

**EXHIBIT 1 TO THE MANDEL REPLY DECLARATION**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

CAPITOL RECORDS, LLC,

Plaintiff,

-against-

REDIGI INC.,

Defendant.

-----X

No. 12-cv-0095 (RJS) (AJP)

**DEFENDANT'S  
RESPONSES AND  
OBJECTIONS TO  
PLAINTIFF'S FIRST  
SET OF REQUESTS FOR  
PRODUCTION OF  
DOCUMENTS AND  
FIRST SET OF  
INTERROGATORIES**

Defendant ReDigi Inc., by and through its attorneys, Ray Beckerman, P.C., hereby responds to Plaintiff's First Set of Requests for Production of Documents and First Set of Interrogatories, as follows:

**General Responses And Objections**

The following General Objections apply to all requests in Plaintiff's First Set of Requests for Production of Documents and First Set of Interrogatories (collectively, the "Requests") whether or not a general objection is referred to specifically in response to any particular request:

A. Defendant objects to the Requests to the extent that they seek to impose obligations beyond those mandated by the Federal Rules of Civil Procedure.

B. Defendant objects to the Requests to the extent that they call for information and documents protected from disclosure by the attorney-client privilege, the work-product privilege or other privileges recognized by law. The documents produced herewith therefore do not include correspondence and notes communicated solely between defendant and its counsel. To the extent that privileged material is disclosed by defendant in their disclosures

below, such disclosure is without prejudice to, and is not a waiver of, any subsequent assertion of privilege by defendant as to the information disclosed or as to other information, nor of opposing counsel's ethical obligation to return inadvertently disclosed privileged material upon receipt of any documents clearly covered by any privilege.

C. Defendant objects to the Requests to the extent that they are overly broad, unreasonable, unduly burdensome, cumulative, duplicative, or seek documents or information that is not relevant and not reasonably calculated to lead to the discovery of relevant evidence admissible at trial.

D. Defendant objects to the Requests to the extent they are vague, ambiguous, not subject to reasoned interpretation, and fail to put defendant on reasonable notice of the documents or information being requested.

E. Defendant objects to the Requests to the extent that they require defendant to search for documents in places or from sources other than where such documents are kept in the ordinary course of business.

F. Defendant objects to the identification of documents that are no longer in existence.

G. Defendant objects to the Requests as overbroad, unreasonable and unduly burdensome, to the extent that the Requests fail to identify a time period covered by the Requests.

H. Defendant objects to the Requests to the extent that the documents or information sought are exclusively in the possession of plaintiff or other parties. Such a request is overbroad, unreasonable, and unduly burdensome. Defendant will produce only those otherwise produceable documents in their possession, custody or control.

I. Defendant objects to the Requests because the terms and phrases “with regard to,” “concerning,” “demonstrating,” “evidencing,” “refer to,” and “relate to” are vague, ambiguous, not subject to reasoned interpretation, and fail to put defendant on sufficient notice of the documents or categories of documents being requested.

J. Defendant objects to the Requests to the extent that they seek to impose a duty to supplement production beyond the duty imposed pursuant to the Federal Rules of Civil Procedure.

K. Defendant objects to the Requests to the extent they seek to restrict the manner in which defendant is legally entitled to produce documents pursuant to the Federal Rules of Civil Procedure.

L. Defendant objects to the Requests to the extent that they seek the identification of users and shareholders of ReDigi as such information is confidential, sensitive, not relevant to any claim or defense asserted in this action and not reasonably calculated to lead to the discovery of relevant evidence admissible at trial, and disclosure thereof would be oppressive and annoying and could subject the targeted persons to harassment.

M. Defendant reserves the right to supplement or amend these responses through and including the time of trial.

N. The disclosure of any information or production of any document shall not operate as an admission that it is relevant to the claims or defenses of any party to this action or to the subject matter of this action or as a waiver of any objection to its admission into evidence.

O. Defendant’s use of the phrase “responsive documents will be produced” and the like does not imply that any documents set forth or described in each request exist or are in defendant’s possession, custody or control. Rather, use of the foregoing response shall mean

that non-privileged, responsive documents will be produced if and to the extent they exist and are in defendant's possession, custody or control.

