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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 METRO-GOLDWYN-MAYER
14 STUDIOS INC., COLUMBIA
PICTURES INDUSTRIES, INC.,
15 DISNEY ENTERPRISES, INC., NEW
LINE CINEMA CORPORATION,
PARAMOUNT PICTURES
16 CORPORATION, TIME WARNER
ENTERTAINMENT COMPANY,
17 L.P., TWENTIETH CENTURY FOX
FILM CORPORATION, UNIVERSAL
18 CITY STUDIOS, INC., ARISTA
RECORDS, INC., ATLANTIC
19 RECORDING CORPORATION,
ATLANTIC RHINO VENTURES
20 INC. d/b/a RHINO ENTERTAIN-
MENT COMPANY, BAD BOY
21 RECORDS, CAPITOL RECORDS,
INC., ELEKTRA ENTERTAINMENT
22 GROUP INC., HOLLYWOOD
RECORDS, INC., INTERSCOPE
23 RECORDS, LAFACE RECORDS,
LONDON-SIRE RECORDS INC.,
24 MOTOWN RECORD COMPANY,
L.P., THE RCA RECORDS LABEL, a
25 unit of BMG MUSIC d/b/a BMG
ENTERTAINMENT, SONY MUSIC
26 ENTERTAINMENT INC., UMG
RECORDINGS, INC., VIRGIN
27 RECORDS AMERICA, INC., WALT
DISNEY RECORDS, WARNER
28

Case No.

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR
COPYRIGHT INFRINGEMENT

1 BROS. RECORDS INC., WEA
2 INTERNATIONAL INC., WEA
3 LATINA INC., and ZOMBA
4 RECORDING CORPORATION,

5 Plaintiffs,

6 v.

7 GROKSTER, LTD.,
8 MUSICCITY.COM, INC.,
9 MUSICCITY NETWORKS, INC., and
10 CONSUMER EMPOWERMENT BV,

11 Defendants.

12 Plaintiffs, through undersigned counsel, allege as follows based on
13 personal knowledge as to allegations concerning themselves and on information
14 and belief as to all other allegations:

15 NATURE OF THE ACTION

16 1. Plaintiffs, who are owners of copyrights in motion pictures and
17 sound recordings, bring this action to stop Defendants from continuing to
18 encourage, enable, and profit from the massive infringements of Plaintiffs'
19 copyrighted works on the Internet. Dubbed the "next Napster" by the press,
20 Defendants have developed and control a network largely dedicated to the repeated
21 and exploitative unauthorized distribution and reproduction of Plaintiffs' protected
22 works. Defendants provide Internet users with a fully integrated infrastructure that
23 connects them to millions of infringing digital files. Defendants have created a 21st
24 century piratical bazaar where the unlawful exchange of protected materials takes
25 place across the vast expanses of the Internet, and where the materials being
26 exchanged include first-run movies currently playing in theaters and hit songs from
27 virtually every major recording artist. The sheer magnitude of this haven for piracy
28 is overwhelming and undeniable. Defendants themselves cannot disclaim
knowledge of the massive infringements facilitated by their network. Indeed, in an
effort to create a protected zone for piracy, Defendants have encrypted the

1 electronic communication within the network and boast of the anonymity it
2 provides to users. The ease of use of Defendants' network and the massive piracy it
3 facilitates have rapidly advanced its popularity with potential users. Defendants
4 have sought to turn their growing user base into profit through advertising and
5 investment dollars. In short, Defendants are building a business based on the daily
6 massive infringement that they enable and encourage. Defendants' conduct has
7 caused and continues to cause Plaintiffs grave and irreparable harm.

8 **JURISDICTION AND VENUE**

9 2. This is an action for copyright infringement and arises under the
10 Copyright Act, 17 U.S.C. § 101, *et seq.*, based on acts of copyright infringement
11 committed in the United States. This Court has exclusive jurisdiction of this action
12 under 28 U.S.C. § 1338(a).

13 3. Venue is proper in this District pursuant to 28 U.S.C.
14 §§ 1391(b)-(c) and 1400(a) because this is a judicial District in which a substantial
15 part of the events giving rise to the claims occurred, and/or this is a judicial District
16 in which Defendants reside or may be found.

