

**EXHIBIT 5**

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ELECTRONIC FRONTIER FOUNDATION and  
9 FRED VON LOHMANN

10  
11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION  
14

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15 In re Subpoenas to Electronic Frontier  
Foundation and Fred von Lohmann

) Case No. 3:10-mc-80276-JSW  
) [Related to *Arista Records v. Lime Wire LLC*,  
) No. 06-5936 (KMW) (S.D.N.Y.)

17 ) **DECLARATION OF MARK GORTON IN**  
18 ) **SUPPORT OF EXPEDITED MOTION TO**  
19 ) **QUASH SUBPOENAS**

20 ) Date: no hearing date assigned  
(pursuant to order by Judge White)

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I, Mark Gorton, declare under penalty of perjury that the following is true and correct:

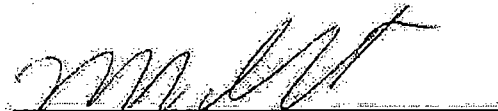
1. I am the sole Director of Lime Wire LLC ("LimeWire").

2. Beginning in 2002, LimeWire sought legal advice from Fred von Lohmann, an attorney at the Electronic Frontier Foundation. Mr. Von Lohmann and the Electronic Frontier Foundation have provided legal advice and legal counseling to LimeWire since that time.

3. LimeWire expected that its communications with the Electronic Frontier Foundation and Fred von Lohmann would remain confidential.

4. LimeWire presently asserts the attorney-client privilege in its communications with the Electronic Frontier Foundation and Fred von Lohmann.

Executed on November 16, 2010

  
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Mark Gorton

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