

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GRACENOTE, INC.,)
)
Plaintiff,)
v.) C.A. No. 1:18-cv-01608-RGA
)
FREE STREAM MEDIA CORP.)
d/b/a SAMBA TV,)
Defendant.)

JOINT STIPULATION TO STAY THE CASE FOR 90 DAYS

Plaintiff Gracenote, Inc. (“Gracenote”) and Defendant Free Stream Media Corp. (d/b/a Samba TV) (“Samba TV”) (together, “the parties”) jointly stipulate, subject to the Court’s approval, to stay this case for ninety (90) days and to extend all deadlines in the Scheduling Order by approximately 90 days. In support of this joint stipulation and request, the parties state as follows:

1. On February 19, 2020, the Court entered a Scheduling Order (D.I. 38).
2. Pursuant to the Scheduling Order, Gracenote’s infringement contentions, which must include pinpoint cites to Samba TV’s source code, are due on May 20, 2020.
3. Gracenote has begun its review of Samba TV’s source code, which was made available at the end of February on a secure computer in Samba TV’s counsel’s California offices. Gracenote needs to conduct extensive further review of the source code to be in a position to serve its infringement contentions.
4. Due to the COVID-19 pandemic, Gracenote has not been able to access Samba TV’s source code for further review and likely will not be able to access it in the near future.

5. The source code requires in-person inspection at a secure terminal, pursuant to the agreed procedures set forth in the Source Code Access Agreement (D.I. 37). However, such in-person inspection is not possible at the present time because California (where the source code is located) is under a stay-at-home order. In addition, Gracenote's experts reside in foreign countries and cannot travel to the United States.

6. Mehmet Celik, Gracenote's expert who resides in the Netherlands, has been barred from traveling to the U.S. since March 13, 2020, when President Trump instituted an entry ban for individuals traveling from the Netherlands and certain other countries. (*See* <https://travel.state.gov/content/travel/en/traveladvisories/presidential-proclamation--travel-from-europe.html>.)

7. Gracenote's other technical expert, Jaap Haitsma, resides in Chile, which has been under a state of emergency since March 19, 2020. (*See* <https://cl.embassy.gov/covid-19-information/>.) While there is no *per se* travel ban to the U.S. from Chile, the U.S. Embassy in Chile advises that the Chilean government may impose travel restrictions on those entering the country "with little or no advance notice." (*See id.*) Thus, any travel to the U.S. by Mr. Haitsma carries a substantial risk that he will be prohibited from returning to his home in Chile. Furthermore, flights into and out of Chile have been substantially reduced, making travel difficult at best. (*See id.*)

8. Even if Gracenote's experts could travel to the U.S., a recent executive order would prevent them from accessing Samba TV's source code. In particular, since March 19, 2020, the State of California, where the source code is located and maintained, has been subject to Executive Order N-33-20, which requires all California residents to stay at home. (*See* <https://www.gov.ca.gov/2020/03/19/governor-gavin-newsom-issues-stay-at-home-order/>.) Thus,

the offices of Samba TV's counsel, which is the designated location for all review of Samba TV's source code, have been closed.

9. Gracenote's counsel are located in Illinois and New York, both of which are also subject to stay-at-home orders. (See <https://www.governor.ny.gov/news/governor-cuomo-signs-new-york-state-pause-executive-order>; <https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-10.aspx>.)

10. Delaying the due date for infringement contentions will have a cascading effect on the other deadlines set forth in the Scheduling Order.

In light of the foregoing, the parties request that the Court stay this case for 90 days and extend all deadlines for approximately the same amount of time. The chart attached to this Joint Stipulation sets forth the current case schedule along with a proposed new schedule that moves each of the remaining deadlines by approximately 90 days.

Dated: April 13, 2020
6556361/45232

Respectfully submitted,

Attorneys for Defendant
Free Stream Media Corp. d/b/a Samba TV

By: /s/ Kelly E. Farnan

Kelly E. Farnan (#4395)

farnan@rlf.com

Richards, Layton & Finger, P.A.

