

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

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

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 an additional 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 April 14, 2020, the parties filed a Joint Stipulation to Stay the Case for 90 Days (“the First Joint Stipulation”) (D.I. 47). In the First Joint Stipulation, the parties explained that the deadline for Gracenote’s infringement contentions – which are required to include pinpoint cites to Samba TV’s source code – was approaching quickly, but conditions imposed by the COVID-19 pandemic made review of Samba TV’s source code impossible.
2. The Court granted the First Joint Stipulation on the day it was filed (April 14, 2020) (D.I. 48). The resulting stay expired on July 13, 2020.
3. On July 14, 2020, the parties filed a Joint Stipulation to Stay the Case for 80 Days (“the Second Joint Stipulation”) (D.I. 49). In the Second Joint Stipulation, the parties explained

that conditions imposed by the COVID-19 pandemic continued to make review of Samba TV's source code impossible.

4. The Court granted the Second Joint Stipulation on July 15, 2020 (D.I. 50). The resulting stay expired on October 1, 2020.

5. On September 22, 2020, the parties filed a Joint Stipulation to Stay the Case for 95 Days ("the Third Joint Stipulation") (D.I. 51). In the Third Joint Stipulation, the parties explained that conditions imposed by the COVID-19 pandemic continued to make review of Samba TV's source code impossible.

6. The Court granted the Third Joint Stipulation on September 23, 2020 (D.I. 51). The resulting stay will expire on January 4, 2021.

7. The parties now respectfully request an additional 90-day stay (until April 5, 2021) because the conditions imposed by the COVID-19 pandemic continue to make review of Samba TV's source code impossible.

8. Gracenote needs to conduct extensive further review of the source code to be in a position to serve its infringement contentions, which are now due on February 9, 2021 (D.I. 51). 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).

9. However, due to the COVID-19 pandemic, Gracenote still has not been able to access Samba TV's source code for further review. The number of COVID-19 cases in the Bay Area Region of California, where the source code can be made available, still has not sufficiently subsided. (See <https://covid19.ca.gov/stay-home-except-for-essential-needs/>.) As a result, that Region is under a stay-at-home order. (See *id.*) Thus, access to the code in the near future still looks unlikely.

10. In addition, Gracernote's technical experts who began to review the code prior to the pandemic reside in foreign countries from which travel to the United States would be difficult or impossible.

11. In particular, technical expert Mehmet Celik resides in the Netherlands, from which there is a U.S. travel ban in effect. (See <https://www.whitehouse.gov/presidential-actions/proclamation-suspension-entry-immigrants-nonimmigrants-certain-additional-persons-pose-risk-transmitting-2019-novel-coronavirus/>.)

12. Also, technical expert Jaap Haitsma resides in Chile. Chile is under a state of emergency, and 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. (See <https://www.reuters.com/article/us-health-coronavirus-chile/chile-extends-state-of-catastrophe-amid-warning-of-second-covid-19-wave-in-january-idUSKBN28D2MX>.)

13. The lack of access to Samba TV's source code will require a delay in the due date for Gracernote's infringement contentions. 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 an additional 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: December 22, 2020

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/ Bindu A. Palapura
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 29 day of December, 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	January 5, 2021	April 6, 2021
Gracenote's responses to Samba TV's second set of interrogatories	January 5, 2021	April 6, 2021
Samba TV's responses to Gracenote's second set of requests for documents	January 19, 2021	April 19, 2021
Samba TV's responses to Gracenote's second set of interrogatories	January 19, 2021	April 19, 2021
Infringement contentions	February 9, 2021	May 10, 2021
Joinder of other parties and amendment of pleadings	March 9, 2021	June 7, 2021
Invalidity contentions	March 12, 2021	June 10, 2021
Exchange claim terms for construction and proposed constructions	March 26, 2021	June 24, 2021
Joint claim construction chart	April 5, 2021	July 7, 2021
Gracenote's opening claim construction brief	April 23, 2021	July 23, 2021
Document production complete	April 30, 2021	July 30, 2021
Samba TV's answering claim construction brief	May 14, 2021	August 13, 2021
Gracenote's reply claim construction brief	May 28, 2021	August 27, 2021
Samba TV's sur-reply claim construction brief	June 11, 2021	September 10, 2021
Parties file joint claim construction brief	June 18, 2021	September 17, 2021
Markman hearing	June 30, 2021	September 29, 2021 @ 9:00 am
Amendment to contentions	30 days after <i>Markman</i> order	Unchanged
Claim and prior art reference narrowing	14 days after <i>Markman</i> order	Unchanged
Fact discovery cut-off	October 8, 2021	January 7, 2022
Burden of proof opening expert reports	November 15, 2021	February 14, 2022
Responsive expert reports	December 10, 2021	March 11, 2022
Reply expert reports	January 3, 2022	April 4, 2022
Complete expert depositions	February 11, 2022	May 13, 2022
Case dispositive motions	March 25, 2022	June 24, 2022
Answering briefs to dispositive motions	April 25, 2022	July 25, 2022
Reply briefs in support of dispositive motions	May 13, 2022	August 12, 2022
Pretrial conference	September 2, 2022	December 2, 2022 @ 9:00 am
Trial begins	September 19, 2022	December 12, 2022 @ 9:30 am