

# EXHIBIT B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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

Plaintiffs,

-against-

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

Defendants.

06 Civ. 05936 (KMW)  
ECF CASE

**DECLARATION OF JON D. PEDERSEN, SR. ON BEHALF OF ATLANTIC RECORDING CORPORATION, ELEKTRA ENTERTAINMENT GROUP INC. AND WARNER BROS. RECORDS INC.**

I, Jon D. Pedersen, Sr. hereby declare as follows:

1. I am Senior Vice President and Controller for Warner Music Group (“WMG”). I have held that position or a similar position at all times relevant to this declaration. I have personal knowledge of the facts set forth herein and could and would testify competently thereto if called as a witness.

2. Plaintiffs Atlantic Recording Corporation, Elektra Entertainment Group Inc., and Warner Bros Records Inc. (the “WMG Plaintiffs”) are individual companies within WMG.

WMG and the WMG Plaintiffs release, sell, and distribute sound recordings under the auspices of various labels, including Warner Brothers, Atlantic, Elektra, Reprise, Maverick, Rhino, and others. As Senior Vice President and Controller, I am familiar with WMG's practices and procedures for developing, exploiting and distributing sound recordings, as well as the associated costs and revenues. I am also familiar with the process by which WMG accounts for income and costs in connection with the sound recordings it produces, distributes and offers for sale to the public, and the manner in which WMG and its affiliates keep and maintain their records with respect to such income and expenses. In addition, my department is responsible for compiling the financial data that is included in WMG's periodic reports to the Securities and Exchange Commission, so I am familiar with the way that data is assembled and maintained.

3. I understand that this declaration is to be submitted to the Court in connection with requests for discovery by Defendants Lime Wire LLC, Lime Group LLC, Mark Gorton, and M.J.G. Lime Wire Family Limited Partnership (collectively "Defendants" or "Lime Wire"). In connection with this declaration and the matters set forth herein, I also understand the following:

- I understand that the present lawsuit has been pending for nearly four years, and that during that time the WMG Plaintiffs have produced more than 1.3 million pages of documents;
- I also understand that Plaintiffs have to date identified almost 10,000 sound recordings as at issue in this case, and that more than 2,000 of those sound recordings are attributable to the WMG Plaintiffs;
- I understand that Defendants seek production of WMG's documents concerning revenues and profits (such as accountings, royalty statements, and any other documents relating to revenues and profits) in connection

with Lime Wire's exploitation and infringement of these copyrighted sound recordings ; and

- I further understand that Defendants have argued that their requests are reasonable because they seek only those documents "sufficient to show" revenue, costs, net profits, gross profits, and other financial information for each work at issue.

4. As detailed below, given the scope of Lime Wire's infringement and the large number of WMG sound recordings at issue here, compiling the detailed financial material that Lime Wire requests for each work would be a tremendously time consuming endeavor. In fact, in some cases compiling the information requested would be impossible. WMG does not collect or analyze financial data on a track-by-track basis. WMG creates and maintains numerous different types of financial documentation relating to every record or album that it releases, and that information exists in different formats and different databases. Collecting, reviewing and producing the voluminous financial documentation contemplated by Lime Wire's requests separately for each work at issue in this case would likely take months, including many hours of WMG employee and outside counsel time, and would be very disruptive to WMG's day to day business.

5. I have reviewed paragraphs 5 and 6 of the declaration of Charles Ciongoli from Universal Music Group. I agree with his description of the many stages of the process of releasing a sound recording for sale to the public. The same generally is true for WMG. Every stage includes its own several categories of both income and expenses. And for each of those categories, there may be literally hundreds, if not thousands, of pages of individual records.

6. At WMG, no single database or department maintains all of the individual financial records comprising the revenue, cost and profit information that Lime Wire requests. The material is dispersed across many different labels, departments, and offices—including among different systems in use by Atlantic, by Warner Bros., by Rhino Records and as between the East Coast and West Coast offices of these companies. No department within WMG tracks separately for particular songs the information that Lime Wire requests. To satisfy Lime Wire’s request that the information be provided “separately for each work,” WMG would have to create a new financial reporting model to compile the information requested at that level of detail. In addition, to provide this level on a per work basis, WMG would have to make generalizations and assumptions about direct and indirect costs that would be only marginally useful.

7. Collecting, reviewing and producing all of the documents evidencing revenue and costs would be a nearly insurmountable challenge. In addition to the sheer volume of material Defendants’ requests would encompass, such requests present serious logistical issues. The logistical issues would vary depending on how far back the data is requested. Even assuming Lime Wire’s Requests extend back only to Lime Wire’s inception in 2000, the Requests pose serious logistical hurdles:

(a) First, in order to gather, review and produce all of the records reflecting or evidencing all of the income and expenditures relating to an album, WMG would have to conduct research to determine the project number assigned to the album and locate the records documenting the particular revenues, costs, and other financial data associated with that particular project. This is problematic because records reflecting the different stages of the record release process may be kept in several different locations and, in any event, are generally not track specific.

