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June 23, 2016

By E-mail (sullivanysdchambers@nysd.uscourts.gov) and ECF

Hon. Richard J. Sullivan, U.S.D.J.
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Capitol Records, LLC v. ReDigi Inc., 12 cv. 0095 (RJS)

Dear Judge Sullivan:

We represent Plaintiffs in the above-captioned action and write in accordance with Rule 2.A of the Court's Individual Practices to request a pre-motion conference in connection with Plaintiffs' proposed motion to register the Stipulated Final Judgment (Docket No. 22) (the "Stipulated Judgment") in the United States District Courts for the District of Massachusetts, the Central District of California, and the Southern District of Florida. None of the Defendants is located in New York, and based on preliminarily investigations, none appear to have any assets in this State to satisfy the damage award of \$3,500,000 set forth in Paragraph 4 of the Judgment. As set forth below, pursuant to 28 U.S.C. §1963, Plaintiffs respectfully request that the Court allow registration of the Judgment in the aforementioned Districts, where Defendants are located and/or appear to have assets, so that Plaintiffs may seek to enforce the Stipulated Judgment. The relevant facts and law are as follows.

On June 3, 2016, the Court endorsed the Stipulated Judgment, which sets forth the form of injunction to which the parties agreed, preserves Defendants rights to appeal the liability finding on summary judgment, and provides in paragraph 4, "the parties stipulate that the amount of damages awarded to Plaintiffs against the ReDigi Parties jointly and severally shall be three million five hundred thousand dollars (\$3,500,000)." Defendants have not posted a bond to secure the damages set forth in the Stipulated Judgment. On June 22, 2016, counsel for ReDigi Inc. and counsel for the individual Defendants Ossenmacher and Rudolph each filed pre-motion letters seeking to withdraw from the case and proposing to state their reasons under seal, for the Court's *in camera* review (Docket Nos. 229 and 230). No other attorney has filed any notice of appearance, notwithstanding that corporate defendant ReDigi, Inc. may not appear *pro se*. Plaintiffs' investigations reveal that none of the Defendants are located in or appear to have any assets in the State of New York.

Pursuant to Fed. R. Civ. P. 62(a), "no execution may issue on a judgment, nor may proceedings be taken to enforce it, until 14 days have passed after its entry." More than 14 days

have passed since entry of the Stipulated Judgment on June 3, 2016. However, pursuant to 28 U.S.C. §1963, enforcement of a money judgment entered by one District Court may not proceed in any other District prior to the judgment becoming final by appeal or the expiration of the appeal period, except by motion. One Court in this District has set forth the procedure and standards for such a motion as follows:

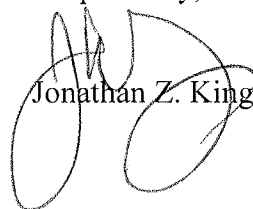
28 U.S.C. § 1963 provides that "[a] judgment in an action for the recovery of money or property entered in any...district court" may be registered for enforcement in another judicial district "when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown." (emphasis added.) "'Good cause' is established upon a mere showing that the party against whom the judgment has been entered has substantial property in the other foreign district and insufficient property in the rendering district to satisfy the judgment." Owen v. Soundview Fin. Group, Inc., 71 F. Supp. 2d 278, 279 (S.D.N.Y. 1999) (internal citation omitted).

BC Media Funding Co. II & Media Funding Co. v. Lazauskas, 2009 WL 290526, at *4 (S.D.N.Y. Feb. 6, 2009).

As noted above, none of the Defendants appear to be located in or to have assets in New York. Plaintiffs' preliminary investigations suggest that the Defendants are located in Massachusetts and, in the case of one of the individual Defendants, in either California or Florida. It also appears that Defendants may have real property and other assets in one or more of these states. Defendants' failure to post a bond, and the proposed withdrawal of all defense counsel, suggest that Plaintiffs' ability to enforce the Stipulated Judgment may be in jeopardy without the ability to take prompt action in these jurisdictions where such assets as Defendants may have appear to be located. Given these circumstances, Plaintiffs respectfully submit that they have established good cause for immediate registration of the Stipulated Judgment in the Districts of Massachusetts, the Central District of California, and the Southern District of Florida, regardless of whether Defendants file a notice of appeal (due on July 5, 2016) or otherwise proceed with an appeal. See BC Media, 2009 U.S. Dist. LEXIS 8940, *4 (good cause for registration of judgment in Districts of Connecticut and New Jersey, where defendants appeared to have real property in those states but no assets in New York).

Plaintiffs note that the parties are scheduled for a pre-motion conference regarding Plaintiffs' proposed motion for attorney's fees on June 29, 2016. We would be prepared to discuss the motion proposed in this letter at the same conference. We thank the Court for its attention to the foregoing.

Respectfully,


Jonathan Z. King

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