P. Subject to these General Objections or the specific Objections set forth below, documents will be produced to the extent they exist pursuant to a confidentiality agreement and an e-discovery agreement. On March 20, 2012, defendant's counsel emailed plaintiff's counsel a proposed framework for e-discovery. As of March 29, 2012, plaintiff's counsel had not responded to this proposal. In a telephone call on March 30, 2012, plaintiff's counsel, Richard Mandel, Esq., stated that a colleague would handle this matter during the coming week. Defendant's counsel advised Mr. Mandel that defendant had been waiting since March 20<sup>th</sup> for plaintiff's response to the proposal, that after the parties reach agreement on confidentiality and e-discovery protocols, defendant's e-discovery vendor will process the data, and defendant's counsel will perform privilege review and thereafter produce documents. A proposed Protective Stipulation and Order Regarding Confidentiality of Discovery Material and Inadvertent Disclosure of Privileged Material accompanies this response.

## **RESPONSE TO DOCUMENT REQUESTS**

### **Request No. 1**

Documents sufficient to identify all previous or current officers, directors, employees and/or shareholders of ReDigi and to identify each such person's job title and description.

### **Response**

Defendant objects to this request to the extent that it seeks the identification of shareholders of ReDigi as such information is confidential, sensitive, not relevant to any claim or defense asserted in this action and not reasonably calculated to lead to the discovery of relevant evidence admissible at trial, and disclosure thereof would be oppressive and annoying and could subject the targeted persons to harassment. Subject to and without waiving these objections and

**Request No. 22**

All documents concerning the lawfulness or unlawfulness of any services offered by ReDigi, including documents concerning whether ReDigi or any services offered by ReDigi may violate copyright or other intellectual property laws.

**Response**

Defendant objects to this request as overbroad, burdensome and to the extent that it seeks communications and documents protected from disclosure by the attorney-client privilege, the work-product privilege or other privileges recognized by law. Subject to and without waiving these objections and the general objections, responsive non-privileged documents will be produced following agreement on e-discovery procedures and confidentiality.

**Request No. 23**

All documents supporting the statements on the ReDigi Website posted under the heading "ReDigi™ ... The Legal Alternative," including, without limitation, all legal opinions and analyses on which such statements are based.

**Response**

Defendant objects to this request as overbroad, burdensome and to the extent that it seeks communications and documents protected from disclosure by the attorney-client privilege, the work-product privilege or other privileges recognized by law. Subject to and without waiving these objections and the general objections, responsive non-privileged documents will be produced following agreement on e-discovery procedures and confidentiality.

**Request No. 24**

Annual and interim financial statements for ReDigi from its inception to the present.

**Response**

Defendant objects to this request because such information is sensitive and confidential, not relevant to any claim or defense asserted in this action and not reasonably calculated to lead to the discovery of relevant evidence admissible at trial.

**Request No. 25**

Documents sufficient to show the capitalization of ReDigi from its inception to the present.

**Interrogatory No. 8**

Identify all revenues earned by ReDigi from the sale of Capitol Recordings in the ReDigi Marketplace.

**Response**

Defendant responds that such data is sensitive and confidential corporate information which will be disclosed following execution of a suitable confidentiality agreement.

**Interrogatory No. 9**

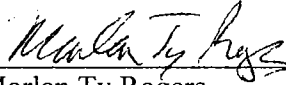
Identify each user of the ReDigi Website who has been deemed to have committed a "violation" or whose account has been "suspended" as a result of such violation, as described in paragraphs 7, 20-22 and 24 of the Declaration of Larry Rudolph, Docket No. 16.

**Response**

Defendant objects to this interrogatory as overbroad, oppressive and premature and because the identity of ReDigi's users is confidential, constitutes a trade secret, is not relevant to any claim or defense asserted in this action, is not reasonably calculated to lead to the discovery of relevant evidence admissible at trial, and because disclosure thereof could subject ReDigi users to harassment.

Dated: Forest Hills, New York  
April 2, 2012

RAY BECKERMAN, P.C.

By:   
Morlan Ty Rogers

Attorneys for defendant ReDigi Inc.  
108-18 Queens Blvd., 4<sup>th</sup> Floor  
Forest Hills, NY 11375  
(718) 544-3434

To: Cowan, Liebowitz & Latman, P.C.  
Attorneys for plaintiff Capitol Records, LLC  
1133 Avenue of the Americas  
New York, NY 10036-6799  
(212) 790-9200