

# **EXHIBIT A**

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

2 -----x

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

5 v.

06 CV 5936 (KMW)

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

8 -----x

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

10 Before:

11 HON. KIMBA M. WOOD,

12 District Judge

13 APPEARANCES

14 MUNGER TOLLES & OLSON, LLP  
15 Attorneys for Plaintiff  
15 GLENN POMERANTZ  
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17  
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22 TODD COCENZA

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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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