

**EXHIBIT 4**

1 IN THE UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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4 ARISTA RECORDS LLC; ATLANTIC )  
RECORDING CORPORATION; ARISTA )  
5 MUSIC f/k/a BMG MUSIC; CAPITOL )  
RECORDS, INC.; ELEKTRA )  
6 ENTERTAINMENT GROUP INC.; )  
INTERSCOPE RECORDS; LAFACE )  
7 RECORDS LLC; MOTOWN RECORD )  
COMPANY, L.P.; PRIORITY )  
8 RECORDS LLC; SONY MUSIC )  
ENTERTAINMENT f/k/a SONY BMG )  
9 MUSIC ENTERTAINMENT; UMG )  
RECORDINGS, INC.; VIRGIN )  
10 RECORDS AMERICA, INC.; and )  
WARNER BROS. RECORDS INC., )

11 )  
Plaintiffs, )

12 )  
vs. ) 06 CV 5936 (KMW)

13 )  
LIME GROUP LLC; LIME WIRE )  
14 LLC; MARK GORTON; GREG )  
BILDSON; and M.J.G. LIME WIRE )  
15 FAMILY LIMITED PARTNERSHIP, )  
)  
16 Defendants. )

\_\_\_\_\_)

17  
18 DEPOSITION OF THOMAS SEHESTED

19  
20 \_\_\_\_\_  
JANUARY 13, 2011

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22  
23 REPORTED BY: SARAH LUCIA BRANN, CSR 3887

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2 Deposition of THOMAS SEHESTED, taken by  
3 the Defendants, at 50 California Street, 22nd Floor,  
4 San Francisco, California, commencing at 9:10 a.m.,  
5 on January 13, 2011, before SARAH LUCIA BRANN, CSR,  
6 pursuant to Notice.

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9 A P P E A R A N C E S

10

11 FOR THE PLAINTIFFS:

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19 By: THOMAS J. MELORO, Attorney at Law

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20 By: FARA S. SUNDERJI, Attorney at Law

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21

22 ALSO PRESENT: TED HOPPE, Videographer

23 --oOo--

24

25

1 witness?

2 THOMAS SEHESTED

3

4 called as a witness, who, having been first duly

5 sworn, was examined and testified as follows:

6 THE VIDEOGRAPHER: Please proceed.

7 EXAMINATION BY MR. MELORO

8 MR. MELORO: Q. Good morning,

9 Mr. Sehested.

10 A. Good morning.

11 Q. Did I pronounce that correctly?

12 A. Pretty close.

13 Q. Could you please state your name and home  
14 address?

15 A. My name is Thomas Sehested. I live at 250  
16 King Street in San Francisco.

17 Q. And who is your current employer?

18 A. DtecNet.

19 Q. And how long have you been employed at  
20 DtecNet?

21 A. Since 2004, when I founded the company.

22 Q. What is your position today at DtecNet?

23 A. Senior vice president of anti-piracy.

24 Q. How long have you held that position?

25 A. Since October of 2009.

1 Q. For the work regarding Lime Wire, how,  
2 generally, is DtecNet compensated? Is it a  
3 retainer? Is it hourly? Is it project-based?

4 A. Project-based.

5 Q. And how are the records kept? Is each  
6 project given an identifiable title or number, or  
7 something like that?

8 A. I am sorry. Could you repeat the  
9 question?

10 Q. How are records kept about these projects?  
11 Are they given an identifiable title or project  
12 number or something of that nature?

13 A. I believe it varies.

14 Q. What are the ways that the projects are  
15 identified?

16 A. Could you elaborate?

17 Q. It's a broad question. How do you  
18 identify the projects you do for the record industry  
19 regarding Lime Wire?

20 A. Internally at DtecNet?

21 Q. You can start there if you want. It's a  
22 broad question.

23 A. So, we are typically given a scope of a  
24 project from a customer in general. We then assign  
25 a project task to that in the company, and then we

1 records?

2 A. Yes.

3 Q. Were you -- who decided not to keep  
4 records of how many tracks could not be verified  
5 when the files were downloaded?

6 A. I am not sure a decision was ever made.  
7 It wasn't a request.

8 Q. It wasn't a request from who?

9 A. From the RIAA.

10 Q. Did you do only what was requested by the  
11 RIAA in this project?

12 A. Yes.

13 Q. Did the RIAA request that each and every  
14 step that was taken as reported in Exhibit 2 be  
15 conducted?

16 A. Yes.

17 Q. How did they make that, communicate that  
18 request to DtecNet?

19 A. We had a meeting discussing the scope of  
20 the project.

21 Q. Who was involved in that meeting?

22 A. I can't remember, but parties from Munger  
23 and Tolles and RIAA.

24 Q. When did that meeting occur?

25 A. Shortly prior to the project being

1 initiated.

