

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ARISTA RECORDS LLC; ATLANTIC
RECORDING CORPORATION; BMG MUSIC;
CAPITOL RECORDS, INC.; ELEKTRA
ENTERTAINMENT GROUP INC.;
INTERSCOPE RECORDS; LAFACE
RECORDS LLC; MOTOWN RECORD
COMPANY, L.P.; PRIORITY RECORDS LLC;
SONY BMG MUSIC ENTERTAINMENT;
UMG RECORDINGS, INC.; VIRGIN
RECORDS AMERICA, INC.; and
WARNER BROS. RECORDS INC.,

Plaintiffs,

v.

LIME GROUP LLC; LIME WIRE LLC; MARK
GORTON; and GREG BILDSON, and M.J.G.
LIME WIRE FAMILY LIMITED
PARTNERSHIP

Defendants.

ECF CASE

06 CV 5936 (GEL)

**DECLARATION OF ADAM FISK IN SUPPORT
OF DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS'
MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Adam Fisk, the undersigned, hereby declare as follows:

1. My name is Adam Fisk. I reside in Los Angeles, California. I am over eighteen years of age, of sound mind, and in all ways qualified and competent to make this declaration. I have personal knowledge of the facts contained in this declaration and they are true and correct.

2. I was a software engineer at Lime Wire LLC (“LW”) from August 2000 to February 2004. I am generally familiar with the design and operation of the LimeWire software application through version 4.0.

3. While I was employed at LW, I am not aware of any effort to employ anonymity features or functionality in the LimeWire Software.

4. While I was employed at LW, I was not aware of any particular efforts to capture Napster users. LW did not consider itself the “next Napster” nor am I ever aware of LW holding itself out to be the “next Napster.” In fact, LW tried to distance itself from being compared to Napster.

5. At LW, we generally knew that our users could use the software to commit copyright infringement, because it was a multi-purpose content agnostic file sharing tool. I am not aware of any instances in which LW engineers made design decisions that enhanced the software so as to allow users to search for, locate and download unauthorized copyrighted content.

6. During my deposition, I was asked a series of questions about some posts I had made on a Pho back in October

2006 about P2P companies. One of those posts dealt with my opinion that the vast majority of P2P companies were devoted to infringement. After the deposition on February 16, 2008, I posted a message on my own personal blog entitled "LimeWire Arista RIAA Deposition Recap", a true and correct copy of which is attached hereto as Exhibit 1. As one can see from a review of this post, I believe what I testified to was taken out of context, and that it was never the intent of the LimeWire developers to design an infringing product.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed in Los Angeles, California on
September 10, 2008.

A handwritten signature in black ink, appearing to read 'Adam Fisk', with a long horizontal flourish extending to the right.

Adam Fisk