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February 14, 2012

By E-mail (sullivannysdchambers@nysd.uscourts.gov)

Hon. Richard J. Sullivan, U.S.D.J.
United States Courthouse
Southern District of New York
500 Pearl Street
New York, NY 10007

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

Dear Judge Sullivan:

We represent plaintiff Capitol Records, LLC (“Capitol”) in the above-referenced action. We write in order to set forth Capitol’s objections with respect to paragraph 7(d) of the proposed Case Management Plan and Scheduling Order submitted today by counsel for defendant ReDigi, Inc. (“ReDigi”).

We do not believe the Case Management Plan should presuppose any schedule for the submission of amicus briefs, much less dispense with Your Honor’s requirement of pre-motion letters for any such “interested parties” wishing to file amicus briefs. As Your Honor noted in the Court’s February 1, 2012 Order denying Google’s request to participate as amicus curiae, the parties already before the court have ample ability and incentive to address all issues raised by this case. ReDigi’s proposed schedule results in unnecessary additional delay and expense for the parties by extending the summary judgment briefing schedule to accommodate potential amicus briefs, and requiring the submission of full blown motion papers (accompanied by the proposed amicus briefs) when the Court’s existing pre-motion procedures may allow for a quicker and more efficient disposition of the issue of whether to allow the submission of amicus briefs at all. Accordingly, the Court should strike Section 7.D from the Case Management Plan as submitted by ReDigi. Capitol is otherwise in agreement with the dates and procedures set forth in the plan submitted today by ReDigi.

Respectfully,

A handwritten signature in black ink, appearing to read 'R. S. Mandel', written in a cursive style.

Richard S. Mandel

cc: Morlan Ty Rogers, Esq.. (via email)
Ray Beckerman, Esq. (via email)