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16 Attorneys for Defendants
17 MusicCity.com, Inc. (now known as
StreamCast Networks, Inc.) and
18 MusicCity Networks, Inc.

19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

21 METRO-GOLDWYN-MAYER
22 STUDIOS INC., et al.,

23 Plaintiffs,

24 vs.

25 GROKSTER, LTD., et al.,

26 Defendants.

) Case No. 01-08541 SVW (PJWx)

) MEMORANDUM OF POINTS AND
) AUTHORITIES OF DEFENDANTS
) STREAMCAST NETWORKS, INC.
) (FORMERLY KNOWN AS
) MUSICCITY.COM, INC.) AND
) MUSICCITY NETWORKS, INC. IN
) SUPPORT OF MOTION FOR PARTIAL
) SUMMARY JUDGMENT:
) DECLARATIONS OF DARRELL
) SMITH, WILLIAM CLAY SHIRKY,
) ANDREW P. BRIDGES, GREGORY

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NEWBY, M. TALLY GEORGE, SEAN
L. MAYERS, JOHN PERRY BARLOW,
BREWSTER KAHLE, RICHARD
PRELINGER, STEVE W. GRIFFIN AND
RICHARD NESSARY IN SUPPORT OF
MOTION

[Notice of Motion and Motion, and
Statement of Uncontroverted Facts and
Conclusions of Law, filed concurrently
herewith]

Date: February 25, 2002
Time: 1:30 p.m.
Ctm: 6 (Spring Street)
Hon. Stephen V. Wilson

1 I, John Perry Barlow, hereby declare:

2 1. My name is John Perry Barlow. I reside in Pinedale, Wyoming.

3 2. I am a former song writer for the Grateful Dead and author of several
4 articles on topics including intellectual property, civil liberties, and the digital
5 economy.

6 3. Since May of 1998, I have been a Fellow at Harvard Law School's
7 Berkman Center for Internet and Society. Prior to that, I was a Fellow with the
8 Institute of Politics at Harvard's John F. Kennedy School of Government.

9 4. I wrote songs for the band the Grateful Dead from 1971 until 1995. I
10 continue to write songs individually and with other song writers to this day.

11 5. I have written for a vast diversity of publications, ranging from
12 Communications of the ACM (Association for Computing Machinery) to The New
13 York Times to Nerve. An article that I wrote in 1995 for Wired Magazine on the
14 future of copyright, "The Economy of Ideas," is now taught in many law schools.
15 I authored "A Declaration of the Independence of Cyberspace," which has been
16 widely distributed on the Internet and can be found on more than 20,000 sites.
17 Partly as a consequence of that, I was called "the Thomas Jefferson of Cyberspace"
18 by Yahoo Internet Life Magazine.

9 6. I regularly comment on information economics, digitized intellectual
20 goods, cyber liberties, virtual community, electronic cash, cryptography policy,
21 privacy, and the social, cultural, and legal conditions forming in Cyberspace. I am
22 the vice-chair of the Electronic Frontier Foundation and also a member of the
23 External Advisory Council of the National Computational Science Alliance.

24 7. In June of 1999, FutureBanker Magazine (an American Banker
25 Publication) named me "One of the 25 Most Influential People in Financial
26 Services," even though I am not really in financial services.

27 8. In my experience as a musician and an author, the more my works are
28 traded among people, the more my career benefits.

9. I have no objection to my works being traded using Morpheus software or other peer-to-peer (P2P) file sharing programs. I not only have no objection to, but I would also actively welcome and encourage, distribution of my works through use of Morpheus software or other peer-to-peer file sharing programs. I anticipate that peer-to-peer networks and direct file sharing software programs like Morpheus will provide enormous benefit to musicians and authors and will broaden our distribution opportunities. Morpheus and other similar programs are capable of improving distribution of my works and a wide variety of other works that are beneficial to society in many ways, whether they are entertainment works like mine, political or social commentary like mine, public domain documents, software, or other materials.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration is executed in Salt Lake City, Utah on January 18, 2002.



John Perry Barlow