

unauthorized reproductions of Plaintiffs' copyrighted sound recordings and distributing copies of such sound recordings to the public in violation of Plaintiffs' exclusive rights under the Copyright Act, 17 U.S.C. §§ 106, 501. The scope of infringement is massive, encompassing thousands of different sound recordings (including without limitation those listed in Exhibit A) and millions of separate infringing acts.

80. Defendants are liable as contributory infringers for the copyright infringement committed via LimeWire software and services. Defendants have knowledge of the massive infringement that has occurred and continues to occur through LimeWire, and Defendants have caused, enabled, facilitated, and materially contributed to that infringement.

81. Defendants' knowledge of infringement is both actual and constructive. Written and oral statements by Defendants and user testimonials posted on LimeWire's web site and in advertising; express promotional comparisons to other notorious and illegally operated P2P systems; features of LimeWire optimized for finding and distributing popular sound recordings, and for interfering with enforcement efforts; and Defendants' failure to act upon Plaintiffs' written notice of infringement many months ago all exhibit Defendants' awareness and intent that the overarching purpose and use of LimeWire is to infringe Plaintiffs' copyrighted sound recordings.

82. Defendants have caused, enabled, facilitated, and materially contributed to the infringement complained of herein. Defendants have, in addition to the actions above, provided the tools, support, and instruction for the infringement via LimeWire; directly and indirectly promoted the infringement via LimeWire and intentionally built a

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business model to profit directly from it; and refused to exercise their ability to stop the infringement on LimeWire.

83. The occasional purported “warnings” against copyright infringement now appearing on the LimeWire web site and software are illusory and do not affect Defendants’ knowledge or contribution to the infringement (or, in the case of Defendants’ knowledge, actually confirm it). Notwithstanding purported warnings, Defendants’ prior and ongoing actions have made it common knowledge among Internet users that Defendants’ product and services, like Napster and Grokster before them, are optimized and intended for obtaining copyrighted sound recordings.

84. Each violation of each Plaintiff’s rights in and to each copyrighted sound recording constitutes a separate and distinct act of copyright infringement.

85. Through the conduct described above, Defendants are contributorily liable for the infringement described herein.

86. Defendants’ infringement is and has been willful, intentional, purposeful, and in disregard of the rights of Plaintiffs, and has caused substantial damage to Plaintiffs.

87. As a direct and proximate result of Defendants’ infringement, Plaintiffs are entitled to the maximum statutory damages under 17 U.S.C. § 504(c), in the amount of \$150,000 with respect to each timely-registered work that was infringed. An exemplary list of infringed works is included in Exhibit A. Exhibit A is non-exhaustive and likely only includes a small fraction of Plaintiffs’ works that were infringed. The

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identities of additional infringed works and the total number of infringed works will be determined during discovery, and the pleadings adjusted accordingly.

88. As an alternative to statutory damages (and for infringed works that do not qualify for statutory damages, if any), Plaintiffs at their election prior to judgment are entitled to recover their “actual damages and any additional profits of the [Defendants]” attributable to the infringement. 17 U.S.C. § 504(a)-(b).

89. Plaintiffs are entitled to their costs, including reasonable attorneys’ fees, pursuant to 17 U.S.C. § 505.

90. Defendants’ conduct has caused, and unless enjoined by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot be fully compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiffs are entitled to a permanent injunction prohibiting further infringement of Plaintiffs’ copyrights.

COUNT III: VICARIOUS COPYRIGHT INFRINGEMENT AGAINST LIME WIRE LLC, LIME GROUP LLC, MARK GORTON AND GREG BILDSON

91. Plaintiffs repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 64 above.

92. Individuals using LimeWire software and services have directly infringed and are directly infringing Plaintiffs’ copyrights on a daily basis by, for example, creating unauthorized reproductions of Plaintiffs’ copyrighted sound recordings and distributing copies of such sound recordings to the public in violation of Plaintiffs’ exclusive rights under the Copyright Act, 17 U.S.C. §§ 106, 501. The scope of infringement is massive,

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encompassing thousands of Plaintiffs' sound recordings (including without limitation those listed in Exhibit A) and millions of separate infringing acts.

93. Defendants are liable as vicarious infringers for the copyright infringement committed via LimeWire software and services. At all times relevant to this action, Defendants (i) have had the right and ability to control and/or supervise the infringing conduct of LimeWire users, and (ii) have had a direct financial interest in, and derived substantial financial benefit from, the infringements of Plaintiffs' copyrighted sound recordings via LimeWire.

94. Among other things, Defendants exhibit their ability to control activity on LimeWire by building filtering mechanisms into client software that, for example, block spam and the like; preventing LimeWire PRO subscribers from updating their software following the expiration of their subscription; causing or encouraging LimeWire users to upgrade to new versions of LimeWire software when Defendants desire; and their influence on and control of certain technical aspects of the LimeWire network.

