

1 RICHARD J. IDELL, ESQ., # 069033
 2 ELIZABETH J. REST, ESQ., # 244756
 3 ROSACLAIRES BAISINGER, ESQ., # 240038
 IDELL & SEITEL LLP
 4 465 California Street, Suite 300
 San Francisco, CA 94104
 Telephone: (415) 986-2400
 5 Facsimile: (415) 392-9259

6 Attorneys for Plaintiff Regal Capital Incorporated,
 7 a California corporation

8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

10 REGAL CAPITAL INCORPORATED, a
 11 California corporation, also doing business as
 REGAL HOME ENTERTAINMENT, INC.

12 Plaintiff,

13 vs.

14 KARAOKE DISCOUNT CENTER, a California
 15 corporation; KARAOKE DISCOUNT CENTER
 16 II, INCORPORATED, a California corporation,
 doing business as TPD DISCOUNT CENTER;
 17 KARAOKE OUTLET, INCORPORATED, a
 California corporation and DOES 1 through 100,
 18 inclusive,

19 Defendants.

Case No.: C 08-04498 SI

**[PROPOSED] PRELIMINARY
 INJUNCTION**

Date: October 20, 2008

Time: 10:00 a.m.

Courtroom: 10

20 The above-captioned matter came on for hearing on October 20, 2008, at 10:00 a.m. before the
 21 Honorable Judge Susan Illston, pursuant to a Temporary Restraining Order, Seizure Order and Order
 22 to Show Cause Re: Preliminary Injunction issued on October 2, 2008 ("Order"). Richard J. Idell of
 23 Idell & Seitel LLP appeared on behalf of Plaintiff REGAL CAPITAL INCORPORATED, a California
 24 corporation, also doing business as REGAL HOME ENTERTAINMENT, INC. ("Plaintiff"),
 25 No one appeared on behalf of Defendant KARAOKE DISCOUNT
 26 CENTER, a California corporation ("KARAOKE DISCOUNT"), No one appeared
 27 on behalf of Defendant KARAOKE DISCOUNT CENTER II, INCORPORATED, a California
 28 corporation, doing business as TPD DISCOUNT CENTER ("KARAOKE DISCOUNT II"), and

1 No one appeared on behalf of Defendant KARAOKE OUTLET,
2 INCORPORATED, a California corporation ("KARAOKE OUTLET").

3 Pursuant to the Order, Defendants KARAOKE DISCOUNT, KARAOKE DISCOUNT II and
4 KARAOKE OUTLET (collectively referred to herein as "Defendants"), were to show cause and file
5 answering papers to the Order to Show Cause Re: Preliminary Injunction no later than October 20,
6 2008.

7 The Court, having reviewed the moving papers and Plaintiff's Supplemental Brief and Report
8 on Seizure and accompanying Declarations, and having determined that the Defendants have been
9 properly served with process in the above-entitled action, and having determined that the Plaintiff has
10 shown probable success on the merits and irreparable harm if this Order does not issue, and GOOD
11 CAUSE APPEARING THEREFOR:

12 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

13 (a) During the pendency of this action, Defendants KARAOKE DISCOUNT CENTER, a
14 California corporation; KARAOKE DISCOUNT CENTER II, INCORPORATED, a California
15 corporation, doing business as TPD DISCOUNT CENTER; KARAOKE OUTLET,
16 INCORPORATED, a California corporation and DOES 1 through 100, inclusive, and each of their
17 parent, subsidiary, affiliated and related business entities, and all of the officers, directors,
18 shareholders, members, partners, agents, representatives, servants, confederates, employees, attorneys,
19 successors and assigns of the foregoing, and any and all persons acting in concert or participation with
20 them, and any other persons acting for, with, by, through or under them, who receive actual notice of
21 this Preliminary Injunction, during the pendency of this action and until further order of this Court, are
22 hereby enjoined and restrained from the following:

- 23 (i) Importing, making, manufacturing, copying, marketing, distributing, selling, offering
24 for sale, renting, leasing and/or otherwise trafficking, including but not limited to over
25 the Internet, ("Trafficking") in Unauthorized Copies of audio-visual content and/or
26 products the copyrights to which are owned or licensed by Plaintiff, whether
27 heretofore released or to be released after date of this Order, (hereinafter collectively
28 referred to as "Plaintiff's Exclusive Copyrighted Programs"), including but not

1 limited to those programs listed on the Exhibit "A" to the Verified Complaint. The
2 term "Unauthorized Copy" means a copy of Plaintiff's Exclusive Copyrighted
3 Programs which was not authorized and sold by Plaintiff or through Plaintiff's chain
4 of distribution, and includes, but is not limited to, counterfeit copies and/or imports in
5 violation of Plaintiff's exclusive copyright licenses or other interests.

