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6 Attorneys for Plaintiffs METALLICA, E/M  
 VENTURES and CREEPING DEATH MUSIC  
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 9 UNITED STATES DISTRICT COURT  
 10 CENTRAL DISTRICT OF CALIFORNIA

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 12 METALLICA, a California general  
 partnership; E/M VENTURES, a New York  
 13 joint venture, and CREEPING DEATH  
 MUSIC, a California general partnership,  
 14

Plaintiffs,

15 vs.

16 NAPSTER, INC., a Delaware corporation;  
 17 UNIVERSITY OF SOUTHERN  
 CALIFORNIA, a California corporation;  
 18 YALE UNIVERSITY, a Connecticut  
 corporation; INDIANA UNIVERSITY, an  
 19 Indiana corporation; and DOES 1 through 10,  
 inclusive,  
 20

Defendants.  
 21

Case No. 00-0391

COMPLAINT FOR:

- (1) CONTRIBUTORY INFRINGEMENT OF COPYRIGHTS;
- (2) VICARIOUS INFRINGEMENT OF COPYRIGHTS;
- (3) UNLAWFUL USE OF DIGITAL AUDIO INTERFACE DEVICE; AND
- (4) RACKETEERING INFLUENCED & CORRUPT ORGANIZATIONS ACT ("RICO");

DEMAND FOR JURY TRIAL

22 Plaintiffs METALLICA, a California general partnership, ("METALLICA"), E/M  
 23 VENTURES, a New York joint venture, and CREEPING DEATH MUSIC, a California general  
 24 partnership (collectively, "plaintiffs"), upon information and belief (except as to allegations  
 25 regarding plaintiffs and the rights they assert herein), for their complaint, allege as follows:

INTRODUCTION

26  
 27 1. This is an action for contributory and vicarious copyright infringement and  
 28 violations of the Racketeering Influenced & Corrupt Organizations Act ("RICO") against

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 U.S. DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA  
 LOS ANGELES, CALIFORNIA  
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1 NAPSTER, INC. ("NAPSTER"), the UNIVERSITY OF SOUTHERN CALIFORNIA ("USC"),  
2 YALE UNIVERSITY ("YALE"), INDIANA UNIVERSITY ("INDIANA"), other universities and  
3 students of such universities (collectively "defendants").

4 2. Plaintiffs are the owners of copyrights in songs and sound recordings created by the  
5 recording artist known world-wide as "METALLICA." Including its first album, "Kill 'Em All",  
6 released in 1983, METALLICA has released 9 albums, including 2 double albums and has sold  
7 more than 50 million albums through normal retail channels in the United States alone.  
8 METALLICA'S 1991 self-titled album "Metallica" has sold more than 12 million copies through  
9 normal retail channels in the United States, making it the third largest selling album since the retail  
10 sales tracking service, Soundscan, was formed in 1991. "Metallica" continues to sell almost 1  
11 million copies per year. Metallica has been nominated 9 times for Grammy Awards by the  
12 National Academy of Recording Arts and Sciences, winning five times. Until now, METALLICA  
13 was compensated for the creation of its creative property by sales of compact discs, tapes and  
14 recordings embodying those works and related ancillary products.

15 3. As the creators and owners of such property, and as copyright owners, plaintiffs are  
16 entitled to commercially distribute these songs and sound recordings, and derive income  
17 therefrom. NAPSTER, however, has engineered a scheme whereby Internet users, with the  
18 cooperation of USC, YALE, INDIANA and other universities (among others) can transfer  
19 plaintiffs' sound recordings and songs to each other through NAPSTER's Internet site free of  
20 charge. These acts take place without the knowledge or permission of plaintiffs, who do not  
21 receive the compensation to which they are entitled pursuant to their copyrights. NAPSTER  
22 devised and distributes software whose sole purpose is to permit NAPSTER to profit by abetting  
23 and encouraging the pirating of the creative efforts of the world's most admired and successful  
24 musical artists. Facilitating that effort are hypocritical universities and colleges who could easily  
25 block this insidious and ongoing thievery scheme. The last link in the chain are the end users of  
26 the stolen musical works, students of these universities and others who exhibit the moral fiber of  
27 common looters loading up shopping carts because "everybody else is doing it." Defendants'  
28 scheme steals plaintiffs' property to benefit themselves and/or their students and customers.