17 **THE PARTIES**

18 4. Plaintiff Metro-Goldwyn-Mayer Studios Inc. is a Delaware
19 corporation, with its principal place of business in California.

20 5. Plaintiff Columbia Pictures Industries, Inc. is a Delaware
21 corporation, with its principal place of business in California.

22 6. Plaintiff Disney Enterprises, Inc. is a Delaware corporation, with
23 its principal place of business in California.

24 7. Plaintiff New Line Cinema Corporation is a Delaware
25 corporation that is qualified to transact business in California.

26 8. Plaintiff Paramount Pictures Corporation is a Delaware
27 corporation, with its principal place of business in California.

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1 9. Plaintiff Time Warner Entertainment Company, L.P. is a
2 Delaware limited partnership that is qualified to transact business in California.

3 10. Plaintiff Twentieth Century Fox Film Corporation is a Delaware
4 corporation, with its principal place of business in California.

5 11. Plaintiff Universal City Studios, Inc. is a Delaware corporation,
6 with its principal place of business in California.

7 12. Plaintiffs Metro-Goldwyn-Mayer Studios Inc., Columbia
8 Pictures Industries, Inc., Disney Enterprises, Inc., New Line Cinema Corporation,
9 Paramount Pictures Corporation, Time Warner Entertainment Company, L.P.,
10 Twentieth Century Fox Film Corporation, and Universal City Studios, Inc., will be
11 referred to collectively as the “Studio Plaintiffs.”

12 13. The Studio Plaintiffs are U.S. motion picture studios or their
13 affiliates that own the copyright, or exclusive reproduction, adaptation, and/or
14 distribution rights under United States copyright, in certain motion pictures
15 (including but not limited to those listed on Exhibit A), each of which is the subject
16 of a valid Certificate of Copyright Registration from the Register of Copyrights or
17 as to which an application to register such picture under copyright is pending (the
18 “Copyrighted Motion Pictures”).

19 14. Plaintiff Arista Records, Inc. is a Delaware corporation that is
20 qualified to transact business in California.

21 15. Plaintiff Atlantic Recording Corporation is a Delaware
22 corporation that is qualified to transact business in California.

23 16. Plaintiff Atlantic Rhino Ventures Inc. d/b/a Rhino Entertainment
24 Company is a Delaware corporation with its principal place of business in
25 California.

26 17. Plaintiff Bad Boy Records is a joint venture of Arista Good
27 Girls, Inc., a Delaware corporation with its principal place of business in New
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1 York, and Bad Boy Entertainment, a Delaware corporation with its principal place
2 of business in New York, and is qualified to transact business in California.

3 18. Plaintiff Capitol Records, Inc. is a Delaware corporation that is
4 qualified to transact business in California.

5 19. Plaintiff Elektra Entertainment Group Inc. is a Delaware
6 corporation that is qualified to transact business in California.

7 20. Plaintiff Hollywood Records, Inc. is a California corporation
8 with its principal place of business in California.

9 21. Plaintiff Interscope Records is a California general partnership
10 with its principal place of business in California.

11 22. Plaintiff LaFace Records is a joint venture between Arista
12 Ventures, Inc., a Delaware corporation, and LaFace Records, Inc., a Georgia
13 corporation, and is qualified to transact business in California.

14 23. Plaintiff London-Sire Records Inc. is a Delaware corporation
15 that is qualified to transact business in California.

16 24. Plaintiff Motown Record Company, L.P. is a California limited
17 partnership that is qualified to transact business in California.

18 25. Plaintiff The RCA Records Label, a unit of BMG Music d/b/a
19 BMG Entertainment, is a New York general partnership that is qualified to transact
20 business in California.

21 26. Plaintiff Sony Music Entertainment Inc. is a Delaware
22 corporation that is qualified to transact business in California.

23 27. Plaintiff UMG Recordings, Inc. is a Delaware corporation that is
24 qualified to transact business in California.

25 28. Plaintiff Virgin Records America, Inc. is a California
26 corporation with its place of business in California.