- 6 (ii) Directly or indirectly infringing the copyrights of Plaintiff in any manner, and from
7 causing, contributing to, or participating in the unauthorized importation, duplication,
8 manufacture, distribution or sale of Plaintiff's Exclusive Copyrighted Programs, and
9 from offering for rent or sale, renting, selling, or otherwise distributing any
10 Unauthorized Copies of Plaintiff's Exclusive Copyrighted Programs, including but
11 not limited to the program titles listed on Exhibit "A" to the Verified Complaint
12 herein, which exhibits are hereby incorporated by reference, and attached hereto as
13 Exhibit "A";
- 14 (iii) Directly or indirectly using Plaintiff's trademarks, trade names or service marks,
15 including the marks listed in the Verified Complaint as follows: (1) a unique and
16 inherently distinctive mark consisting of a stylized "R," with a crown on top, which is
17 referred to herein as "the Regal Mark," Reg. No. 1,476,660 on the Principal Register of
18 the United States Patent and Trademark Office; (2) a unique and inherently distinctive
19 service mark for "Regal Home Entertainment," Reg. No. 1,797,599 on the Principal
20 Register of the United States Patent and Trademark Office; and (3) a unique and
21 inherently distinctive mark for "Regal Home Video."
- 22 (iv) Shipping, delivering, holding for sale, distributing, returning, transferring, or otherwise
23 moving or disposing of in any manner videotapes, VCDs, DVDs, laser discs, or other
24 infringing items containing Plaintiff's Exclusive Copyrighted Programs, or bearing
25 Plaintiff's trademarks, or any reproduction, counterfeit, copy, or colorable imitation of
26 the same;
- 27 (v) Shipping, delivering, holding for sale, distributing, returning, transferring, or otherwise
28 moving or disposing of in any manner any and all boxes, labels, or other merchandise

1 and items, including, but not limited to, recording and duplicating equipment, used in
2 the manufacture and/or distribution of such infringing merchandise; and

3 (vi) Assisting, aiding, or abetting any other person or business entity in engaging in or
4 performing any of the activities referred to in subparagraphs (i) through (v); and

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

6 (b) Defendants, and each of them, are required to deliver to Plaintiff's counsel forthwith
7 any and all such infringing merchandise in their possession, custody, or control for impoundment; and

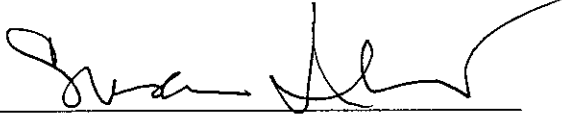
8 (c) Defendants, and each of them, are required to deliver to Plaintiff's counsel forthwith
9 any and all videotapes, VCDs, DVDs, boxes, labels, or other merchandise and items, including, but not
10 limited to, recording and duplicating equipment, used in the manufacture and/or distribution of such
11 infringing merchandise.

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Court confirms the
13 seizures made pursuant to this Court's order and during the pendency of this action all articles seized,
14 including, but not limited to, any videotapes, VCDs, DVDs, laser discs, or other infringing articles,
15 boxes, labels, and other infringing merchandise, including, but not limited to, recording and
16 duplicating equipment, used in the manufacture and/or distribution of such infringing merchandise, and
17 shall remain in the custody of Plaintiff's counsel, as substitute custodian.

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the bond, which has been
19 filed by the Plaintiffs in the amount of Five Thousand Dollars (\$5,000.00), shall remain the bond on
20 this Preliminary Injunction.

21 **IT IS SO ORDERED.**

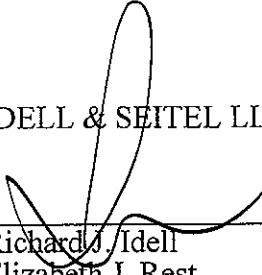
22 Date: 10/20, 2008

23 
Honorable Susan Illston, District Court Judge

24 RESPECTFULLY SUBMITTED BY:

25
26 Dated: October ²⁰2, 2008

27
28 IDELL & SEITEL LLP


Richard J. Idell
Elizabeth J. Rest

RosClaire Baisinger
Attorneys for Plaintiff
REGAL CAPITAL INCORPORATED, a California
corporation, also doing business as REGAL HOME
ENTERTAINMENT, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28