1 Plaintiffs bring this action to enjoin defendants' unlawful practices and to recover the proceeds and  
2 damages that are rightfully theirs.

3 JURISDICTION AND VENUE

4 4. These claims arise under the Copyright Act of 1976, 17 U.S.C. sections 101 *et seq.*,  
5 and the Racketeering Influenced & Corrupt Organizations Act, 18 U.S.C. sections 1961, *et seq.*

6 5. This Court has supplemental jurisdiction over the related state causes of action in  
7 that these claims are so related to the above federal claims that they form part of the same case or  
8 controversy.

9 6. This Court has personal jurisdiction over NAPSTER and USC in that defendants  
10 reside in and/or are doing business in the State of California and in this district. In addition, this  
11 Court has personal jurisdiction over all defendants in that many of the acts of infringement and  
12 unfair competition complained of herein occurred in the State of California and in this district.

13 7. Venue is proper in this district pursuant to 28 U.S.C. sections 1391 (b) and (c).

14 8. This court has jurisdiction over this matter pursuant to 15 U.S.C. section 1121,  
15 17 U.S.C. sections 101, *et seq.*, and 28 U.S.C. sections 1331, 1338 and 1367. Venue in this  
16 district is proper pursuant to 28 U.S.C. sections 1391, 1392 and 1400(a) because a substantial part  
17 of the events and omissions giving rise to the claims herein occurred in this district.

18 PLAINTIFFS

19 9. Plaintiff METALLICA ("METALLICA") is a general partnership of James  
20 Hetfield, Lars Ulrich, Kirk Hammett and Jason Newsted organized and existing under the laws of  
21 the State of California.

22 10. Plaintiff E/M VENTURES is a joint venture of METALLICA and Elektra  
23 Entertainment Group organized and existing under the laws of the State of New York.

24 11. Plaintiff CREEPING DEATH MUSIC ("CREEPING DEATH") is a general  
25 partnership of James Hetfield, Lars Ulrich, Kirk Hammett and Jason Newsted organized and  
26 existing under the laws of the State of California.

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DEFENDANTS

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12. Plaintiffs are informed and believe and, on that basis, aver that defendant NAPSTER is a Delaware corporation with its principal place of business in the State of California.

13. Plaintiffs are informed and believe and, on that basis, aver that USC is a California corporation with its principal place of business in the State of California.

14. Plaintiffs are informed and believe and, on that basis, aver that YALE is a Connecticut corporation with its principal place of business in the State of Connecticut.

15. Plaintiffs are informed and believe and, on that basis, aver that INDIANA is an Indiana corporation with its principal place of business in the State of Indiana.

16. Plaintiffs are currently unaware of the names and capacities of the defendants sued herein as DOES 1 through 5, inclusive, and, therefore, sues such defendants by such fictitious names. Plaintiffs are informed and believe and, on that basis, aver that DOES 1 through 5 are universities or colleges which have participated in, and contributed to, the unlawful actions alleged herein. Plaintiffs will amend the complaint to allege the true names and capacities of such fictitiously-named defendants when the same have been ascertained. USC, YALE, INDIANA and DOES 1 through 5 collectively are referred to as the "UNIVERSITIES."

17. Plaintiffs are currently unaware of the names and capacities of the defendants sued herein as DOES 6 through 10, inclusive, and, therefore, sues such defendants by such fictitious names. Plaintiffs are informed and believe and, on that basis, aver that DOES 6 through 10 are students at the UNTVERSITIES who have participated in, and contributed to, the unlawful actions alleged herein. Plaintiffs will amend the complaint to allege the true names and capacities of such fictitiously-named defendants when same have been ascertained.