(b) Second, where certain records are kept will also be governed by when those records were generated. Many documents are maintained in storage facilities and are not organized by artist or album. For example, marketing and A&R expense documents may still be maintained in paper, and someone would have to manually sort through virtually hundreds and hundreds of boxes of documents to find the back-up expense records connected to a specific project number.

(c) Third, WMG has labels, divisions and offices throughout the country, including in New York, Burbank, and Nashville. Each office has its own staff and files that would have to be searched.

(d) Fourth, much of the information sought may not be maintained in physical files at all but is only maintained electronically. The cost associated with creating and searching the electronic databases of all potential custodians would be prohibitive. Many custodians may no longer even be with the company, so their electronic data may no longer be reasonably accessible.

8. The fact that Defendants request documents “sufficient to show” net profits, gross profits, revenue, costs, etc. separately for each sound recording at issue does not change my opinion about the burdensomeness of responding to these requests. Summary documents “sufficient to show” such information do not exist. By asking for documents “sufficient to show” revenue, royalties, costs, net and gross profits, etc. separately for each sound recording at issue, Defendants essentially ask WMG to create a detailed profit and loss statement for each separate sound recording at issue in the case. Such statements are not kept or created in the ordinary course of business. In order to create such a statement, WMG would have to undergo a burdensome and laborious collection and review of a tremendous amount of information.

Because WMG does not track such information separately on a song-by-song basis, it would have to review voluminous cost records from across a broad spectrum of its business to even begin to conduct the analysis of determining “net profits” and “gross profits” and the like for a particular track.

9. Even if the information were sought at a more general level, there is no single database that WMG could use to simply pull up and produce the information Lime Wire requests. Different departments within WMG keep track of financial information using several different systems. To compile the information on a more general level—for instance by album or project—WMG still would have to consult several different databases and departments to ensure that the information provided was accurate and complete.

10. Consulting a single department for one piece of the information Lime Wire requests would itself consume substantial time and expense. For example, WMG typically pays its artists a royalty, or a particular percentage of the revenue received from sales of records (based on the records’ retail price). WMG’s royalties department administers WMG’s royalty obligations. Currently, artists’ royalty statements are provided twice a year detailing royalty payments for all of the sound recordings WMG exploits for that artist. In the normal course of business, compiling all of the documentation underlying a single royalty statement—covering only sales information and certain costs for sound recordings for a six-month period—is a very lengthy process. A single royalty statement may be hundreds of pages long.

11. But even these artist royalty statements—each of which is the product of hours and hours of employee time—do not include the level of detail that Defendants here request. Artist royalty statements reflect only those revenues and costs that are contemplated in the artist’s particular recording agreements. While some of WMG’s costs in creating an album are

recoupable from artists, most of WMG's costs are not reflected in a typical artist royalty statement. While costs that are recoupable will be set out in an individual artist's agreement, it is only those particular recoupable costs that an artist's royalty statement reflects. (For instance, significant costs like manufacturing and marketing are typically not recoupable, and so are not reflected in the artist royalty statements.) Thus, while the royalties department at WMG collects and compiles some sales and costs data, it does not approach the level of detail that Lime Wire here requests. The limited cost information compiled is not allocated on a track-by-track basis, as Lime Wire requests. And yet even compiling and collecting that subset of data for a particular artist takes months.

12. I understand that Defendants contend WMG must be able to produce its financial material related to these works because WMG has some contractual obligations to allow artists to audit their royalty accounts. But in an artist royalty audit, the artist's representatives are not reviewing the broad categories of information sought by Lime Wire. They are reviewing the artist's royalty accounts and statements to ensure (for example) that the artist's correct royalty rates are applied, and that the recoupable costs are accurately reflected. Moreover, the right to audit an artist's royalties is usually constrained in the recording agreement to a limited number of audit opportunities. Audit rights are so constrained in part because of the burden the audit imposes on WMG to provide information to artists' auditors. A single audit can span periods of years and involve many hours of employee time to provide an auditor with requested information.

13. I also understand that Defendants contend WMG must be able to readily produce the requested financial information because WMG is required periodically to report on its financials. WMG does not report its revenue, costs or profits to its shareholders on a song-by-

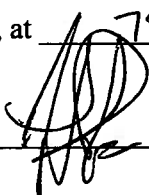


song, album-by-album, or even label-by-label basis. Each individual label's finance department is responsible for reporting its label-wide profits and losses to my department, where it is compiled into further summary reports that are eventually consolidated into financial reports reflecting the performance of WMG's business as a whole.

14. In light of the extreme difficulty of collecting, reviewing, and producing or preparing the host of information Lime Wire has requested, WMG has agreed to provide the revenue information for the authorized digital exploitation of the tracks at issue in this case. For digital single sales, WMG's digital distributors and partners report to WMG the revenue from the sales of these records. Although this information is still time consuming to compile, it is possible because of the manner in which this information is received from digital distributors. WMG will compile a report reflecting the overall digital revenue on a track-by-track basis for each of the WMG Plaintiffs' sound recordings at issue. As explained above, it would be extremely difficult and burdensome to provide the additional detailed financial information Lime Wire requests.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 8<sup>th</sup> day of September, 2010, at 75 Rockefeller Plaza, New York, N.Y.  
10019



A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned above a solid horizontal line.