Exhibit 31

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE NAPSTER, INC. COPYRIGHT LITIGATION

No. C 00-1369 MHP
No. C 00-4725 MHP

MEMORANDUM AND ORDER

Plaintiff Matthew Katz, a music producer, alleges copyright infringement, trademark infringement, unfair competition and interference with economic relations by Napster, Inc. ("Napster"), and individual defendants John W. Fanning, Sean Fanning, Sean Parker, Hank Barry, Hummer Winblad, Bob Bozeman, Yosi Amram, Joe Kraus, Fred Durst, Roger McGuinn, Jonathan H. Greene and Does 1 through 10. Now before the court are the motions of defendants Hank Barry, Yosi Amram, Shawn Fanning, Hummer Winblad, Bob Bozeman and Fred Durst to dismiss the complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) and John W. Fanning's motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c). Fred Durst's motion for sanctions is also before the court. Having considered the parties' arguments and for the reasons set forth below, the court enters the following memorandum and order.

BACKGROUND

This action is one of several copyright infringement actions against Napster, an Internet service that facilitates the downloading of MP3 music files, currently pending before this court. See In re Napster, C 00-1369 MHP. Because the court has discussed the Napster service at length in prior orders in this proceeding, and because the parties are familiar with the system, the court will

limit this background section to information relevant to defendants' motions. For the purposes of these motions, the court draws on the factual allegations of the complaint.

Matthew Katz describes himself as a "producer and owner of music" having created several musical bands including "jefferson airplane," "Moby Grape," "It's a Beautiful Day," "Indian Puddin' and Pitpe," "Tripsichord" and "Fraternity of Man." Complaint ¶ 4.

Katz contends that Hank Barry is the CEO of Napster, Shawn Fanning is the co-founder of napster.com and John W. Fanning is the registrant of the domain name "napster.com." Complaint ¶¶ 6-7, 9. According to the complaint, Hummer Winblad, a company operating within the state of California, is a "part-owner of [Napster] by virtue of a $15 Million venture capital investment." Complaint ¶ 10. Katz alleges that Yosi Amram is a part-owner of Napster "by virtue of a $2 Million private investment" and Bob Bozeman is a part-owner "by virtue of a $2 Million private investment by his company svangels.com."[1] Complaint ¶¶ 11-12. Fred Durst is a member of the musical band "Limp Bizkit." Complaint ¶ 14.

On July 24, 2000, Katz filed this action in the United States District Court for the Central District of California alleging copyright infringement, trademark infringement, unfair competition and interference with economic relations. See Katz v. Napster, Inc. et al., C00-07966 CAS. On December 20, 2000, the action was transferred to this court, reassigned to Case No. C 00-4725 MHP and coordinated with the Multi-District Litigation pending before this court in In re Napster, Inc., C 00-1369 MHP.

LEGAL STANDARD

I. Rule 12(b)(6)

In considering the sufficiency of a complaint under Rule 12(b)(6), the court will not grant a motion to dismiss "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The Federal Rules do not require plaintiff to plead in detail the facts upon which he bases his claim; he must merely set forth a "short and plain statement of the claim" that gives the defendant fair notice of its nature and grounds. See id. at 47 (citing Fed. R. Civ. P. 8(a)(2)). Courts

in the Ninth Circuit have often stated that unwarranted inferences and conclusory allegations of law, even when pled as facts, are insufficient to defeat a motion to dismiss. See In re Verifone Sec. Litig., 11 F.3d 865, 868 (9th Cir. 1993).

II. Rule 12(c)

Any party may move for judgment on the pleadings after the pleadings are closed but within such time as not to delay the trial. Fed. R. Civ. P. 12(c). A motion for judgment on the pleadings is properly granted when, taking all the allegations in the pleading as true, the moving party is entitled to judgment as a matter of law. See Nelson v. City of Irvine, 143 F.3d 1196, 1200 (9th Cir. 1998).