18. At all relevant times, each of the defendants was the agent, servant or employee of each co-defendant and, and taking the actions or omitting to take the actions as alleged herein, each of the defendants was acting within the course and scope of such agency, servitude or employment, and each of the defendants has ratified the acts of its agent. Each of the defendants is in some form or manner responsible for the conduct herein complained of, and plaintiffs' damages proximately caused by the conduct of each.

PLAINTIFFS' BUSINESS

1  
 2 19. Plaintiff E/M VENTURES owns the copyrights to certain sound recordings created  
 3 by METALLICA. A true and correct copy of a list of the copyrights owed by E/M VENTURES  
 4 in METALLICA sound recordings is attached hereto as Exhibit "1." Plaintiff CREEPING  
 5 DEATH owns the copyrights to certain musical compositions authored by members of  
 6 METALLICA. The sound recordings listed in Exhibit "1" are hereafter referred to as the "Sound  
 7 Recordings." A true and correct copy of a list of copyrights owned by CREEPING DEATH in  
 8 METALLICA's compositions is attached hereto as Exhibit "2." The compositions listed in  
 9 Exhibit "2" hereafter are referred to as the "Songs." As a result of their copyrights, E/M  
 10 VENTURES and CREEPING DEATH possess the exclusive right to exploit the Sound  
 11 Recordings and Songs, respectively.

12 20. Plaintiffs' income is derived from the distribution of the Sound Recordings which  
 13 include the Songs. Plaintiffs are compensated for sales of their Sound Recordings and Songs to  
 14 the public and from license fees derived from the reproduction and distribution of these  
 15 recordings.

THE INTERNET AND MUSIC PIRACY

16  
 17 21. The recent Internet explosion has created a previously unparalleled opportunity to  
 18 transfer music from one computer site to another. Commercial vendors, for example, can transfer  
 19 a song or an album almost instantly to a consumer.

20 22. Along with the advances the Internet provides to legitimate music vendors,  
 21 however, has come the increased opportunity for so-called "music piracy," or the transfer of sound  
 22 recordings by one who has no valid rights to commercially benefit from them. The losers from  
 23 music piracy are the copyright owners of the compositions and the sound recordings. Despite  
 24 having the exclusive rights to benefit from these works, the copyright owners get nothing from  
 25 these unauthorized transfers. In addition, since music fans obtain their music "online" for free, the  
 26 demand for commercial purchase of the music decreases. Thus, the copyright owners, often artists  
 27 such as METALLICA, or their designees, are cheated out of revenues that should compensate  
 28 them for the results of their creative efforts.

1 23. Most Internet piracy of sound recordings is accomplished using a technology  
2 known as MP3, which stands for Motion Picture Expert Group I, Audio Layer 3. MP3 compresses  
3 a digital music file to manageable size so that it can be easily and quickly copied and transmitted  
4 over the Internet. For music pirates, MP3 technology has the added benefits of being available for  
5 free on the Internet and being free of any security system designed to limit copying and  
6 distribution of the sound recording.

#### 7 NAPSTER'S MUSIC PIRACY BUSINESS

8 24. NAPSTER has built a business based on large-scale piracy. NAPSTER is a  
9 worldwide Internet site, which encourages and enables visitors to its website to unlawfully  
10 exchange with each other MP3 files containing records created by and belonging to artists such as  
11 METALLICA.

12 25. As part of its service, NAPSTER provides its users with proprietary software  
13 ("Software"). The Software enables its users to choose which of their MP3 files they wish to  
14 make available to other NAPSTER users. NAPSTER then adds the MP3 files selected by the user  
15 to an extensive directory from which other NAPSTER users can transfer the files to their own  
16 computer hard drive.

