

REDACTED VERSION
-COMPLETE VERSION FILED UNDER SEAL

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,

v.

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

Defendants

06 Civ. 05936 (KMW)
ECF CASE

**DECLARATION OF MELINDA E. LEMOINE IN SUPPORT OF PLAINTIFFS'
OBJECTIONS TO MAGISTRATE JUDGE FREEMAN'S ORDER COMPELLING THE
PRODUCTION OF PLAINTIFFS' INTERNAL COMMUNICATIONS "REFERRING
TO LIMEWIRE"**

I, Melinda E. LeMoine, hereby declare as follows:

1. I am a partner in the law firm of Munger, Tolles & Olson LLP, counsel of record for Plaintiffs. I make this Declaration in support of Plaintiffs' Objection to Magistrate Judge Freeman's Order Compelling the Production of Plaintiffs' Internal Communications "Referring to LimeWire". The contents of this Declaration are based upon my own personal knowledge, and if called upon to do so, I could and would testify competently to the matters stated herein.

2. On January 19, when Plaintiffs were served with the Order, Plaintiffs met and conferred with Defendants' counsel regarding which ten custodians should be searched in response. Defendants demanded Plaintiffs search and produce the internal communications "referring to LimeWire" of some of Plaintiffs' most senior executives and attorneys. Plaintiffs asked Defendants to eliminate the several lawyers from the list of custodians, but Defendants refused. Plaintiffs asked Defendants to exclude documents relating to this litigation, but Defendants refused. Plaintiffs asked Defendants not to require Plaintiffs to log privileged communications, but Defendants refused. Over the following days, Plaintiffs also asked Defendants at least to confine their chosen custodians from among the list of primary negotiators of Plaintiffs' licensing and distribution agreements, but Defendants refused to make any changes.

3. Specifically, the list of custodians Defendants proposed and insisted upon is as follows: Edgar Bronfman (Chairman and Chief Executive Officer of Warner Music Group); Thomas Hesse (President of Global Digital Business, US Sales, Corporate Strategy of Sony Music); Alasdair McMullan (Executive Vice President, Legal Affairs of EMI Music North America); David Ring (Executive Vice President of Business Development and Business Affairs, eLabs of Universal Music Group), Rob Wells (Universal Music's President of Global Digital Music); Zach Horowitz (President & Chief Operating Officer of Universal Music Group); Mark Piibe (Executive Vice President, Global Business Development of EMI Music); Neil Smith (Senior Vice President, US Business Development, Global Digital Business of Sony Music Entertainment); Lyor Cohen (Vice Chairman and Chairman and CEO, Recorded Music - Americas and the U.K. of Warner Music Group); and Paul Rehrig (VP Digital Strategy and Business Development, Warner Music).

4. Alasdair McMullan, one of Defendants' selected custodians, is the in-house counsel who manages this litigation for the EMI Plaintiffs. Mr. McMullan conducted a preliminary search of his own e-mail files for documents using the search terms Defendants proposed. The hit results totaled in the tens of thousands.

5. In response to this Court's Order of November 19, 2010 affirming Judge Freeman's Order 1, directing Plaintiffs to produce communications related to licensing between Plaintiffs and 15 third-party distributors or licensees, Plaintiffs collected multiple terabytes of emails from 43 custodians. Hundreds of thousands of documents were reviewed, resulting in several productions totaling over a quarter of a million pages of email communications on the subject of licensing or distributing content

6. Attached hereto as Exhibit 1 is a true and correct copy of the Order dated January 18, 2011, which was served on Plaintiffs through the ECF system on January 19, 2011, docket number 413.

7. Attached hereto as Exhibit 2 is a true and correct copy of the Order filed November 19, 2010, docket number 363.

8. Attached hereto as Exhibit 3 is a true and correct copy of the Order filed August 9, 2010, docket number 302.

9. Attached hereto as Exhibit 4 is a true and correct copy of the transcript from the March 12, 2008 hearing before Judge Gerard E. Lynch.

10. Attached hereto as Exhibit 5 is a true and correct copy of the January 5, 2011 letter from Mary Eaton to Magistrate Judge Debra C. Freeman.

11. Attached hereto as Exhibit 6 is a true and correct copy of the January 13, 2011 letter from Tariq Mundiya to Magistrate Judge Debra C. Freeman.

12. Attached hereto as Exhibit 7 is a true and correct copy of excerpts from the deposition of David Ring taken on February 3, 2011.

13. Attached hereto as Exhibit 8 is a true and correct copy of excerpts from the deposition of Edgar Bronfman, Jr. taken on January 28, 2011.

14. [REDACTED]
[REDACTED]

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

Dated: February 7, 2011
Los Angeles, California

s/Melinda E. LeMoine
Melinda E. LeMoine