95. Defendants have derived direct and substantial benefit from infringement by selling significant numbers of its LimeWire PRO software, the value of which is based essentially on the draw of obtaining unlimited and fast access to Plaintiffs' copyrighted sound recordings for free. Indeed, Defendants' revenues are based more blatantly on infringement than predecessor P2P systems that were driven by, for example, advertising or spyware revenues. And Defendants avoided substantial "start up" costs to its business by offering the Basic version of LimeWire for free, thereby "seeding" its network with free copies of Plaintiffs' works to attract the paying users.

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96. Each violation of each Plaintiff's rights in and to each copyrighted sound recording constitutes a separate and distinct act of copyright infringement.

97. Through the conduct described above, Defendants are vicariously liable for the infringement described herein.

98. Defendants' infringement is and has been willful, intentional, purposeful, and in disregard of the rights of Plaintiffs, and has caused substantial damage to Plaintiffs.

99. As a direct and proximate result of Defendants' infringement, Plaintiffs are entitled to the maximum statutory damages under 17 U.S.C. § 504(c), in the amount of \$150,000 with respect to each timely-registered work that was infringed. An exemplary list of infringed works is included in Exhibit A. Exhibit A is non-exhaustive and likely only includes a small fraction of Plaintiffs' works that were infringed. The identities of additional infringed works and the total number of infringed works will be determined during discovery, and the pleadings adjusted accordingly.

100. As an alternative to statutory damages (and for infringed works that do not qualify for statutory damages, if any), Plaintiffs at their election prior to judgment are entitled to recover their "actual damages and any additional profits of the [Defendants]" attributable to the infringement. 17 U.S.C. § 504(a)-(b).

101. Plaintiffs are entitled to their costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

102. Defendants' conduct has caused, and unless enjoined by this Court, will continue to cause Plaintiffs great and irreparable injury that cannot be fully compensated

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or measured in money. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiffs are entitled to a permanent injunction prohibiting further infringement of Plaintiffs' copyrights.

COUNT IV: COMMON LAW
COPYRIGHT INFRINGEMENT OF PRE-1972 RECORDINGS AGAINST LIME
WIRE LLC, LIME GROUP LLC, MARK GORTON AND GREG BILDSON

103. Plaintiffs repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 64 above.

104. Plaintiffs' Pre-1972 Recordings are subject to common-law copyright protection under the law of New York. As the owners of valid common-law copyrights in the Pre-1972 Recordings, Plaintiffs possess the exclusive rights to manufacture, copy, sell, distribute, and otherwise exploit the recordings.

105. Plaintiffs have not authorized or licensed the Defendants or any users of LimeWire to copy or distribute the Pre-1972 Recordings in any manner.

106. The creation and widespread dissemination through LimeWire of unauthorized copies of Plaintiffs' Pre-1972 Recordings, including but not limited to those recordings listed in Exhibit B hereto, constitutes infringement of Plaintiffs' common-law copyrights in the Pre-1972 Recordings. Through the conduct described above, Defendants are liable for the common law copyright infringement of the Pre-1972 Recordings.

107. As a direct and proximate result of Defendants' willful, wanton and reckless copyright infringement, Plaintiffs are entitled to compensatory damages in such amounts as will be proven at trial, as well as punitive damages.

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108. Defendants' conduct has caused, and unless enjoined by this Court, will continue to cause Plaintiffs irreparable injury that cannot be fully compensated or measured in money damages. Plaintiffs have no adequate remedy at law and are entitled to injunctive relief prohibiting Defendants from further violating Plaintiffs' rights in the Pre-1972 Sound Recordings.

**COUNT V: UNFAIR COMPETITION AS TO PRE-1972 RECORDINGS
AGAINST LIME WIRE LLC, LIME GROUP LLC, MARK GORTON AND
GREG BILDSON**

109. Plaintiffs repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 64 above.

110. Plaintiffs possess exclusive ownership interest in and to the Pre-1972 recordings, and those ownership interests are protected under New York state law.

111. Plaintiffs are engaged in the business of selling and distributing the Pre-1972 Recordings, both in tangible forms, such as CDs, vinyl records and cassettes and also digitally, over the Internet and otherwise.

112. Through the conduct described above, Defendants are violating Plaintiffs' rights in the Pre-1972 Recordings, including but not limited to those recordings listed in Exhibit B hereto, and are guilty of unfair competition under the common law of the state of New York. By the foregoing acts, Defendants are unfairly competing with Plaintiffs' use, sale, distribution and exploitation of the Pre-1972 Recordings, and otherwise taking advantage of and undermining Plaintiffs' substantial creative and financial investment therein, and unfairly misappropriating Plaintiffs' rights to the Pre-1972 Recordings for Defendants' own commercial benefit.