27 29. Plaintiff Walt Disney Records is a division of ABC, Inc., a New
28 York corporation that is qualified to transact business in California.

1 30. Plaintiff Warner Bros. Records Inc. is a Delaware corporation
2 with its principal place of business in California.

3 31. Plaintiff WEA International Inc. is a Delaware corporation that
4 is qualified to transact business in California.

5 32. Plaintiff WEA Latina Inc. is a Delaware corporation that is
6 qualified to transact business in California.

7 33. Plaintiff Zomba Recording Corporation is a New York
8 corporation that is qualified to transact business in California.

9 34. Plaintiffs Arista Records, Inc., Atlantic Recording Corporation,
10 Atlantic Rhino Ventures Inc. d/b/a Rhino Entertainment Company, Bad Boy
11 Records, Capitol Records, Inc., Elektra Entertainment Group Inc., Hollywood
12 Records, Inc., Interscope Records, LaFace Records, London-Sire Records Inc.,
13 Motown Record Company, L.P., The RCA Records Label, a unit of BMG Music
14 d/b/a BMG Entertainment, Sony Music Entertainment Inc., UMG Recordings, Inc.,
15 Virgin Records America, Inc., Walt Disney Records, Warner Bros. Records Inc.,
16 WEA International Inc., WEA Latina Inc., and Zomba Recording Corporation will
17 be referred to collectively as the “Record Company Plaintiffs.” The Studio
18 Plaintiffs and the Record Company Plaintiffs will be referred to collectively as
19 “Plaintiffs.”

20 35. The Record Company Plaintiffs are the copyright owners or
21 owners of exclusive rights under United States copyright with respect to certain
22 copyrighted sound recordings embodied in their phonorecords, including but not
23 limited to those listed on Exhibit B, each of which is the subject of a valid Certifi-
24 cate of Copyright Registration from the Register of Copyrights or as to which an
25 application to register such sound recording under copyright is pending (the
26 “Copyrighted Sound Recordings”).

27 36. Defendant Grokster, Ltd. is a limited liability company with its
28 principal place of business in Nevis, West Indies.

1 42. Defendants have created and control an extensive and integrated
2 network that uses the Internet to connect people throughout the world and encour-
3 ages and enables them to pool various types of infringing digital files, including
4 files containing motion pictures, music, and other content, into what is effectively a
5 distributed database of millions of such files and to make available, transmit, and
6 reproduce unlawful copies of those files. Defendants provide their users with the
7 infrastructure, technological means, and support and services to accomplish these
8 infringements. Defendants are involved in and enable this process in a way that
9 assists and facilitates their users' infringements.

10 43. Defendants provide to their users at no cost, via online
11 download, proprietary application software that allows their users to connect to and
12 use a closed computer network, controlled by Defendants, to reproduce and dis-
13 tribute infringing digital files. The software was created by Defendant Consumer
14 Empowerment BV, which offers the technology itself and has also licensed it to
15 Defendants MusicCity and Grokster. Defendant Consumer Empowerment BV calls
16 its version "KaZaA Media Desktop." Defendant MusicCity terms its version
17 "Morpheus." Defendant Grokster's version is called simply "Grokster." Although
18 the three versions differ in cosmetic ways, they contain substantially identical code
19 and employ the same protocols. Regardless of which version their user employs,
20 the user is connected to the same network controlled by Defendants. Thus, the
21 Defendants' respective user populations have mutual visibility and access to each
22 other's infringing digital files.

23 44. Each Defendant's application software enables their users to
24 connect their computers to one or more central computer servers controlled and
25 maintained by that Defendant. After the central server registers, identifies, and logs
26 in the user, the user is connected to a "supernode" – a powerful computer, with a
27 high-bandwidth connection, operated by another user already connected to
28 Defendants' network. Defendant Grokster operates and controls a computer that

1 functions as a supernode. Defendants' central servers maintain communications
2 with supernodes and assist in administering Defendants' network.

