

Plaintiffs to submit to the Court for its approval a proposed Protective Order that is consistent with the terms established in the Memorandum and Order. Id. at 5.

2. The attached proposed Protective Order tracks the procedure established by the May 6, 2009, Memorandum and Order. Notably, however, the proposed Protective Order proposes to separate the function of the Mirroring Expert and the Examining Expert, insofar as those functions are typically performed by different experts who possess different areas of expertise. The Proposed Order also clarifies that the items to be inspected by the Examining Expert are limited to file-sharing software as well as any music-related files (including music sound files, music video files, music playlist files or music label files), any metadata associated with such files, and any evidence that the hard drive has been “wiped” or erased since the initiation of this litigation. Finally, the Proposed Order clarifies that, at the conclusion of the process established in the Order, Plaintiffs’ counsel may receive an electronic copy of the items set forth on the Examining Expert’s List in order to prepare for the trial of this matter.

3. On May 13, 2009, Plaintiffs’s counsel provided a draft of the attached proposed Protective Order to counsel for the Defendant. Plaintiffs’s counsel has requested that defense counsel provide Plaintiffs with any proposed edits to the draft before the close of business on May 18, 2009. To date, Defendants’ counsel has declined to provide Plaintiffs with any proposed edits to the proposed Protective Order.

4. Consistent with the Memorandum and Order, upon approval of this Protective Order by the Court, the Parties are to meet and confer to determine the contents of the Confidentiality Agreement to be executed by the relevant experts, as well as an appropriate time, within ten business days, for the imaging of the Gateway computer to occur. See Memorandum and Order at 5-6.

WHEREFORE, Plaintiffs respectfully request that this Court enter the Proposed Protective Order attached hereto as Exhibit A.

Respectfully submitted,

SONY BMG MUSIC ENTERTAINMENT;
WARNER BROS. RECORDS INC.; ATLANTIC
RECORDING CORPORATION; ARISTA
RECORDS LLC; and UMG RECORDINGS, INC.

By their attorneys,

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 18, 2009.

/s/ Daniel J. Cloherty