DISCUSSION

I. Copyright Infringement

In his Second Claim for Relief, Katz alleges contributory copyright infringement against all defendants. Although the Copyright Act, 17 U.S.C. §§ 101 *et seq.*, does not expressly impose liability on anyone other than direct infringers, courts have long recognized that in certain circumstances, vicarious or contributory liability will be imposed. See Fonovisa, Inc. v. Cherry Auction, Inc., 76 F.3d 259, 261 (9th Cir. 1996).

A. Contributory Infringement

Katz asks this court to adopt what is best described as a "tertiary theory" of liability for contributory infringement. He argues that defendants are liable for contributory infringement on the basis of their relationship to Napster. Katz does not allege that Napster is a direct infringer, but would hold Napster liable for contributory infringement on the basis of the service Napster provides to its users. Under this formulation, Napster users are the direct infringers, Napster is the secondary infringer and the individual defendants are tertiary infringers. The court finds no support for this legal proposition. Rather, courts have consistently held that liability for contributory infringement requires substantial participation in a specific act of direct infringement. See e.g. Cable/Home Communication Corp. v. Network Prod., Inc., 902 F.2d 829, 845 (11th Cir. 1990) ("Contributory infringement necessarily must follow a finding or direct or primary infringement."); Gershwin

Publ'g Corp. v. Columbia Artists Mgmt., Inc., 443 F.2d 1159, 1162-63 (2nd Cir. 1971); see also 3 Nimmer on Copyright § 12.04[A][2][a] at 12-73 ("in order to be deemed a contributory infringer, the authorization or assistance must bear some direct relationship to the infringing acts, and the person rendering such assistance or giving such authorization must be acting in concert with the infringer").

Even if the "tertiary theory" were a sound basis for the assertion of claims of contributory infringement against individuals other than the direct infringers, Katz's complaint against the individual defendants must be dismissed.

(1) Hank Barry

Katz alleges that Barry is liable for contributory infringement because he "substantially contribute[s] to the international unauthorized copying and distribution of musical sound recordings by investing substantial sums of money, supporting, guiding, encouraging, and promoting Defendant NAPSTER, INC. for their own future benefit." Complaint ¶ 51. The complaint offers no factual support for this conclusory assertion.[2] Moreover, Katz does not allege that Barry "knowingly" contributes to the infringing conduct of another. Katz therefore has failed to state a claim for contributory infringement against Barry.

(2) Bob Bozeman

Katz alleges that Bozeman is liable for contributory infringement because he "substantially contribute[s] to the international unauthorized copying and distribution of musical sound recordings by investing substantial sums of money, supporting, guiding, encouraging, and promoting Defendant NAPSTER, INC. for [his] own future benefit." Complaint ¶ 51. According to Katz, Bozeman is a part-owner in Napster by virtue of a two million dollar investment in Napster by Bozeman's company. Complaint ¶ 11.

Katz has not identified any specific actions by Bozeman. Rather, he alleges in purely conclusory fashion that Bozeman's firm "substantially contribute[s]" to unauthorized copying by reason of its investment in Napster. The court detects no factual basis to conclude that Bozeman substantially contributed to a specific act of infringement.

(3) Hummer Winblad

Katz alleges that Hummer Winblad "substantially contribute[s] to the international unauthorized copying and distribution of musical sound recordings by investing substantial sums of money, supporting, guiding, encouraging, and promoting Defendant NAPSTER, INC. for [its] own future benefit." Complaint ¶ 51. Once again, the complaint offers conclusory allegations in place of specific factual allegations.[3] Katz does not allege that Hummer Winblad substantially contributed to a specific act of direct infringement.

(4) Yosi Amram

Katz alleges that Yosi Amram "substantially contribute[s] to the international unauthorized copying and distribution of musical sound recordings by investing substantial sums of money, supporting, guiding, encouraging, and promoting Defendant NAPSTER, INC. for [his] own future benefit." Complaint ¶ 51. Katz offers no factual support for this conclusory allegation. According to an earlier portion of the complaint, Amram is a part-owner of Napster "by virtue of a $2 Million private investment." Complaint ¶ 11. This allegation, standing alone, is insufficient to support a contributory infringement cause of action.

