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10 SHARMAN NETWORKS LIMITED

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

14 METRO-GOLDWYN-MAYER,
15 STUDIOS INC., et al.,

16 Plaintiffs,

17 vs.

18 GROKSTER, LTD., et al.,

19 Defendants.

20 JERRY LEIBER, et al.,

21 Plaintiffs,

22 vs.

23 CONSUMER EMPOWERMENT BV)
24 aka FASTTRACK, et al.,)
25)

26 Defendants.)

27 AND RELATED COUNTERCLAIMS.)
28)

Consolidated Case Nos.

CV 01-8541-SVW (PJWx)
CV 01-9923-SVW (PJWx)

DECLARATION OF RODERICK G. DORMAN IN SUPPORT OF DEFENDANT SHARMAN NETWORKS LIMITED'S EX PARTE APPLICATION

Date: Submitted February 6, 2004
Ctm: The Hon. Patrick J. Walsh

, Roderick G. Dorman, declare as follows:

2 I am an attorney for Defendant Sharman Networks Limited (“Sharman
3 in this action. The facts recited below are known by me personally. If called upon to
4 testify, I could and would competently testify thereto.

5 2. At approximately 2:20 p.m. on Thursday, February 5, 2004, I received a
6 telephone conversation from my client in Australia, and was advised that the Record
7 Company Plaintiffs in this action had instituted a new action in Australia and had
8 been issued a Seizure Order by the Court in New South Wales, Australia. At the time
9 I received this call, all business records and personal information residing on the
10 computers located at the premises of Sharman, LEF, Nicola Hemming’s home, Phil
11 Morle’s home, Kevin Bermeister’s home, and the office of Brilliant Digital
12 Entertainment, were being seized.

13 3 I learned during this telephone call that the Seizure Order included a 23-
14 page order requiring the production of documents and information, which, if
15 produced, would cause the identical parties in this litigation, who have now instituted
16 an action in Australia, to gain access to software, business documents, and financial
17 documents which this Court has either ruled need not be produced, or has highly
18 regulated the manner of production, such as with its Software Protective Order.

19 4. Believing that the Plaintiffs had initiated this action to materially
20 interfere with my client’s business activities, to interfere with our ability as counsel to
21 work with our clients in preparation for the commencement of the February 16
22 depositions, and to “end run” this Court’s carefully-crafted discovery orders, I called
23 George M. Borkowski at the firm of Mitchell, Silberberg & Knupp, L.L.P., attorneys
24 for the Record Company Plaintiffs (other than the Time Warner Record Company
25 Plaintiffs), who ascertained the knowledge and complicity of the Plaintiffs and their
26 counsel in this action with the activities then occurring in Australia.

27 5 The conversation with Mr. Borkowski occurred mid-afternoon on
28 Thursday, February 5. I asked Mr. Borkowski whether he was aware of what was

1 occurring in Australia. He stated, "I am aware of things that are supposed to happen
2 in Australia." He stated he did not have knowledge that those "things" had actually
3 occurred. I expressed my incredulity that his clients would take these actions with
4 counsel's knowledge, and I was told that "they decided that this course of action was
5 appropriate."

6 I declare under penalty of perjury under the laws of the State of California and
7 the United States that the foregoing is true and correct, and that this Declaration is
8 executed on Thursday, February 5, 2004, in Los Angeles, California.

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12 Roderick G. Dorman
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1 **PROOF OF SERVICE**

2
3 STATE OF CALIFORNIA,
4 COUNTY OF LOS ANGELES) SS.
5)

6 I am employed in the County of Los Angeles, State of California. I am over the age of 18
7 years and not a party to the within action; my business address is 601 South Figueroa Street, Suite
8 3300, Los Angeles, California 90017.

9 On February 6, 2004, I served the foregoing document described as **DECLARATION OF
10 RODERICK G. DORMAN IN SUPPORT OF DEFENDANT SHARMAN NETWORKS
11 LIMITED'S EX PARTE APPLICATION** on the interested parties in this action by e-mail and by
12 placing the true copy thereof enclosed in sealed envelopes addressed as follows:

- 13 By electronic transmission. I caused to be transmitted the documents described
14 above to the individuals on the service list.
15 By placing the document listed above in a sealed envelope with postage thereon
16 fully prepaid, in the United States mail at Los Angeles, California addressed as set
17 forth below.

18 **SEE ATTACHED SERVICE LIST**

19 I caused such envelope with postage thereon fully prepaid to be placed in the United States
20 mail at Los Angeles, California. I am readily familiar with the firm's practice of collection and
21 processing correspondence for mailing. Under that practice it would be deposited with U.S. postal
22 service on that same day with postage thereon fully prepaid at Los Angeles, California in the
23 ordinary course of business. I am aware that on motion of the party served, service is presumed
24 invalid if postal cancellation date or postage meter date is more than one day after date of deposit for
25 mailing in affidavit.

26 I declare that I am employed in the office of a member of this bar of this court at whose
27 direction the service was made.

28 Executed on February 6, 2004 at Los Angeles, California.

Lisa Spears

MGM, et al. v. GROKSTER, U.S.D.C. No. CV 01-8541 SVW (PJWx)

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9 ***LEIBER, et al. v. GROKSTER, LTD., et al., U.S.D.C. No. CV 01-9923 SVW (PJWx)***

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