

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' REPLY  
REGARDING 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' Reply 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. In response to Magistrate Judge Freeman’s Order of December 28, 2010, directing Plaintiffs to produce “additional documents related to Plaintiffs' engagement of outside parties concerning the use and impact of peer-to-peer networks, file sharing or digital music,” Plaintiffs produced over 22,000 pages of responsive documents.

3. Magistrate Judge Freeman’s Order of January 19, 2010 stated that the parties were to meet and confer on the identity of the 10 custodians subject to the Order. Plaintiffs had previously identified and collected documents from 43 custodians in response to Magistrate Judge Freeman’s November 1, 2010 order regarding external communications relating to licensing with 15 of Plaintiffs’ third party distributors. Those 43 custodians represented the primary negotiators of Plaintiffs’ distribution agreements with the 15 distributors Defendants had been most interested in, according to their subpoena practice. Although Defendants had challenged the sufficiency of the custodial list and demanded Plaintiffs search other custodians instead, Magistrate Freeman had upheld Plaintiffs’ list as sufficient to respond to the discovery ordered as part of Order 1. As explained in the opening brief, during the meet-and-confer on the appropriate list of custodians who should be subject to Magistrate Judge Freeman’s Order compelling production of internal documents referring to Lime Wire, Defendants insisted that Plaintiffs search the files of 10 executives – *seven* of whom had not been on Plaintiffs’ previous custodial list of 43 primary negotiators.

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4. On February 15, 2011, I participated in a conference call among counsel for the parties with Magistrate Judge Freeman to discuss various outstanding discovery issues. During that call, Magistrate Judge Freeman told the parties that, although her January 19, 2011 Order had not specified which custodians were to be on the list, it was the intent of the order that Defendants would not add new custodians to the list that Plaintiffs had used to collect documents for the earlier Order.

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

Dated: February 24, 2011  
Los Angeles, California

s/Melinda E. LeMoine  
Melinda E. LeMoine