One Rodney Square

920 North King Street

Wilmington, DE 19801

Telephone: (302) 651-7700

OF COUNSEL:

Sten Jensen

sjensen@orrick.com

Orrick Herrington & Sutcliffe LLP

Columbia Center 1152

15th Street, N.W.

Washington, DC 20005

Telephone: (202) 339-8436

Clement Seth Roberts

croberts@orrick.com

Orrick Herrington & Sutcliffe LLP

The Orrick Building

405 Howard Street

San Francisco, CA 94105

Telephone: (415) 773-5700

Alyssa Caridis

acaridis@orrick.com

Orrick Herrington & Sutcliffe LLP

777 South Figueroa Street

Suite 3200

Los Angeles, CA 90017

Telephone: (213) 612-2372

Attorneys for Plaintiff
Gracenote, Inc.

By: /s/ David E. Moore

David E. Moore (#3983)

dmoore@potteranderson.com

Stephanie E. O'Byrne (#4446)

sobyrne@potteranderson.com

Bindu A. Palapura (#5370)

bpalapura@pottersanderson.com

Potter Anderson & Corroon LLP

1313 North Market Street

P.O. Box 951

Wilmington, DE 19899-0951

Telephone: (302) 984-6251

OF COUNSEL:

Steven Yovits

syovits@kelleydrye.com

Constantine Koutsoubas

ckoutsoubas@kelleydrye.com

Mark J. Scott

mascott@kelleydrye.com

Kelley Drye & Warren LLP

333 West Wacker Drive

Chicago, IL 60606

Telephone: (312) 857-7070

Clifford Katz

ckatz@kelleydrye.com

Kelley Drye & Warren LLP

101 Park Avenue

New York, NY 10178

Telephone: (212) 808-7800

IT IS SO ORDERED this 14 day of April, 2020

/s/ Richard G. Andrews

The Honorable Richard G. Andrews
United States District Judge

CHART OF FUTURE DEADLINES

ITEM	CURRENT DATE	PROPOSED DATE
Gracenote's responses to Samba TV's second set of requests for documents	April 15, 2020	July 14, 2020
Gracenote's responses to Samba TV's second set of interrogatories	April 15, 2020	July 14, 2020
Samba TV's responses to Gracenote's second set of requests for documents	April 27, 2020	July 27, 2020
Samba TV's responses to Gracenote's second set of interrogatories	April 27, 2020	July 27, 2020
Infringement contentions	May 20, 2020	August 18, 2020
Joinder of other parties and amendment of pleadings	June 18, 2020	September 16, 2020
Invalidity contentions	June 19, 2020	September 17, 2020
Exchange claim terms for construction and proposed constructions	July 3, 2020	October 1, 2020
Joint claim construction chart	July 10, 2020	October 8, 2020
Gracenote's opening claim construction brief	July 31, 2020	October 29, 2020
Document production complete	August 7, 2020	November 5, 2020
Samba TV's answering claim construction brief	August 21, 2020	November 19, 2020
Gracenote's reply claim construction brief	September 4, 2020	December 3, 2020
Samba TV's sur-reply claim construction brief	September 18, 2020	December 17, 2020
Parties file joint claim construction brief	September 25, 2020	December 24, 2020
Markman hearing	October 27, 2020	January 26, 2021 (subject to the Court's availability) @ 9:00am
Amendment to contentions	30 days after Markman order	Unchanged
Claim and prior art reference narrowing	14 days after Markman order	Unchanged
Fact discovery cut-off	January 15, 2021	April 15, 2021
Burden of proof opening expert reports	February 22, 2021	May 24, 2021
Responsive expert reports	March 19, 2021	June 17, 2021
Reply expert reports	April 12, 2021	July 12, 2021
Complete expert depositions	May 21, 2021	August 19, 2021
Case dispositive motions	July 2, 2021	September 30, 2021
Answering briefs to dispositive motions	July 30, 2021	October 28, 2021
Reply briefs in support of dispositive motions	August 20, 2021	November 18, 2021
Pretrial conference	December 3, 2021	March 24, 2022 (subject to the Court's availability) @ 9:00am
Trial begins	December 13, 2021	March 14, 2022 (subject to the Court's availability)