(5) Shawn Fanning and John W. Fanning

The Second Claim for relief contains no specific factual allegations relating to Shawn Fanning or John W. Fanning. Katz alleges that Shawn Fanning is a co-founder of napster.com. Complaint ¶ 7. Katz alleges that John W. Fanning is the registrant of the domain name "napster.com." Complaint ¶ 6. These allegations provide an insufficient basis on which to conclude that both individuals contributed, in a substantial way, to a specific act of direct infringement.

(6) Fred Durst

Katz alleges that Durst "substantially contribute[s] to the international unauthorized copying and distribution of musical sound recordings by encouraging, speaking positively, and by participating in free concerts promoting Defendant NAPSTER, INC."[4] Complaint ¶ 50. Katz does not allege that Durst participated in any way in the development or administration of the Napster system. The allegations that Durst "encouraged" or "spoke positively" about Napster, or that he "participated" in some fashion in free concerts "promoting" Napster, are vague and unspecific. Katz fails to allege that Durst knowingly and substantially participated in a specific act of direct

infringement.

In light of the court's conclusion regarding the proposed "tertiary theory" of liability and the deficiencies of Katz's complaint, the court will dismiss with prejudice the contributory infringement causes of action against the individual defendants.

B. Vicarious Infringement

Katz alleges vicarious copyright infringement by all defendants in his Third Claim for Relief. To sustain a cause of action for vicarious copyright infringement, a plaintiff must prove that the vicarious infringer has (1) the right and ability to supervise or control the infringing activity, and (2) a direct financial interest in the infringing activities. See Fonovisa, 76 F.3d at 262-63; Gershwin, 443 F.2d at 1162. Once again, the court finds no support for Katz's assertion that an individual can be held vicariously liable for acts of someone other than the direct infringer.

(1) Hank Barry, Hummer Winblad, Bob Bozeman and Yosi Amram

Katz alleges that Barry, Hummer Winblad, Bozeman and Amram are liable for vicarious infringement because they "substantially contribute to the international unauthorized copying and distribution of musical sound recordings by investing substantial sums of money, supporting, guiding, encouraging, and promoting Defendant NAPSTER, INC. for their own future benefit." Complaint ¶ 68. In addition, Katz alleges that Napster has received over $17 million in investment capital from Barry, Hummer Winblad, Bozeman and Amram, "all of whom intend to profit from the widespread copyright infringement described [in the complaint.]" Complaint ¶ 70. Katz adds that Hummer Winblad, as owner of website similar to napster.com, also stands to benefit if Napster compiles a list of its users. Complaint ¶ 71.

Katz does not allege that any of these defendants have the right or ability to supervise or control the infringing activity. Although the complaint alleges that these defendants "intend to profit" from use of the Napster system, Katz does not assert that they have a direct financial interest in the infringing activity.

(2) Shawn Fanning and John W. Fanning

In pleading the vicarious infringement cause of action, the complaint contains no factual allegations relating to Shawn Fanning or John W. Fanning. It appears from the entirety of the

complaint that Katz would hold Shawn Fanning liable for vicarious infringement as one of the "co-founders" of napster.com. See Complaint ¶ 7. Katz would hold John W. Fanning liable as the registrant of the domain name "napster.com." See Complaint ¶ 6. The complaint does not allege that either individual has the right or ability to control the infringement, or a direct financial interest in the infringement. As pled, the cause of action for vicarious infringement cannot stand against Shawn Fanning and John W. Fanning.

(3) Fred Durst

Katz alleges the Durst "substantially contribute[s] to the international unauthorized copying and distribution of musical sound recordings by encouraging, speaking positively, and by participating in free concerts promoting Defendant NAPSTER, INC." Complaint ¶ 67. Setting aside Katz's conclusory assertion, Katz does not allege a factual basis on which to conclude that Durst has the right or the ability to supervise or control the infringing activity. Absent such an allegation, Katz cannot maintain a vicarious infringement cause of action against Durst.

The individual defendants are entitled to the dismissal of Katz's vicarious infringement cause of action.