17 26. NAPSTER also provides its users with the means to search its directory to locate  
18 the sound recordings they wish to obtain. After locating the particular recording (or recordings)  
19 they want, NAPSTER creates a link to the selected MP3 file, allowing the user to download the  
20 file to his or her own computer.

21 27. The end-result of the process is that NAPSTER's users are able to obtain the music  
22 they want for free. The copyright owners, those rightfully entitled to profit from their music, get  
23 nothing.

24 28. NAPSTER, unlike other online music pirates, is not a small-scale operation.  
25 NAPSTER claims to have the world's largest MP3 music library available to its users and has  
26 virtually guaranteed its users access to any music they want. NAPSTER also claims its user base  
27 growth rate is between 5% and 25% a day, which, if true, means their user base could be doubling  
28 every week.

1           29.    NAPSTER's motives are not altruistic, but are based upon the goal to profit  
 2 handsomely from its piracy business. Due to the great popularity of its website, NAPSTER  
 3 receives or will receive substantial revenues from companies seeking to advertise on its site, and  
 4 from referrals to other websites. NAPSTER has numerous employees and multiple sophisticated  
 5 computer servers. NAPSTER's website indicates the need for new employees in over ten  
 6 categories of jobs, stating it seeks to hire "talented people to bring the latest and greatest music  
 7 technology to the web."

8                           NAPSTER TRAFFICS IN METALLICA'S SONGS AND SOUND RECORDINGS

9           30.    MP3 files containing each of METALLICA's Songs and Sound Recordings are  
 10 available through the NAPSTER directory. Each of these MP3 files been transferred by and  
 11 between its users through NAPSTER's infrastructure. Plaintiffs have not received any proceeds  
 12 from these transfers, nor have they ever authorized any such transfer. A true and correct copy of a  
 13 recent NAPSTER directory containing MP3 files of numerous METALLICA Sound Recordings  
 14 and Songs is attached hereto as Exhibit "3." This is only a partial listing of Metallica Sound  
 15 Recordings and Songs available, for free, through NAPSTER.

16                           The UNIVERSITIES' PARTICIPATION IN THE SCHEME

17           31.    The UNIVERSITIES have knowingly sanctioned and encouraged its students to  
 18 pirate the Songs and Sound Recordings through its computer network. The NAPSTER website is  
 19 accessible through the UNIVERSITIES' computer networks. Users of the UNIVERSITIES'  
 20 networks, with both the knowledge and consent of the UNIVERSITIES, have transferred MP3  
 21 files containing the Songs, the Sound Recordings and the Bootlegs to and from the NAPSTER  
 22 database.

23           32.    DOES 6 through 10 are among those NAPSTER users and students of the  
 24 UNIVERSITIES who have jumped at the chance to obtain music without paying for it. These  
 25 students, in knowing violation of plaintiffs' copyrights, have transferred MP3 files containing the  
 26 Songs and the Sound Recordings to and from other NAPSTER users using NAPSTER facilities.

27           33.    The UNIVERSITIES, despite knowing that its students were availing themselves of  
 28 its corporate network to pirate the sound recordings of plaintiffs and others, have continued to

1 operate their computer network to enable and facilitate their users' continued acts of music piracy.  
 2 These UNIVERSITIES derive revenue from and foster, as part of their curricula, higher education  
 3 in the creative arts; yet, at the same time, facilitate the devaluation of a career in the creative arts  
 4 by enabling NAPSTER and its users to enjoy the fruits of artists' creations at no cost.

5 34. Hundreds of other universities throughout the United States, upon becoming aware  
 6 that the primary business of NAPSTER is copyright infringement, have blocked NAPSTER from  
 7 operating on their computer networks. These universities include UCLA, Brandeis University,  
 8 Brown University, Emory University, Oberlin College, Pepperdine University, University of  
 9 Chicago and New York University. The UNIVERSITIES have elected not to block access to  
 10 NAPSTER, commenting that their only problem with NAPSTER is a potential drain on their  
 11 limited bandwidth availability, no doubt caused by the massive ongoing thefts of musicians'  
 12 intellectual property.

