMI Records Ltd. and White Town (CAP 7795-7856) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P215 | Agreement re EMI Music Mexico, S.A. de C.V. and Zoe (CAP 8599-8625) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P216 | January 1, 2002 agreement between EMI Christian Music Group, Inc. and David Crowder (CAP 3754-3786) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P217 | March 1, 2006 agreement between Tooth & Nail, LLC and Aaron Gillespie (CAP 2493-2525) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P218 | May 30, 2003 agreement between Tooth & | Authentication (901, 902); |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | Nail, LLC and Hawk Nelson (CAP 4693-4715) | Hearsay (802); Relevance (401) |
| P219 | October 2, 2001 agreement between Tooth & Nail, LLC and Kutless (CAP 5235-5258) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P220 | February 1, 2004 agreement between Tooth & Nail, LLC and Manafest (CAP 5575-95) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P221 | August 24, 2001 agreement between Tooth & Nail, LLC and MeWithoutYou (CAP 5969-5993) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P222 | October 14, 1998 agreement between Tooth & Nail and Juliana Theory (CAP 7986-8002) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P223 | Agreements between EMI Christian Music Group, Inc. and Chris Tomlin (CAP 3607-3667) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P224 | June 30, 2003 agreement between EMI Christian Music Group, Inc. and Something Like Silas (now known as Future of Forestry) and May 7, 2008 amendment (CAP 4446-4486) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P225 | January 1, 2007 agreement between EMI Christian Music Group, Inc. and Mandisa (CAP 5596-5643) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P226 | January 1, 1995 agreement between Jubilee Communications, Inc. and Newsboys (CAP 6056-6082) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P227 | September 26, 2003 agreement between EMI Christian Music Group, Inc. and Starfield (CAP 6810-6843) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P228 | October 26, 2007 agreement between EMI Christian Music Group, Inc. and Abandon | Authentication (901, 902); Hearsay (802); Relevance (401) |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|--|---|
| | (CAP 2526-66) | |
| P229 | Agreements re The Forefront Communications Group, Inc. and DC Talk (CAP 3793-3878) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P230 | May 30, 2006 agreement between The Forefront Communications Group, Inc. and This Beautiful Republic (CAP 7589-7637) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P231 | December 4, 2006 agreement between EMI Christian Music Group, Inc. and Toby Mac (CAP 7640-88) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P232 | February 8, 2002 agreement between Tooth & Nail, LLC and Demon Hunter (CAP 3931-3986) | Authentication (901, 902); Hearsay (802); Relevance (401) |
| P233 | DMCA Section 104 Report, U.S. Copyright Office, August 2001, A Report of the Register of Copyrights Pursuant to § 104 of the Digital Millenium Copyright Act | Authentication (901, 902); Hearsay (802); limiting instruction; Cumulative/Confusing/Misleading/Prejudicial (403) Relevance (401) |

EXHIBIT B

DEFENDANTS' EXHIBIT LIST

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| A. | List of Coleen Hall Tracks (CAP6-10) | Relevance |
| B. | iTunes Terms of Service (Ex 3 to ReDigi Summary Judgment Motion) | Relevance |
| C. | ReDigi Terms of Service (Ex. 5 ReDigi Summary Judgment Motion) | |
| D. | Agreements between Apple Computer, Inc. and EMI Recorded Music Holdings, Inc. and Amendment (Defendants' Exhibit E Piibe Deposition) | Relevance Confidentiality |
| E. | Printouts of Apple Press Info re: Apple to Launch iCloud on October 12, Google Play Printout, and Amazon MP3 Downloads (Ex. 7 ReDigi Summary Judgment Motion) | Relevance |
| F. | 7Digital Label Approval ReDigi (Ex 9 ReDigi Summary Judgment Motion) | Relevance |
| G. | July 20, 2012 Declaration of Larry Rudolph | Hearsay Relevance |
| H. | 4/4/12 Plaintiffs' Responses to Requests for Admission | Relevance |
| I. | Itunes Buy Page of Lapsley – 3/10/16 | Relevance |
| J. | Itunes Terms and Conditions – 3/10/16 | Relevance |
| K. | Amazon Terms of Service – 6/9/12 | Relevance |
| L. | Email from J. Ossenmacher to Pat Shah CAP 000236 - 000237 | Relevance Fed. R. Evid. 408 |
| M. | Email from Kevin Koloff to Alasdair McMullan CAP 000234 - 000235 | Relevance Fed. R. Evid. 408 |

| Trial Exh. | Description | Defendant's Evidentiary Position |
|-------------------|---|---|
| N. | Email from Pat Shah to J. Ossenmacher CAP000231 | Relevance Fed. R. Evid. 408 |
| O. | Email from Jennifer Pariser to J. Ossenmacher CAP 000224 – CAP 000225 | Relevance Fed. R. Evid. 408 |
| P. | EMI Approval Request – CAP 000249 – CAP 250 | Relevance |
| Q. | Data Totals for Track Usage – ReDigi 0000457 | |
| R. | ReDigi Digital Music Overview – ReDigi 00000271-322 | Hearsay Relevance |
| S. | Proposal to Warner Music Group – ReDigi 323-326 | Hearsay Relevance |
| T. | Love Songs on ReDigi – ReDigi 329-330 | Relevance |
| U. | Partial American Express Statements | Relevance |