

legitimate distribution platform for a wide range of content owners, including a number of the Plaintiffs in the current action. Lafferty Decl. at ¶ 14.

113. Pando Networks, Inc. (“Pando”) distributes P2P software that makes downloading, streaming, and sharing large media files fast and easy. Pando’s software allows users to email large attachments, instant message a folder, publish downloadable videos to the Web, and watch full-screen HD Internet TV. Pando is a managed, hybrid P2P content delivery platform. All networking communications are routed via Pando’s trackers and web services. Consumers only supply bandwidth and storage to content that they have proactively consumed. Lafferty Decl. at ¶ 15.

114. Jun Group, LLC (“Jun Group”) is an internet marketing company that utilizes P2P technology. It creates branded music, video, sports, and game programming, which it delivers to consumers using P2P networks. Jun Group created the first music video program featuring major artists that was distributed over P2P networks, which was comprised of two music videos featuring singers Ne-Yo and Jay-Z for Coca-Cola. The Ne-Yo video garnered 3.2 million downloads, with the Jay-Z video reaching an even larger audience. Lafferty Decl. at ¶ 16.

115. Jun Group also released one previously unavailable song and two videos from rock legend Steve Winwood on behalf of Access Hollywood over P2P networks. Within 5 weeks, nearly 3 million users had obtained the files and over 208,000 consumers visited the Access Hollywood Web site. Album sales increased 1300% in the markets in which it was promoted and the album became the #3 online seller for 4 weeks on FYE.com. Lafferty Decl. at ¶ 17.

116. Jun Group released five previously unavailable tracks from recording artist Kevin Martin and the HiWatts over P2P networks. Within two weeks, over 3 million users had downloaded the files. The Yoo-hoo web-site experienced the largest spike in traffic since its inception and websites around the world linked to the Yoo-hoo site of their own volition. Lafferty Decl. at ¶ 18.

117. Three tracks from Lake Trout, a new recording artist, were distributed by Jun Group three days prior to release of the artist's first album. Within two weeks, over 2 million users had obtained the files and chat rooms were filled with hundreds of users discussing the artist. In fact, CD sales quadrupled expectations for the first month, with no support from traditional marketing, advertising, or public relations. Lafferty Decl. at ¶ 19.

118. Jun Group released footage from "Starting Over," a daytime television program, into the file-sharing community for promotional purposes. Within two weeks, the footage was viewed by over 500,000 users, over 95,000 users participated in chats and "threaded" conversations in forums, and more than 200,000 users viewed postings in online forums. The client reported a measurable spike in ratings for four straight days during the promotion. Lafferty Decl. at ¶ 20.

119. The Scene, Jun Group's first original P2P series was a huge success. Each of the first three episodes has been downloaded 1 to 2 million times. More than 650 websites currently link to the series' Website and downloads have been recorded in over 70 countries. Lafferty Decl. at ¶ 21.

120. Printouts from the pages of the Jun Group Internet website can be found at <http://www.jungroup.com/>. Baker Decl. at ¶ 11.

121. The Hybrid P2P Network uses a central server to communicate with each user. However, the actual stream may be provided by either the server itself or, more likely, by another user or users who simply redirects the stream or portions of the stream. Declaration of Michael James King (“King Decl.”) at ¶ 1.

122. P2P technology, from a pure technological perspective, is the most efficient way to distribute data in a network. The fact that people have used P2P technology for infringing purposes does not alter the viability of the technology. All different types of commercial ventures, including Abacast, use P2P technology for legitimate commercial purposes. King Decl. at ¶ 2.

123. Without P2P technology, Abacast would not be possible. P2P offers adaptability that cannot be accomplished with a central server. For instance, P2P technology provides a client-side application that allows real time monitoring of the quality of service. In other words, as a result of P2P technology, Abacast can ensure the quality of data delivery. If one server goes down, users will be rerouted to another peer group immediately, allowing Abacast to correct data transmission problems in real time. P2P technology promotes adaptable, efficient service for users in the technology marketplace. King Decl. at ¶ 3.

124. RazorPop is a developer of file-sharing technology, much like LimeWire. RazorPop is the owner, developer, and distributor of TrustyFiles, a multi-peer-to-peer network software. TrustyFiles allows a user to access other networks such as Gnuetella and Bit Torrent, just like LimeWire. Declaration of Marc Freedman (“Freedman Decl.”) at ¶ 1.

125. RazorPop's Street Team is an effort to get artists to use RazorPop's software in order to distribute media, music, and videos. Perhaps the most well-known artist who has used TrustyFiles to distribute his music is Grammy award-winning artist Sananda Maitreya, formerly known as Terence Trent D'Arby. Sananda Maitreya is best known for hits such as "Wishing Well," "Sign Your Name," and "If You Let Me Stay." In 2002, Sananda released his Wildcard! album for free over the Internet. In 2004, he became the first major artist to use TrustyFiles to distribute his "Angels and Vampires" project. In fact, Sananda made two new songs and a video exclusively available over P2P. Freedman Decl. at ¶ 2.

126. The artists that use P2P technology to distribute their music, such as Sananda Maitreya, benefit in several ways from the technology. P2P provides artists a great deal of exposure. Consumers who would not otherwise have known about the artist gain exposure to the artist's music. Consumers also have a chance to sample the artist's music, which may lead the consumer to purchase the music or attend a live concert. Freedman Decl. at ¶ 3.

127. Raketu is a leader in peer-to-peer based communications, information, entertainment, and social networking services. Raketu's proprietary P2P services utilize distributed peer nodes in a networked environment to significantly reduce costs, improve quality and reliability, and decrease security risks associated with other P2P and centralized services. Raketu allows free calls to other Raketu users, free and paid calls to land and cellular phones, free and paid calls from phone-to-phone, file transfers, instant messaging, offline messaging, and distribution and viewing of P2P-based streaming content (webTV). Declaration of Greg Parker ("Parker Decl.") at ¶ 1.

128. Since its formation in 2006, Raketu has utilized P2P technology as the backbone of its business. Without P2P technology, Raketu could not be competitive in the current marketplace. P2P technology changes the way that companies like Raketu are able to deliver services. P2P technology allows Raketu to minimize costs, both operationally and with regard to capital expenditures. As a result, Raketu is able to pass its savings on to its user base, making Raketu's services less expensive than its competitors' services. Parker Decl. at ¶ 2.

129. In addition to allowing Raketu to offer services at a lower cost, P2P technology enables Raketu to offer a better quality product than its competitors that use centralized servers. For instance, Raketu's call completion rates are superior to its competitors as a result of P2P technology. In other words, Raketu's customers have access to better quality services for more affordable prices, which would not be possible without P2P technology. P2P technology promotes innovation and better quality products in the technology marketplace. Parker Decl. at ¶ 3.

130. Some content owners are using P2P to distribute their products. James Pearce, *Lindows Offers Software For Free Over P2P*, CNET News.com, Jan. 30, 2004, which can be found at: http://news.cnet.com/lindows-offers-software-for-free-over-P@P/2100-7344_3-5150931.html?tag=st.rm. Baker Decl. at Exh. 10.

131. An example of software freely distributed. Printout from the Internet that can be found at: www.winzip.com/elicense.htm. Baker Decl. at Exh. 12.

132. Another example of software being freely distributed. Printout from the Internet that can be found at the following site: <http://distribution.openoffice.org/p2p/magnet.html>. Baker Decl. at Exh. 13.