II. California Civil Code Section 980(a)(2)

Katz alleges in his Fourth Claim for Relief that all defendants have violated Katz's exclusive ownership interests in certain sound recordings in violation of California Civil Code section 980(a)(2). Section 980(a)(2) provides in part that the author of an original work of authorship consisting of a sound recording initially fixed prior to February 15, 1972, has an exclusive ownership interest therein until February 15, 2047. See Cal. Civ. Code § 980(a)(2). To recover for infringement under this section, a plaintiff must show three elements: (1) ownership by plaintiff of a protectible property interest; (2) unauthorized copying of the material by defendant; and (3) damage resulting from the copying. See Golding v. R.K.O. Pictures, Inc., 35 Cal. 2d 690, 694 (1950).

Katz does not allege a single fact relating to the individual defendants in support of this claim. See Complaint ¶ 78. He does not allege that any of the individual defendants engaged in unauthorized copying of the material. Moreover, Katz does not allege with any factual detail that he

owns a protectible property interest or that he was damaged as a result of the copying. Katz's Fourth Claim for Relief must be dismissed.

III. Trademark Infringement

In his Fifth and Sixth Claims for Relief, Katz alleges that all defendants violated his trademarks in the names "It's A Beautiful Day" and "Moby Grape," respectively. A plaintiff may establish a prima facie case of trademark infringement by showing rightful ownership of the marks in suit and a likelihood of confusion or mistake amongst the public from defendants' use of the mark. See Sony Computers Entm't America, Inc. v. Gamemasters, 87 F. Supp. 2d 976, 984 (N.D. Cal. 1999).

(1) Hank Barry, Hummer Winblad, Bob Bozeman and Yosi Amram

Katz alleges that moving defendants Barry, Hummer Winblad, Bozeman and Amram are liable for trademark infringement because they "substantially contribute to the international unauthorized use of plaintiff's mark by investing substantial sums of money, supporting, guiding, encouraging and promoting Defendant NAPSTER, INC. for their own future benefit." Complaint ¶¶ 87, 95. This generalized, conclusory allegation is insufficient to sustain causes of action for trademark infringement. Katz has failed to allege that any of these defendants actually used a mark owned by plaintiff.

(2) Shawn Fanning and John W. Fanning

The trademark infringement claims contain no allegations relating to Shawn Fanning or John W. Fanning. Katz does not allege that either Shawn Fanning or John W. Fanning used a mark owned by plaintiff, or that such use created a likelihood of confusion or mistake.

(3) Fred Durst

The trademark infringement claims are entirely devoid of factual allegations relating to defendant Durst. Katz does not allege that that Durst actually used the "It's A Beautiful Day" or "Moby Grape" marks, or that Durst had any direct involvement in the alleged infringement of Katz's trademark rights.

Defendants are entitled to dismissal of Katz's trademark infringement causes of action.

IV. Unfair Competition

In his Seventh Claim for Relief, Katz alleges that all defendants engaged in unfair competition in violation of California Business and Professions Code section 17200. Under California's Unfair Competition Act, unfair competition means and includes any unlawful, unfair or fraudulent business act or practice. See Cal. Bus. & Prof. Code § 17200; Klein v. Earth Elements, Inc., 59 Cal. App. 4th 965, 968 (1997); see also People ex rel. Renne v. Servantes, 86 Cal. App. 4th 1081, 1087 (2001) (defining "unlawful business practice" as "one that is forbidden by law, whether civil, criminal, federal, state, or municipal, statutory, regulatory, or court-made").

Katz alleges that the "acts and conduct" of defendants described in the complaint "constitute[] an appropriation and invasion of property rights of plaintiff, and constitute unfair competition" under section 17200. Complaint ¶ 100. Katz seeks to recover "all proceeds and other compensation received or to be received by Napster arising from its users' direct infringements of Plaintiff's music." Complaint ¶ 101. Katz's unfair competition cause of action does not contain any specific factual allegations relating to the individual defendants.

