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6 Attorneys for Defendants, The Board of Trustees of the California State University  
 System and Robert A. Rauch

7  
 8 UNITED STATES DISTRICT COURT  
 9 SOUTHERN DISTRICT OF CALIFORNIA

10  
 11 **MARKETING INFORMATION**  
 12 **MASTERS, INC.**, a California  
 corporation,  
 13  
 Plaintiff,

14 v.

15 **THE BOARD OF TRUSTEES OF THE**  
 16 **CALIFORNIA STATE UNIVERSITY,**  
 WHICH IS THE STATE OF  
 17 **CALIFORNIA ACTING IN ITS**  
**HIGHER EDUCATION CAPACITY**  
 (erroneously sued herein as THE  
 18 **BOARD OF TRUSTEES OF THE**  
**CALIFORNIA STATE UNIVERSITY**  
 19 **SYSTEM, A PUBLIC ENTITY**  
**ACTING THROUGH ITS**  
 20 **SUBDIVISION SAN DIEGO STATE**  
**UNIVERSITY); and ROBERT A.**  
 21 **RAUCH, an individual,**  
 22  
 Defendants.

) **CASE NO. 06CV 1682 JAH JMA**  
 )  
 ) **NOTICE OF MOTION AND**  
 ) **MOTION TO DISMISS FIRST**  
 ) **AMENDED COMPLAINT**

) [Filed concurrently with Memorandum  
 of Points and Authorities, Declaration of  
 Robert Rauch and Declaration of Kathy  
 LaMaster]

) **ACTION FILED: August 18, 2006**

) **Hearing Date: January 18, 2007**  
 ) **Time: 3:00 p.m.**  
 ) **Dept: 11**

23  
 24 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

25 PLEASE TAKE NOTICE that on January 18, 2007, at 3:00 p.m. in Courtroom  
 26 11 of the above-entitled Court, located at Southern 940 Front Street, San Diego, CA  
 27 92101-8900, defendants THE BOARD OF TRUSTEES OF THE CALIFORNIA  
 28 STATE UNIVERSITY and ROBERT A. RAUCH (“Defendants”) will move to

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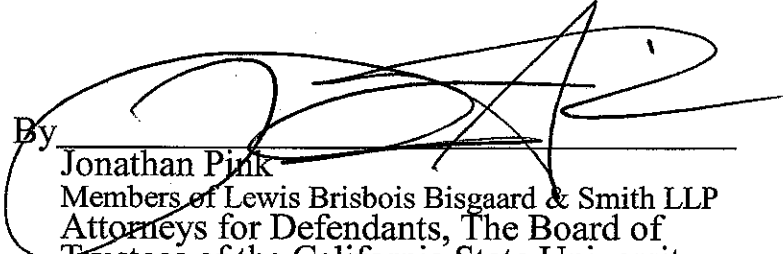
dismiss the First Amended Complaint of plaintiff MARKETING INFORMATION MASTERS INC. ("MIM") pursuant to Fed. R. Civ. P. on the ground that same is barred in its entirety by the Eleventh Amendment of the United States Constitution. In addition, the supplemental state law claims should be dismissed under Fed. R. Civ. P. 12(b)(6) as they are preempted by Federal Copyright Law.

This Motion is will be based on this Notice, the Memorandum of Points and Authorities in support thereof, the files and records in this action, and such argument as may be heard.

DATED: November 20, 2006

Respectfully submitted,

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

By   
Jonathan Pink  
Members of Lewis Brisbois Bisgaard & Smith LLP  
Attorneys for Defendants, The Board of Trustees of the California State University System and Robert A. Rauch