

EXHIBIT C

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 WADE LEAK ON BEHALF OF ARISTA RECORDS LLC,
ARISTA MUSIC FKA BMG MUSIC, LAFACE RECORDS LLC, AND SONY MUSIC
ENTERTAINMENT FKA SONY BMG MUSIC ENTERTAINMENT**

I, Wade Leak, hereby declare as follows:

1. I am currently employed as Senior Vice President and Deputy General Counsel for Sony Music Entertainment (“Sony Music”). I have held that position or a similar position at all times relevant to this declaration. Except for those matters stated on information and belief, I have personal knowledge of the facts set forth herein and could and would testify competently thereto if called as a witness.

2. Plaintiffs Arista Records LLC, Arista Music (formerly known as BMG Music), Sony Music Entertainment (formerly known as Sony BMG Music Entertainment), and Laface Records LLC (the “Sony Plaintiffs”) are companies or divisions within Sony Music. Sony Music and the Sony Plaintiffs develop, exploit and distribute sound recordings under the auspices of various record labels, including Arista, Epic, Jive Records, Columbia Records, LaFace Records, and many others.

3. I am generally familiar with the Sony Plaintiffs’ practices and procedures for developing, exploiting and distributing sound recordings and the costs and revenues associated therewith. I am also generally familiar with the process by which Sony Music 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 Sony Music and its affiliates keep, maintain and account for their records with respect to such income and expenses.

4. 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:

- The present lawsuit has been pending for nearly four years, and that during that time the Sony Plaintiffs have produced nearly three million pages of documents at great expense;
- I also understand that Plaintiffs have to date identified almost 10,000 sound recordings as at issue in this case, and that more than 3,000 of those sound recordings are attributable to the Sony Plaintiffs;

- I understand that Defendants seek production of Sony Music’s documents concerning revenues and profits (such as accountings, royalty statements, and any other documents relating to revenues and profits) in connection with its exploitation of these thousands of copyrighted sound recordings that have been infringed by Lime Wire; 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.

5. Given the scope of Lime Wire’s infringement and the thousands of works at issue in this lawsuit, locating, collecting, and reviewing the financial documentation Lime Wire requests would be a nearly impossible undertaking. Sony Music creates and maintains numerous different types of financial documentation relating to every record or album that it releases. Locating, collecting, and reviewing all the requested financial documentation for the thousands of individual sound recordings at issue here would require hundreds of hours of Sony Music employee time, additional time from in-house and outside attorneys to oversee the process, and would be hugely disruptive to Sony Music. Based on my experience managing litigation, I estimate the costs of such a review and production would be astronomical.

6. I have reviewed paragraphs 5 and 6 of the declaration of Charles Ciongioli from Universal Music Group. I generally agree with his description of the many stages of the process of releasing a sound recording for sale to the public. Sony Music’s development of sound recordings from inception to release generally follows a similar pattern. 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.

7. In addition to the sheer volume of material requested by Lime Wire, there are some additional serious logistical issues that need to be considered. The Sony Plaintiffs do not maintain the financial information Lime Wire seeks “separately for each work” on a track-by-track basis. In order to allocate costs to a particular track (as Lime Wire requests), Sony Music would have to devise a *sui generis* financial report. Nor does Sony Music maintain all of its financial documents relating to sound recordings in a single database. Indeed, compiling the financial information requested would require consulting several separate systems. For example, the costs generated in recording an album are in one database, sales information is in another, artist and producer royalties are in another, copyright or mechanical royalties are in still another database, and overhead costs would only be available in the general ledger.

8. To further complicate matters, Sony Music distributes sound recordings through several different Sony Music record labels which are housed in offices across the country, including New York, Los Angeles, Miami and Nashville. The labels are organized into various major label groups, including the RCA/Jive Label Group, Columbia/Epic Label Group, Sony Music Nashville, and others. Each major label group has its own finance department. Much of the information Lime Wire seeks would have to be collected from the individual labels’ finance departments, which would further complicate and prolong the process.

9. Where certain records are kept will also be governed by when those records were generated. Over the last ten years, Sony Music has undergone many changes in its corporate structure, including several mergers and reorganizations. Information and files have been reorganized as well. Information may have been kept in computer systems that have since been

decommissioned. Many documents will only be available in offsite document storage facilities, some of which are in New Jersey and upstate New York. Not all of the financial documentation Sony Music maintains is even organized by artist or album. To review paper documents, someone would have to call multiple boxes back from storage and sort through them to find the back-up income and expense records connected to a specific album. To the extent the information sought by Lime Wire is not maintained in physical files but is only maintained electronically, the cost of creating and searching the electronic databases of all potential custodians would be prohibitive.

10. The fact that Lime Wire seeks documents “sufficient to show” costs, revenues, “net profits,” and “gross profits,” etc. does not change my view on the burden these requests present. Sony Music does not maintain summary financial documents reflecting the financial information Lime Wire seeks on a track-by-track basis, or even on an album-by-album basis. Creating such a summary financial document for each work at issue would still require hours and hours of employee time collecting, compiling, and analyzing the data. I would estimate the costs of compiling summary statements to be overwhelming. Not only that, the time required would be extremely disruptive to the day-to-day business of Sony Music. While litigation burdens routinely are difficult to bear, that is even more true now due to recent reductions in staff. Sony Music employees already are working at above capacity just to complete what must be done in the ordinary course of business. It would aggravate the problem significantly to task already overworked employees with the onerous burden of preparing thousands of summary financial documents.

11. I further understand that Lime Wire contends that Plaintiffs must maintain the financial information sought in order to make artist royalty payments and to allow artists to

conduct royalty audits. That is not the case. Artists' royalties are paid according to an artist's particular recording agreement. Royalties are generally paid based on a percentage of records sold. While some costs may be reflected in an artist's royalty statement, only a subset of Sony Music's costs may be recouped against artist royalties. Significant costs like manufacturing and marketing typically are not recoupable, and thus would not be reflected in an artist's royalty statement. Preparation of a statement detailing even this subset of sales and costs information generally takes months and can be thousands of pages long.

12. Although typically recording agreements provide artists some audit rights, those audit opportunities are constrained – in part because of the significant burden royalty audits impose. A single royalty audit takes at a minimum nine months, but more often multiple years to resolve. For royalty audits, only those cost and income items that are covered in a particular artist's recording agreement are at issue. Artist royalty audits do not encompass the complete range of financial information Lime Wire seeks.

13. Nor does Sony Music maintain the information Lime Wire seeks for the purpose of meeting financial reporting requirements. Sony Music is only one of the many business segments within its parent company, Sony Corporation of America. Sony Corporation of America reports the consolidated financial statement information across all of its businesses to its shareholders. Sony Music reports financial information to be incorporated into those statements in a consolidated form reflecting the performance of each major label group. Thus, Sony Music does not maintain or provide such information on a track-by-track, album-by-album, or even label-by-label basis.

14. Despite the difficulty in collecting the detailed information Lime Wire seeks, Sony Music has agreed to provide certain revenue information, in the form of a revenue report

("Revenue Report"), for the sound recordings identified thus far as having been infringed by Lime Wire. The Revenue Report will set forth the overall digital revenue information that Sony Music maintains for each sound recording. As explained above, it would be extremely difficult and burdensome to provide the additional detailed financial information Lime Wire seeks.

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

Executed this 8th day of September, 2010, at Guiyang, China.

Wade Zank