3 45. After Defendants' user connects to a supernode, that supernode
4 compiles an index of digital files being offered by the user for downloading by
5 others, and it processes search requests submitted by the user. The supernode does
6 likewise for all other users that have been assigned to it. In response to a search
7 request, the supernode reviews its own index of files and, if necessary, the indices
8 maintained by other supernodes, and displays the search results to the user. Defen-
9 dants provide their users with sophisticated tools to search the network to locate the
10 copyrighted works they want. For example, when a user types in the title of one of
11 the Studio Plaintiffs' motion pictures, the system displays a result list showing all
12 currently available audiovisual files containing the title of the motion picture in
13 their name and purporting to contain all or part of that motion picture. With simple
14 commands, the user can download a file directly from the hard drive of a fellow
15 user who hosts it.

16 46. Communications on Defendants' network between their user's
17 computer and the Defendants' central servers, between the user and a supernode,
18 between supernodes and the central servers, and between and among supernodes
19 are all encrypted. Defendants created and control the means of encryption. The
20 encryption ensures that Defendants' network remains "closed" (*i.e.*, cannot be
21 accessed without Defendants' permission and the use of Defendants' software) and
22 thus under Defendants' control.

23 47. Defendants provide their users with facilities, such as online
24 chat rooms and message boards, in which their users – with Defendants' full
25 knowledge – regularly make clear that the primary use of Defendants' network is
26 the unlawful distribution and reproduction of copyrighted works.

27 48. Defendants have made their network available throughout the
28 United States and the world. At any given time, an enormous number of infringing

1 digital files are available for downloading through the Defendants' network. The
2 overwhelming majority of the digital files are being distributed and reproduced in
3 violation of the copyright law. The infringing digital files available on and through
4 Defendants' network include illegal copies of hit sound recordings as well as
5 recently released motion pictures, including many that are still playing in theaters
6 and are not yet legitimately available in any other media format.

7 49. Defendants are capable of controlling the activities of their users
8 and the infringing digital files available through their network. Defendants are also
9 aware of the illegal nature of their users' activities, and actively participate in, facil-
10 itate, materially contribute to, and encourage those activities, and profit from those
11 activities by, *inter alia*, drawing users to their network and service, thereby attract-
12 ing advertising revenues and otherwise adding value to Defendants' businesses.

13 **CLAIM FOR RELIEF**

14 ***(By All Plaintiffs Against All Defendants, for***
15 ***Copyright Infringement Pursuant to 17 U.S.C. § 501, et seq.)***

16 50. Plaintiffs repeat and reallege each and every allegation
17 contained in paragraphs 1 through 49 as if fully set forth herein.

18 51. A tremendous amount of copyright infringement takes place on
19 and through Defendants' network every day. These infringements occur, *inter alia*,
20 whenever one of their users, without authorization of the copyright owner, uses
21 Defendants' network to download a copyrighted content file from another user's
22 computer or makes copyrighted content files available for such unlawful down-
23 loading. Such acts constitute unauthorized reproduction and distribution and result
24 in unauthorized copies. Defendants participate in, facilitate, materially contribute
25 to, and encourage these infringements.

26 52. At all relevant times, Defendants have engaged and continue to
27 engage in the business of knowingly and systematically participating in, facilitating,
28 materially contributing to, and encouraging the above-described unauthorized

1 reproductions and/or distributions of the Copyrighted Motion Pictures and
2 Copyrighted Sound Recordings and thus the infringement of Plaintiffs' copyrights
3 and exclusive rights under copyright in the Copyrighted Motion Pictures and
4 Copyrighted Sound Recordings. Defendants have actual and constructive
5 knowledge of the infringements committed on and through their network.

6 53. At all relevant times, Defendants have derived substantial
7 financial benefit from the infringement of Plaintiffs' copyrights. Defendants
8 display advertisements on their network and charge fees for such advertising. The
9 amount of those fees is directly related to the number of users, which depends
10 directly on Defendants' having a wide range and selection of pirated motion
11 pictures, sound recordings, and other works. The availability of such content
12 attracts new users to Defendants' network, which adds, in turn, to the inventory of
13 pirated content. In addition, Defendants are undertaking a purposeful strategy to
14 make their network and their respective businesses more attractive to existing and
15 potential investors and advertisers by increasing the number of their users and the
16 volume of unauthorized copyrighted motion pictures and sound recordings
17 available for unlawful reproduction and distribution.

