

EXHIBIT A

12IFARIA
1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

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2
3 ARISTA RECORDS LLC, et al,
3
4 Plaintiff,

4
5 v.

06 CV 5936 (KMW)

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6 LIME WIRE LLC, et al,
6
7 Defendant.

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8 -----x

New York, N.Y.
February 18, 2011
12:10 p.m.

9
10 Before:

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11 HON. KIMBA M. WOOD,

11
12 District Judge

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13 APPEARANCES

13
14 MUNGER TOLLES & OLSON, LLP
14 Attorneys for Plaintiff
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1 to the simultaneous filings the following Wednesday.

2 THE COURT: Okay. Thank you.

3 I mentioned in our conference call that I think it's
4 time for everyone to focus on how the trial will take shape.
5 At this point, does plaintiff's counsel know how many witnesses
6 you intend to call on direct, approximately?

7 MR. POMERANTZ: We don't, your Honor. To be fair, our
8 witness list wasn't due for another couple of weeks, but I can
9 give you a sense of the categories of witnesses we are likely
10 to call in our case in chief.

11 THE COURT: All right.

12 MR. POMERANTZ: We think we will call a number of
13 witnesses that will explain the harm caused by Lime Wire.
14 Those witnesses will largely be various employees or former
15 employees of our clients, but there likely will be a few others
16 who are harmed by Lime Wire and related to our clients in some
17 way, such as some creative talent or something of that sort.
18 And that will probably be the largest number of witnesses by
19 sheer number.

20 We also anticipate calling one, more than one,
21 probably a few Lime Wire witnesses in our case, be it -- I'm
22 not sure of the number yet, but I think it will be few in
23 number and then we anticipate that we will be calling our two
24 expert witnesses in our case, the statistician, Dr. Waterman
25 and computer science expert, Dr. Horowitz.

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1 what the lawyers are doing and far more intended to make sure
2 that the jury understands the case.

3 MR. POMERANTZ: We --

4 THE COURT: And is willing to pay attention for a long
5 time.

6 MR. POMERANTZ: We think hopefully this case will be
7 more interesting than many, but we understand the concern. As
8 we started penciling out how long we thought it would take to
9 put on our case absent ownership and absent proof of direct
10 infringement, we think we need more than 24 hours.

11 We have to put on the witnesses I mentioned, deal with
12 ten years of history of Lime Wire, we have to deal with the
13 various elements of statutory damages. We have to deal with
14 fraudulent conveyance, a separate claim we have to prove. We
15 have to deal with the fact that we're dealing with a
16 complicated technology that the jury needs to understand. We
17 need to deal with the fact that they've raised a host of
18 arguments primarily through their experts as to why we haven't
19 been harmed. We need to address that in our questioning of
20 witnesses. So as we penciled out what we would need just to
21 put on our case, we thought it was in the range of 35 hours.

22 THE COURT: On direct alone?

23 MR. POMERANTZ: In our case, correct, your Honor. I
24 would say direct, but, for example, say if we called Mr. Gordon
25 in our case so in effect crossing him in our case, I'm counting

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1 mix may differ. We actually think in this case we actually
2 will win with a sophisticated or an unsophisticated jury.
3 Stealing is wrong. It's hard to compete against free. Those
4 are pretty simple concepts for anybody to understand.

5 THE COURT: If it's that simple, it shouldn't take
6 more than 24 hours to explain. I'm sorry -- I think it could
7 be --

8 MR. POMERANTZ: Your Honor, the theme is simple, but
9 the harm is not simple to lay out. One of the things we have
10 to show is state of mind of the defendants. Another thing we
11 have to show is lost revenue. Another thing is the conduct and
12 attitude of the parties, which Judge Freeman knows all too
13 well. These are things we're entitled to prove here. It takes
14 time for us.

15 We have many aspects of our business that have been
16 destroyed because of Lime Wire. We have to put this on. We've
17 been at this for four years to get to the conclusion. I think
18 if we ask for 20 trial days in a case of this magnitude that
19 seems to be within a to me a reasonable range and I think our
20 numbers if you divide it by six is 20 trial days. Assuming we
21 get six hours a day of trial time, and I don't know the hours
22 your Honor keeps.

23 THE COURT: If we have jurors who have two-hour
24 commutes and that depends on who is selected it's hard to have
25 more than a five-hour trial day.

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