

2.

Plaintiffs never authorized Defendant to copy or download any of the Copyrighted Recordings onto a computer hard drive or to make the Copyrighted Recordings available to be downloaded or copied onto the computer hard drive of any other person. *See* Defendant's Responses to Plaintiffs' First Set of Requests for Admissions ("RFA"), attached hereto as **Excerpt 3**, RFA Nos. 17 & 20.

3.

Defendant used an online media distribution system known as "Grokster" to download (and thereby reproduce) Plaintiffs' Sound Recordings and to distribute those sound recordings over the Internet. *See* Excerpt 3, RFA Nos. 1-8; *see also* Transcript of Defendant's Deposition, April 17, 2006, attached hereto as **Excerpt 4** at p. 26, lines 14-19; page 29, lines 7-13; page 33, lines 8-12; page 34, lines 4-23; page 42, lines 22-24; page 27, lines 13-20; page 60, lines 6-25; and page 61, line 6 through page 62, line 19; *see also* Copy of Defendant's Share Folder ("Exhibit B to Plaintiffs' Complaint"), attached hereto as **Excerpt 5**. Defendant's Grokster username was "Peg@Grokster. *See* Excerpt 3, RFA No. 4. Defendant admits that Exhibit B to Plaintiffs Complaint (Excerpt 5) is a copy of Plaintiffs' sound recordings downloaded to her computer's share file. Excerpt 4 at p. 52, lines 11-24. Defendant also admits to specifically downloading forty-eight (48) of Plaintiffs' Copyrighted Recordings. Excerpt 4 at p. 60, lines 2-25; p. 62, line 6 though p. 62, line 20.

4.

Defendant's share folder contained more than 1100 music files that Defendant was actively distributing to millions of users on a peer-to-peer network at the time Plaintiffs detected

her actions. *See* Excerpt 3, RFA Nos. 5, 6, & 7; Excerpt 4 at p. 32, lines 1-6; p. 34, lines 5-22;
Excerpt 5.

Respectfully submitted this 15th day of June, 2007.

s/ Elizabeth L. Ballard

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **PLAINTIFFS' STATEMENT OF MATERIAL FACTS TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED** was served upon counsel for the Defendant in the above entitled cause via First Class United States mail, with postage fully paid, on the 15th day of June, 2007.

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s/ Elizabeth L. Ballard

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