2 Q. At that meeting the RIAA specified exactly  
3 what DtecNet should do in carrying out the DtecNet  
4 Lime Wire download project; is that right?

5 A. Correct.

6 Q. And DtecNet did exactly what the RIAA  
7 asked; is that right?

8 A. Correct.

9 Q. Nothing more and nothing less?

10 A. Correct.

11 Q. In that same paragraph on the first page  
12 of Exhibit 2 there is a reference to DtecNet's  
13 US-based servers. Do you see that?

14 A. Yes.

15 Q. Where were those servers located for this  
16 project?

17 A. Texas.

18 Q. Were they all in Texas?

19 A. Yes.

20 Q. How did you remember what to do, coming  
21 out of this meeting with the RIAA?

22 A. Again, we had a specific contract that was  
23 made.

24 Q. And did the contract specify exactly what  
25 would be done?



1 MR. MELORO: Q. Did you modify the  
2 software in any way to undertake this project?

3 A. No.

4 Q. Who developed the Gnutella agent software?

5 A. Our developers in Copenhagen, Denmark.

6 Q. Did you play any role in developing that  
7 software?

8 A. Define "play a role."

9 Q. Did you play any role?

10 A. I was running the company at the time. I  
11 discuss any new developments we do with the  
12 developers, or at least I did at the time.

13 That's -- is that what you are looking  
14 for?

15 Q. How many developers were involved in  
16 developing the Gnutella agent software when it was  
17 first developed?

18 A. When it was first developed I think it was  
19 one person. Two. Sorry. Two persons.

20 Q. Who were those two people?

21 A. Well, one is -- do you need names?

22 Q. Well, let me start here. You weren't one  
23 of the two people --

24 A. No.

25 Q. -- who were developing the Gnutella agent

1 software; correct?

2 A. Correct.

3 Q. Were the two people who were the  
4 developers of the Gnutella agent software employed  
5 at DtecNet at the time?

6 A. Yes.

7 Q. Aside from them generally updating you on  
8 their progress, did you have any role in developing  
9 the Gnutella agent software when it was first  
10 developed?

11 A. Yes. I was closely involved in terms of  
12 how we should do it and what information it should  
13 provide.

14 Q. Did you provide any flow diagrams of how  
15 the software should operate?

16 A. Not to my recollection.

17 Q. Did you recommend any changes to the  
18 source code?

19 A. No.

20 Q. And to be clear, you didn't write any of  
21 the source code; correct?

22 A. Correct.

23 Q. Did you recommend any changes to the  
24 object code?

25 A. No.

- 1 Q. Did you write any of the object code?
- 2 A. No.
- 3 Q. What programming language was used to
- 4 develop the Gnutella agent software?
- 5 A. I believe it was C#.
- 6 Q. Do you know how many versions of the
- 7 Gnutella agent software have been created since the
- 8 original version?
- 9 A. No.
- 10 Q. Approximately?
- 11 A. No. More than 50.
- 12 Q. Have you ever written any of the source
- 13 code for the Gnutella agent software?
- 14 A. No.
- 15 Q. Have you ever recommended any changes to
- 16 the source code?
- 17 A. No.
- 18 Q. Have you ever written any of the object
- 19 code or recommended any changes to the object code
- 20 of the Gnutella agent software?
- 21 A. No.
- 22 Q. Aside from managing the developers, have
- 23 you ever had any other role in any of the changes
- 24 made to the Gnutella agent software?
- 25 A. I don't remember.

1 on the Gnutella network for people sharing files,  
2 matching the criteria in the title list.

3 Q. How is the imported list transformed into  
4 key words for searching?

5 A. I don't have the exact technical details  
6 on that.

7 Q. Was the searching done by key word  
8 searching?

9 A. Yes.

10 Q. Is there a list of the key words that were  
11 used for the searches?

12 A. I believe the key words were the exact  
13 titles.

14 Q. Anything else?

15 A. Not to my knowledge.

16 Q. So somehow this Gnutella agent program is  
17 supposed to take the imported list, turn it into key  
18 words that are the exact titles, and then those  
19 exact title key words are sent out as search  
20 requests?

21 A. Well, the list we receive is a list of key  
22 words; right? So it's a track name. It's a track.  
23 That's what we would search for on the Gnutella  
24 network. So the track and the key words is one and  
25 the same.