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113. As a direct and proximate result of Defendants' willful, wanton and reckless engagement in unfair competition, the Plaintiffs have been damaged, and Defendants have been unjustly enriched, in an amount to be proved at trial for which damages and/or restitution and disgorgement are appropriate. Plaintiffs are additionally entitled to punitive damages. As a direct and proximate result of Defendants' conduct, the Plaintiffs are further entitled to recover all proceeds and other compensation received or to be received by Defendants arising from Defendants' infringements of the Pre-1972 Recordings.

114. Defendants' conduct has caused, and unless enjoined by this Court, will continue to cause Plaintiffs irreparable injury that cannot be fully compensated or measured in money damages. Plaintiffs have no adequate remedy at law and are entitled to injunctive relief prohibiting Defendants from further violating Plaintiffs' rights in the Pre-1972 Sound Recordings.

**COUNT VI: CONVEYANCE MADE WITH INTENT TO
DEFRAUD AGAINST MARK GORTON**

115. Plaintiffs repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 64 above.

116.

REDACTED

Specifically, Mr. Gorton created a family limited partnership, into which he placed his personal assets, so that creditors could not obtain assets placed in that partnership.

REDACTED

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REDACTED

117.

REDACTED

118. Plaintiffs became creditors of Defendants when Defendants committed torts against Plaintiffs.

119.

REDACTED

120. Plaintiffs are entitled to their costs, including reasonable attorneys' fees, pursuant to New York Debtor and Creditor Law § 276-a.

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COUNT VII: UNJUST ENRICHMENT AGAINST M.J.G. LIME WIRE FAMILY LIMITED PARTNERSHIP

121. Plaintiffs repeat, reallege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 64 above.

122. Defendant M.J.G. Lime Wire Family Limited Partnership was unjustly enriched at Plaintiffs' expense under circumstances such that equity and good conscience require the M.J.G. Lime Wire Family Limited Partnership to make restitution to Plaintiffs. In order to prevent creditors from obtaining his assets, Mr. Gorton created a family limited partnership into which he placed his personal assets.

REDACTED

123. Plaintiffs became creditors of Defendants when Defendants committed torts against Plaintiffs.

124.

REDACTED

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REDACTED

125.

REDACTED

126.

REDACTED

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for judgment against Defendants as follows:

(a) for a ruling that Defendants have willfully infringed Plaintiffs' copyrights, including copyrights in all of the sound recordings listed in Exhibit A, and that Defendants' actions constitute unfair competition and other violations of New York state law;

(b) for injunctive relief requiring that Defendants and Defendants' agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns, and all persons acting in concert or participation with each or any of them, cease infringing, whether directly or indirectly, and cease causing, enabling, facilitating, encouraging, promoting, inducing, contributing to, and participating in the infringement of, any of

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Plaintiffs' respective copyrights or exclusive rights protected by the Copyright Act or common law, whether now in existence or hereafter created;

(c) as to Counts I-III, for maximum statutory damages pursuant to 17 U.S.C. §504(c), specifically, \$150,000 per work with respect to each and every timely registered sound recording owned by Plaintiffs that was willfully infringed and \$30,000 per work with respect to each and every other timely registered sound recording owned by Plaintiffs that was infringed, if any;

(d) as to Counts I-III, as an alternative to statutory damages at Plaintiffs' election prior to final judgment, for an accounting of Defendants' profits attributable to the infringement to be provided by Defendants pursuant to 17 U.S.C. § 504(b), and for payment of such profits and Plaintiffs' actual damages suffered from infringement;

(e) as to Counts IV and V, for compensatory damages and/or disgorgement and punitive damages in such amount as may be found or established at trial, arising from Defendants' willful and wanton violations of state law;

(f)

REDACTED

(g)

REDACTED

(h) for prejudgment and post-judgment interest;

(i) for Plaintiffs' costs and disbursements in this action, including reasonable attorneys' fees; and

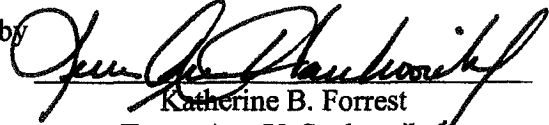
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(j) for such other and further relief as the Court deems proper and just.

Respectfully submitted,

July 26, 2007

CRAVATH, SWAINE & MOORE LLP,

by 

Katherine B. Forrest
Teena-Ann V. Sankoorikal
Members of the Firm

Attorneys for Plaintiffs and
Counterclaim Defendants
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019-7475
(212) 474-1000
(212) 474-3700 (fax)

Of Counsel:

Kenneth L. Doroshow
Karyn A. Temple
Recording Industry Association of America
1025 F Street, NW, 10th Floor
Washington, DC 20004
(202) 775-0101
(202) 775-7253 (fax)

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