13 **FIRST CAUSE OF ACTION**

14 **CONTRIBUTORY INFRINGEMENT OF COPYRIGHTS**

15 **[BY ALL PLAINTIFFS AGAINST DEFENDANTS]**

16 35. Plaintiffs incorporate herein by reference the allegations of the foregoing  
 17 paragraphs of this Complaint.

18 36. As described above, copyright infringements routinely takes place on and through  
 19 NAPSTER's service every day. These infringements occur whenever a NAPSTER user, without  
 20 authorization of the copyright owners, downloads an MP3 music file from another user's  
 21 computer through NAPSTER's database onto his or her own, constituting an unauthorized  
 22 distribution and resulting in an unauthorized copy. Each and every one of these infringements is  
 23 facilitated, encouraged and made possible by NAPSTER. Included among these infringements are  
 24 infringements of the Songs and the Sound Recordings.

25 37. Likewise, the UNIVERSITIES have routinely infringed upon plaintiffs' copyrights  
 26 by allowing its computer networks to be used by its users to infringe upon plaintiffs' copyrights in  
 27 the Songs and the Sound Recordings, when the UNIVERSITIES could have easily blocked such  
 28 infringements.



1 38. Through its conduct averred herein, defendants have engaged, and continue to  
2 engage, in the business of knowingly and systematically inducing, causing and materially  
3 contributing to the above-described unauthorized reproductions and/or distributions of copies of  
4 plaintiffs' copyrights and exclusive rights under the copyright in the Songs and Sound Recordings.

5 39. The infringement of each of plaintiffs' rights in and to the Songs and Sound  
6 Recordings constitutes a separate and distinct act of infringement.

7 40. The foregoing acts of infringement by defendants have been willful, intentional and  
8 purposeful in disregard of, and with indifference to, the rights of plaintiffs.

9 41. Defendants' conduct, as averred herein, constitutes contributory infringement of  
10 plaintiffs' copyrights and plaintiffs' exclusive rights under copyright in violation of sections 106,  
11 115 and 501 of the Copyright Act, 17 U.S.C. sections 106, 115 and 501.

12 42. As a direct and proximate result of the contributory infringements by defendants of  
13 plaintiffs' copyrights and exclusive rights under copyright, plaintiffs are entitled to damages  
14 pursuant to U.S.C. section 504(b) for each infringement.

15 43. Defendants' conduct, as hereinabove averred, is causing and, unless enjoined and  
16 restrained by this Court, will continue to cause plaintiffs great and irreparable injury that cannot  
17 fully be compensated or measured in money. Plaintiff have no adequate remedy at law. Pursuant  
18 to 17 U.S.C. section 502, plaintiffs are entitled to preliminary and permanent injunctions  
19 prohibiting further contributory infringements of plaintiffs' copyrights.

20 **SECOND CAUSE OF ACTION**

21 **VICARIOUS INFRINGEMENT OF COPYRIGHTS**

22 **[BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS]**

23 44. Plaintiffs incorporate herein by reference the allegations of the foregoing  
24 paragraphs of this Complaint.

25 45. At all times relevant herein, NAPSTER had the right and ability to supervise and/or  
26 control the infringing conduct of its users by, without limitation, preventing or terminating a user's  
27 access to NAPSTER's computer servers and/or by refusing to index and create links to infringing  
28 music files but has failed to exercise such supervision and/or control. As a direct and proximate

1 result of such failure, NAPSTER users have infringed plaintiffs' copyrights in the Songs and  
2 Sound Recordings, as set forth above.

3 46. Likewise, at all relevant times, the UNIVERSITIES had the right and ability to  
4 supervise and/or control the infringing conduct of its users by, without limitation, preventing or  
5 terminating a user's access to NAPSTER's computer servers.