18 54. At all relevant times, Defendants have had the right and ability
19 to supervise and/or control the infringing conduct of their users.

20 55. Defendants, through (a) their active participation in the unauth-
21 orized reproduction and/or digital distribution of unauthorized copies of Plaintiffs'
22 copyrighted works, (b) their provision of the means and facilities for unauthorized
23 reproduction and distribution, (c) their encouragement of their users to engage in
24 these unauthorized acts and their material contribution to their users' acts, (d) their
25 control over the means and facilities by which such unauthorized reproductions and
26 distributions are effected, and (e) the substantial, direct financial benefits that
27 Defendants derive from all of the aforesaid acts, all with full knowledge of their
28 illegal consequences, are committing, and/or are contributorily and vicariously

1 liable for, a vast number of copyright infringements, including infringements of the
2 Copyrighted Motion Pictures and Copyrighted Sound Recordings.

3 56. The infringement of each Plaintiff's rights in and to each of the
4 Copyrighted Motion Pictures and Copyrighted Sound Recordings constitutes a
5 separate and distinct act of infringement.

6 57. The foregoing acts of infringement by Defendants have been
7 willful, intentional, and purposeful, in disregard of and with indifference to
8 Plaintiffs' rights.

9 58. As a direct and proximate result of Defendants' infringement of
10 Plaintiffs' copyrights and exclusive rights under copyright, Plaintiffs are entitled to
11 damages as well as Defendants' profits pursuant to 17 U.S.C. § 504(b) for each
12 infringement.

13 59. Alternatively, Plaintiffs are entitled to the maximum statutory
14 damages, pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 for all
15 individual infringements involved in the action with respect to any one work for
16 which any one infringer is liable individually, or for which any two or more
17 infringers are liable jointly and severally, or for such other amount as may be
18 proper pursuant to 17 U.S.C. § 504(c).

19 60. Plaintiffs further are entitled to their attorneys' fees and full
20 costs pursuant to 17 U.S.C. § 505.

21 61. Defendants' conduct threatens to cause, and is causing, and
22 unless enjoined and restrained by this Court will continue to cause, Plaintiffs great
23 and irreparable injury that cannot fully be compensated for or measured in money.
24 Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiffs
25 are entitled to preliminary and permanent injunctions prohibiting further
26 infringements of their copyrights and exclusive rights under copyright.

27 WHEREFORE, Plaintiffs pray for judgment against Defendants as
28 follows:

1 1. For Defendants' profits and for damages in such amount as may
2 be found, or alternatively, for maximum statutory damages of not less than
3 \$150,000 for all individual copyright infringements involved in the action with
4 respect to any one work for which any one infringer is liable individually, or for
5 which any two or more infringers are liable jointly and severally, or for such other
6 amount as may be proper pursuant to 17 U.S.C. § 504(c).

7 2. For a preliminary and a permanent injunction enjoining
8 Defendants and Defendants' agents, servants, employees, officers, attorneys,
9 successors, licensees, partners, and assigns, and all persons acting in concert or
10 participation with each or any of them, from: (a) directly or indirectly infringing in
11 any manner any of Plaintiffs' respective copyrights or other exclusive rights
12 (whether now in existence or hereafter created), including without limitation,
13 copyrights or exclusive rights under copyright in the Copyrighted Motion Pictures
14 listed on Exhibit A and the Copyrighted Sound Recordings listed on Exhibit B, and
15 (b) causing, contributing to, enabling, facilitating, or participating in the
16 infringement of any of Plaintiffs' respective copyrights or other exclusive rights
17 (whether now in existence or hereafter created), including without limitation,
18 copyrights or exclusive rights under copyright in the Copyrighted Motion Pictures
19 listed on Exhibit A and the Copyrighted Sound Recordings listed on Exhibit B.

20 3. For prejudgment interest according to law.

21 4. For Plaintiffs' attorneys' fees, costs, and disbursements in this
22 action.

23 5. For such other and further relief as the Court may deem just and
24 proper.

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Respectfully submitted,

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