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
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
I, Gregory Newby, hereby declare as follows:

My name is Gregory Newby. I reside in Efland, North Carolina.

1. I am the Volunteer CEO of the Project Gutenberg Literary Archive Foundation, a 501(c)(3) nonprofit corporation organized under the laws of Mississippi. Since 1997, I have also been an Assistant Professor with the School of Information and Library Science at the University of North Carolina Chapel Hill. Between 1991 and 1997, I served as an Assistant Professor, Graduate School of Library and Information Science, University of Illinois at Urbana-Champaign. Prior to that, I was an instructor and adjunct faculty member at Syracuse University in Syracuse, New York. I have published dozens of articles and taught numerous courses on information sciences and internet issues. I received a Ph.D. in Information Transfer from Syracuse University in 1993, an M.A. in Communications from SUNY Albany in 1988, and a B.A. in Communications and Psychology from SUNY Albany in 1987. My complete vitae can be found at http://www.ils.unc.edu/gbnewby/vita.html.

3. Project Gutenberg is the oldest information provider on the Internet, having been founded by Michael S. Hart in 1976. Although the “internet” at the time included only a few computers tied together in a system known as ARPANet, it was clear to Mr. Hart even then that anything that can be entered into a computer can be reproduced indefinitely. By making use of this principle, it was clear to him that everyone in the world, or even not in this world (given satellite transmission), could have a copy of every book that has ever been entered into a computer. In order to make this dream a reality, he founded Project Gutenberg to begin entering public domain works into computers and make them easily available to the public and to charge nothing for the eBooks.

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and search. This is an important difference from the various other eBook projects around the world, most of whom insist on using markup languages that limit users to certain reading and searching programs. In 1971, Mr. Hart began this project by typing the U.S. Declaration of Independence into a computer at the University of Illinois Material Research Laboratory and making it available to other computer users. Since then, an international group of volunteers has been entering public domain works of light literature, heavy literature, reference and scientific materials into computers and making them available to the general public via the Net.

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b. the King James Bible (New and Old Testament), in multiple editions, and including apocrypha

c. the Koran

d. Herman Melville, Moby Dick in two separate editions, and Typee, Omoo: Adventures in the South Seas, etc.

e. Thomas Paine, The Rights Of Man

f. The Federalist Papers

g. NAFTA treaty text, annexes and tariffs

h. Jane Austen, Persuasion, Pride and Prejudice, Sense and Sensibility, Love and Friendship, etc.


j. Johann Wolfgang von Goethe, Italienische Reise, Faust, The Sorrows of Young Werther, etc.

k. the first 00,000 prime numbers, and other numbers of particular scientific interest to a million places

Central Intelligence Agency, The World Fact Books from 1990 to the present

m. Caesar’s Commentaries (in Latin)

n. Adam Smith, Wealth of Nations

o. The Human Genome Project, ATCG codes, two editions


q. Karl Marx & Friedrich Engels, The Communist Manifesto

r. Louisa May Alcott, Little Women, Little Men, Jo’s Boys, etc.

s. John Milton, Aeropagitca

t. F. Scott Fitzgerald, This Side of Paradise
u. Alexis de Toqueville, Democracy In America
v. The Complete Plays of Gilbert and Sullivan
w. Popular Science Monthly, Oct, Nov, Dec, 915 V.86
x. Dante Alighieri, The Divine Comedy (in the original Italian, as well as the Longfellow, Cary and Norton translations)
y. Ulysses S Grant, Personal Memoirs
z. Charles Darwin, On the Origin of Species
aa. Plato: Symposium, Meno, Phaedrus, Ion, Euthyphro, Cratylus, Euthydemus, Protagoras, Laches, Charmides, Lysis, etc. (Jowett translations)
bb. Immanuel Kant, The Critique of Pure Reason
cc. Collected Inaugural Speeches of the United States Presidents

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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 Efland, North Carolina on January 17, 2002.
Gregory Newby