

As described in the Memorandum of Law, Defendants are liable for the intentional infringement of thousands of Viacom's copyrighted works under *Metro-Goldwyn-Mayer Studios Inc. v. Grokster Ltd.*, 545 U.S. 913 (2005), for the vicarious infringement of those works, and for the direct infringement of those works. The principles establishing Defendants' culpability under *Grokster*, vicarious liability, and direct infringement also demonstrate why Defendants are not protected by the limited defense created by the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 512(a)-(d), because: (1) Defendants had "actual knowledge" and were "aware of facts and circumstances from which infringing activity [was] apparent," but failed to "act[] expeditiously" to stop it; (2) Defendants "receive[d] a financial benefit directly attributable to the infringing activity" and "had the right and ability to control such activity;" and (3) Defendants' infringement does not result solely from providing "storage at the direction of a user" or any other Internet function specified in section 512.

Dated: March 5, 2010

By: _____/s/_____ By: _____/s/_____

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