Although the nature and scope of the unfair competition claim is ambiguous, it appears from the allegations of the complaint, as well as Katz's representations at the hearing on this matter, that the allegedly unlawful business practice at the heart of the unfair competition claim is copyright infringement. As copyright infringement lies at the heart of the unfair competition claim, the unfair competition action is preempted by federal copyright law. See Kodadek v. MTV Networks, Inc., 152 F.3d 1209, 1213 (9th Cir. 1998) (holding section 17200 unfair competition claim "based solely on rights equivalent to those protected by the federal copyright laws" and is preempted); Xerox Corp. v. Apple Computer, Inc., 734 F. Supp. 1542, 1551 (N.D. Cal. 1990) (holding unfair competition claim preempted where essence of unfair competition claim is defendant's alleged unauthorized use of plaintiff's copyrighted work). Katz's Seventh Claim for Relief must be dismissed.

V. Interference With Economic Relations

In his Eighth Claim for Relief, Katz alleges that defendants interfered with his economic

relationship with retailers and distributors, including Valley Media, by distributing copies of Katz's music without permission and with the intent to harm him financially. Complaint ¶ 108. According to the complaint, Valley Media ended its relationship with plaintiff as a result of defendant's conduct. Complaint ¶ 109.

To state a cause of action for the tort of interference with prospective economic advantage, plaintiff must show (1) an economic relationship between the plaintiff and some third party, with the probability of future economic benefit to the plaintiff; (2) the defendant's knowledge of the relationship; (3) intentional acts on the part of the defendant designed to disrupt the relationship; (4) actual disruption of the relationship; and (5) economic harm to the plaintiff proximately caused by the acts of the defendant.[5] See Pacific Gas & Electric Co. v. Bear Stearns & Co., 50 Cal. 3d 1118, 1126 & n.2. (1990).

Once again, Katz relies on purely conclusory allegations and proffers no specific facts on which to conclude that any of the individual defendants interfered with Katz's economic relationships. This cause of action must be dismissed because Katz has not alleged that defendants knew of the relationships between Katz and the retailers and distributors, intended to interfere with such relationships or actually did so.

VI. Motion for Sanctions

Durst asks the court to award sanctions in the amount of $45,569.25, the amount of Durst's fees and costs, pursuant to Rule 11 of the Federal Rules of Civil Procedure. Rule 11 requires the imposition of sanctions when a cause is frivolous, legally unreasonable or without factual foundation, or when it is brought for an improper purpose. See Conn v. Borjorquez, 967 F.2d 1418 (9th Cir. 1992). Durst contends that sanctions are appropriate because Katz's allegations contain no factual support and because Durst was named in the suit solely for publicity purposes.

Katz's comments at the hearing on this mater suggest to the court that he might have had an improper motive, such as harassment, in bringing suit against Durst. See Fed. R. Civ. P. 11(b)(1) (defining "improper purpose" to include harassment); see also Fed. R. Civ. P. 11(c) (authorizing court to impose sanctions upon parties who have violated Rule 11(b)). The record, however, is

insufficient to determine that such an improper purpose actually motivated Katz. The court is unwilling to grant Durst's motion for sanctions on this record. If Durst can establish that Katz brought the suit for the purpose of harassment, the court will reconsider its ruling.

CONCLUSION

For the reasons stated above, the court hereby GRANTS defendants' motions to dismiss, DISMISSES WITH PREJUDICE Katz's complaint and DENIES defendant Durst's motion for sanctions.

IT IS SO ORDERED.

Dated: July 9, 2001

MARILYN HALL PATEL
Chief Judge
United States District Court
Northern District of California

ENDNOTES

1. The complaint identifies Bozeman's company as svangels.com. Complaint ¶ 11. Bozeman represents that svangels.com is the web site of his venture capital firm, Angel Investors.

2. In opposition to Barry's motion to dismiss, Katz contends that Barry contributes to the infringement by "tout[ing] Napster as a legitimate service" and argues that Barry, as an active member of the Napster management team, has "helped guide the growth" of the infringing activity. Katz's Opp. at 5, 8. Even if these conclusory allegations appeared in the complaint, they would be insufficient to satisfy Katz's pleading obligation.

