

Exhibit 1

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1 UNITED STATES DISTRICT COURT
1 SOUTHERN DISTRICT OF NEW YORK

2 -----x

3 ARISTA RECORDS LLC, ET AL.,

4 Plaintiffs,

5 v.

06 CV 5936 (KMW)

6 LIMEWIRE LLC, ET AL.,,

7 Defendants.

8 -----x

New York, N.Y.
July 29, 2010
9:36 a.m.

10 Before:

11 HON. KIMBA M. WOOD

12 District Judge

13 APPEARANCES

14 MUNGER, TOLLES & OLSON, LLP
15 Attorneys for Plaintiffs

15 BY: GLENN POMERANTZ
16 KELLY KLAUS

16 JENNIFER PARISER
17 JONATHAN BLAVIN

18 WILSON, SONSINI, GOODRICH & ROSATI
18 Attorneys for Defendants

19 BY: MICHAEL SOMMER
19 JESSICA MARGOLIS

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Gorton - cross

1 Q. I want to draw your attention to the second page of the
2 letter, and it's the bottom paragraph on the page, where the --
3 in the middle of the paragraph it says, "Finally, as you are on
4 notice of claims against you and your company."

5 Do you see that?

6 A. Yes.

7 Q. Now is that the first time you had any inkling that someone
8 might come after you individually?

9 A. Yes.

10 Q. Was your decision to meet with a lawyer to make plans for
11 your estate related in any way to a concern on your part that
12 you individually were going to get sued by the plaintiffs in
13 this case?

14 A. No.

15 Q. How about that LimeWire was going to get sued?

16 A. No.

17 Q. Now, let's talk about the beginning of 2005 because that's
18 when you first actually met with Mr. Rubenstein, correct?

19 A. Correct.

20 Q. Now, you talked this morning a little bit about following
21 the Grokster case as it went through its various courts,
22 correct?

23 A. Yes.

24 Q. And I think Mr. Pomerantz established that the district
25 court decision was in April of 2003 and that was in favor of

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Gorton - cross

1 Grokster, correct?

2 A. Correct.

3 Q. A decision by the district court in favor of Grokster, did
4 that raise any concern on your part that LimeWire was going to
5 get sued, or did it diminish any such concern if there was one?

6 A. Probably diminish.

7 Q. Now, the Ninth Circuit, the Court of Appeals, I believe
8 issues its ruling in August of 2004 -- I think that's right.
9 And you were aware of that, correct?

10 A. Correct.

11 Q. And Grokster won again, right?

12 A. Correct.

13 Q. Now you were shown some documents this morning by
14 Mr. Pomerantz, like an offering memo where litigation risk was
15 identified back in 2001, and a memo you wrote -- I think that
16 may have been in 2002.

17 Fast-forwarding to 2004, now that Grokster has won
18 both in the district court and the court of appeals, to the
19 extent you believe there was at least a potential risk of
20 LimeWire getting sued, was that risk greater or less by August
21 of 2004?

22 A. Less.

23 Q. And then the final sort of line in the sand that
24 Mr. Pomerantz puts a lot of emphasis on is June 27, 2005 when
25 the Supreme Court reverses Grokster. You've seen that date,

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Gorton - cross

1 right?

2 A. Yes.

3 Q. And throughout the litigation of Grokster, to the extent
4 you were following it, did you have any concern that you were
5 going to be sued in an individual capacity?

6 A. No.

7 Q. Now, you were questioned at length this morning about the
8 family limited partnerships that were created as a result of
9 meetings with Mr. Rubenstein, correct?

10 A. Correct.

11 Q. And there was a FLP created for LimeWire; is that right?

12 A. Correct.

13 Q. That was one of them?

14 A. Correct.

15 Q. And there were others created for other business interests
16 that you had, right?

17 A. Correct.

18 Q. Was LimeWire treated exactly the same as the other company
19 interests you had vis-a-vis the FLPs?

20 A. Yes.

21 MR. POMERANTZ: Your Honor, I have tried not to
22 interfere but this is his own witness and he really shouldn't
23 be leading the witness.

24 THE COURT: Sustained. A minor change in questioning.

25 MR. SOMMER: It is cross though.

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