1 A. Yes.

2 Q. And is this outside vendor maintaining  
3 servers for many other companies, in addition to  
4 DtecNet?

5 A. Yes.

6 Q. How many servers does DtecNet have in this  
7 Texas facility?

8 A. I don't have the exact number.

9 Q. Approximately?

10 A. Hundreds.

11 Q. What are the technical capabilities of  
12 each of these hundreds of servers that DtecNet  
13 maintains in the Texas facility?

14 A. I don't have the details on that.

15 Q. Do you have any details on the nature of  
16 the servers that DtecNet maintains in its Texas  
17 server facility?

18 A. No.

19 Q. Is there any information you can provide  
20 about the servers that were used to do the Lime Wire  
21 download project?

22 A. No.

23 Q. What is the name of the company that  
24 maintains the DtecNet servers that were used in the  
25 Lime Wire download project?

1 Q. How many connections did each of the  
2 servers used in the Lime Wire download project have  
3 to the Gnutella network?

4 A. I don't know.

5 Q. Did each of the servers used in the Lime  
6 Wire download project have more connections to the  
7 Gnutella network than a standard Lime Wire client?

8 A. I don't know.

9 Q. How many connections to the Gnutella  
10 network does a standard Lime Wire client have?

11 A. I don't know.

12 Q. Do you know what a leaf is with regard to  
13 the Gnutella network?

14 A. No.

15 Q. Do you know what an ultrapeer is?

16 A. Yes.

17 Q. What is an ultrapeer?

18 A. It's a -- basically it's a user acting as  
19 a server on the network.

20 Q. How does the Gnutella network designate  
21 whether a particular user is an ultrapeer?

22 A. I don't know.

23 Q. Are there any special steps that users  
24 take to become ultrapeers on the Gnutella network?

25 A. I believe so, but I don't know.

1 Q. What factors are involved in whether or  
2 not a particular user is an ultrapeer on the  
3 Gnutella network?

4 A. I don't know.

5 Q. Were any of the servers that DtecNet used  
6 in the Lime Wire download project ultrapeers?

7 A. I don't believe so.

8 Q. What's the basis for that?

9 A. Is we typically don't act as ultrapeers.

10 Q. Why not?

11 A. I don't have the details on that.

12 Q. Were you involved in the decision to  
13 employ Lime Wire -- excuse me.

14 Were you involved in the decision to  
15 employ DtecNet servers in a manner other than  
16 ultrapeers?

17 A. I don't understand that question.

18 Q. You said that typically DtecNet servers  
19 don't act as ultrapeers.

20 A. Yes.

21 Q. Was that a decision made by the company?

22 A. Yes.

23 Q. Okay. Were you involved in that decision?

24 A. No.

25 Q. Who made that decision?

1 song we think it is, or it is.

2 Q. So if you put a file through the Audible  
3 Magic request process and it's considered to be a  
4 match, that means that the file is in the Audible  
5 Magic database and the software considers it to be a  
6 match; is that right?

7 A. Correct.

8 Q. If a file is sent to Audible Magic and  
9 it's not considered to be a match, does the user of  
10 the software know whether that's because Audible  
11 Magic doesn't have the information or because the  
12 file is not a match?

13 A. I don't have that detail.

14 Q. Have you ever used Audible Magic yourself?

15 A. No.

16 Q. Did you have any understanding at the  
17 beginning of this project as to whether the Audible  
18 Magic database had file information that was  
19 necessary for all of the works on the list?

20 A. Could you rephrase? So you mean Audible  
21 Magic?

22 Q. Yes. Did the Audible Magic database, to  
23 your understanding, have the necessary information  
24 concerning all of the songs that were on the list  
25 from the RIAA?



1 A. Correct.

2 Q. Do you have any information as to how the  
3 user obtained the file that you downloaded as part  
4 of the work on the project?

5 A. No.

6 Q. Do you have any information as to whether  
7 the user that you obtained the file from had ever  
8 shared that file with anyone else?

9 A. Anyone else than us?

10 Q. Anyone other than the download that  
11 DtecNet did.

12 A. And by "shared" what do you mean?

13 Q. Is there any evidence that you have that  
14 the file that was in the user's computer ever  
15 resided anywhere other than that user's computer  
16 before DtecNet went and downloaded it?

17 A. No.

18 Q. Do you have any evidence that the file  
19 that was in the user's computer has ever been  
20 anywhere other than that user's computer, except for  
21 the download that DtecNet did?

22 A. Not other than the fact -- and while we  
23 were doing the downloads and I was personally  
24 looking at the process of the downloads, we could  
25 see that multiple versions of -- some of the files