On April 30, 2001, Katz submitted an additional declaration, accompanied by various exhibits, purporting to support his opposition to the motions to dismiss. Because these materials are confidential within the meaning of the protective order entered in this case, and because Katz submitted the documents after the close of briefing in violation of Civil Local Rule 7-3(e), the court by separate order directs that the documents be lodged under seal rather than filed.

It appears to the court that the only document ostensibly relating to defendant Barry is a an e-mail addressed to Barry suggesting a possible relationship with a third party that would enable Napster to work with the major record labels. Nothing in this document would support an assertion that Barry substantially contributes to the alleged acts of direct infringement.

3. Included in Katz's April 30, 2001 submission are e-mails to John Hummer regarding potential business relationships between third parties and Napster and references to Napster's funding. These documents do not provide a factual basis on which to conclude that Hummer Winblad occupies a position of control vis-à-vis Napster or that it substantially contributes to the alleged acts of infringement in some meaningful way.

4. In opposition to the motion, Katz adds that Durst has "publicly stated that the activity by Napster has increased [his] sales and [his] public celebrity." Katz Opp. at 3. Katz contends that Durst has benefitted financially from the "pirating activity" of Napster. Id. Katz offers similar allegations in his declaration submitted on April 30, 2000. Even if these allegations were included in the complaint, none would rise to the level of substantial participation required to sustain a claim for contributory infringement.

Katz's reliance on Cable/Home Comm. Corp. v. Network Prod., Inc., 902 F.2d 829 (11th Cir. 1990), is unwarranted. In Cable/Home, the court required evidence that the promoter engaged in substantial participation in the alleged infringement. The court found the promoter liable for contributory infringement upon a showing that the promoter provided funds and equipment to facilitate the duplication. See Cable/Home, 902 F.2d at 846.

5. To state a claim for intentional interference with contractual relations, plaintiffs must allege (1) a valid contract between plaintiff and a third party; (2) defendant's knowledge of this contract; (3) defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage. See Pacific Gas & Elec., 50 Cal. 3d at 1126. The tort of intentional interference with contractual relations protects the same interest in stable economic relationships as does the tort of interference with contract, though interference with prospective advantage does not require proof of a legally binding contract. See id.

awb

United States District Court
for the
Northern District of California
July 10, 2001

* * CERTIFICATE OF SERVICE * *

Case Number:M:00-cv-01369

Napster, Inc.

vs

Napster, Inc.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 10, 2001, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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BY:
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE NAPSTER, INC., COPYRIGHT LITIGATION

MDL No. C 00-1369

ORDER

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Plaintiff Matthew Katz in Katz v. Napster, Inc. et. al, C 00-4725 MHP, has submitted to the court an ex parte application for an order permitting the Declaration of Matthew Katz dated April 30, 2001, and six exhibits to be filed under seal. Katz argues that the documents support his opposition to defendants' motions to dismiss the complaint, which are currently under submission.

After reviewing the documents, the court agrees that they are confidential within the meaning of the protective order entered in this action. Pursuant to Civil Local Rule 7-3(e), however, no additional memoranda, paper or letters shall be filed once a reply is filed without prior court approval. See Civ. Local R. 7-3(e). Katz represents that he obtained the material after the April 10, 2001, hearing on the motion by reviewing the documents produced by defendant Hummer Winblad in the offices of Mitchell, Silberberg & Knupp, plaintiffs' liaison counsel in In re Napster, MDL No. 00-1369. Katz offers no explanation as to why he did not review or obtain copies of the material before the court took the matter under submission on April 10, 2001. Under these circumstances, Katz has not made an adequate showing as to why the documents should be filed at this stage of the proceedings.

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Accordingly, the court hereby ORDERS that the Declaration of Matthew Katz dated April 30, 2001, and the six exhibits accompanying the declaration be LODGED UNDER SEAL.

IT IS SO ORDERED.

Dated: July 9, 2001

MARILYN HALL PATEL
Chief Judge
United States District Court
Northern District of California

awb

United States District Court
for the
Northern District of California
July 10, 2001

* * CERTIFICATE OF SERVICE * *

Case Number:M:00-cv-01369

Napster, Inc.

vs

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 10, 2001, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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