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14 15	Santa Monica, CA 90403 Telephone: (310) 881-2192 Facsimile: (310) 453-5901
16 17	Attorneys for Defendants MusicCity.com, Inc. (now known as StreamCast Networks, Inc.) and MusicCity Networks, Inc.
18 19 20 21	UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
22 23	METRO-GOLDWYN-MAYER STUDIOS INC., et al.,  Plaintiffs,  Plaintiffs,  Case No. 01-08541 SVW (PJWx)  MEMORANDUM OF POINTS AND AUTHORITIES OF DEFENDANTS STREAMCAST NETWORKS, INC.
<ul><li>24</li><li>25</li><li>26</li><li>27</li></ul>	vs.  GROKSTER, LTD., et al.,  Defendants.  Declarations of darrell.  SMITH, WILLIAM CLAY SHIRKY, ANDREW P. BRIDGES, GREGORY
28	12.22

Memorandum in Support of Motion for Partial Summary Judgment
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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

February 25, 2002 Date:

Time: Ctrm:

1:30 p.m. 6 (Spring Street) Hon. Stephen V. Wilson

1. My name is Richard Nessary. I am an attorney at Wilson Sonsini Goodrich & Rosati in Palo Alto, California, and am counsel for defendants MusicCity.com, Inc. and MusicCity Networks, Inc. I have personal knowledge of all matters in this declaration

- 2. Attached hereto as Exhibit A is a true and correct copy of a document I downloaded on January 21, 2002, from Napster, Inc.'s website at www.napster.com/pressroom/legal.html entitled Appellant Napster Inc.'s Emergency Motion for Stay Pursuant to Rule 27-3 and Motion to Expedite Appeal of Order Modifying Preliminary Injunction Issued by the Honorable Marilyn Hall Patel on July 11, 2001.
- 3. Attached hereto as Exhibit B is a true and correct copy of a document I downloaded on January 21, 2002, from J!VE Media Technologies, Inc.'s website at www.jivemediatechnologies.com/white\_papers.asp, entitled "A New Form of Digital Distribution" by Richard Klosa.

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 Palo Alto, California on January 22, 2002.

Richard Nessary

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