6 47. At all times relevant herein, NAPSTER derived substantial financial benefit from  
7 infringements of plaintiffs' copyrights by its users in that, among other things, NAPSTER solicits  
8 advertising and, plaintiffs are informed and believe, charges fees for advertising on NAPSTER.  
9 Plaintiffs are informed and believe and, on that basis, aver that the number and amount of these  
10 fees is related directly to the number of users of NAPSTER which, in turn, is dependent directly  
11 on NAPSTER's facilitation of and participation in the unauthorized reproduction and distribution  
12 of MP3 files containing plaintiffs' Songs and Sound Recordings. NAPSTER further is  
13 undertaking a purposeful strategy to make its company more attractive to potential advertisers and  
14 investors by increasing the number of users and, thereby, the volume of sound recordings available  
15 for unlawful copying and distribution.

16 48. At all times relevant herein, the UNIVERSITIES derived substantial benefits by  
17 obtaining monies from its students who use its computer network.

18 49. The foregoing acts of infringement by defendants have been willful, intentional and  
19 purposeful in disregard of, and with indifference to, the rights of plaintiffs.

20 50. Defendants' conduct, as averred herein, constitutes vicarious infringement of  
21 plaintiffs' copyrights and exclusive rights under copyright, in violation of sections 106, 115 and  
22 501 of the Copyright Act, 17 U.S.C. sections 106, 115 and 501.

23 51. As a direct and proximate result of defendants' vicarious infringement of plaintiffs'  
24 copyrights and exclusive rights under copyright, plaintiffs are entitled to damages pursuant to  
25 17 U.S.C. section 504(b) for each infringement.

26 52. Alternatively, plaintiffs are entitled to the maximum statutory damages in the  
27 amount of \$100,000 with respect to each work infringed or for such other amounts as may be

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1 proper under 17 U.S.C. section 504(c). Plaintiffs are informed and believe and, on that basis, aver  
2 that such statutory damages shall exceed \$10,000,000.

3 53. Plaintiffs further are entitled to their attorney fees and full costs pursuant to  
4 17 U.S.C. section 505.

5 54. Defendants' conduct, as hereinabove averred, is causing and, unless enjoined and  
6 restrained by this Court, will continue to cause plaintiffs great and irreparable injury that cannot  
7 fully be compensated or measured in money. Plaintiffs have no adequate remedy at law. Pursuant  
8 to 17 U.S.C. section 502, plaintiffs are entitled to preliminary and permanent injunctions  
9 prohibiting further vicarious infringements of plaintiffs' copyrights.

10 **THIRD CAUSE OF ACTION**

11 **UNLAWFUL USE OF DIGITAL AUDIO INTERFACE DEVICE**

12 **[ALL PLAINTIFFS AGAINST ALL NAPSTER]**

13 55. Plaintiffs incorporate herein by reference the allegations of the foregoing  
14 paragraphs of this Complaint.

15 56. The Software constitutes a "digital audio interface device" pursuant to 17 U.S.C.  
16 section 1001(2)

17 57. NAPSTER has manufactured the Software and has distributed the Software to its  
18 users.

19 58. NAPSTER's conduct, as averred herein, constitutes a violation of the prohibition  
20 on importation, manufacture and distribution in 17 U.S.C. section 1001.

21 59. As a direct and proximate result of NAPSTER's violation of 17 U.S.C.  
22 section 1001, plaintiffs have been injured and are entitled to damages pursuant to 17 U.S.C.  
23 section 1009.

24 60. Defendants' conduct, as hereinabove averred, is causing and, unless enjoined and  
25 restrained by this Court, will continue to cause plaintiffs great and irreparable injury that cannot  
26 fully be compensated or measured in money. Plaintiff have no adequate remedy at law. Pursuant  
27 to 17 U.S.C. section 1002, plaintiffs are entitled to preliminary and permanent injunctions  
28 prohibiting further contributory infringements of plaintiffs' copyrights.

FOURTH CAUSE OF ACTION

RACKETEERING INFLUENCED & CORRUPT ORGANIZATIONS ACT

[BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS]

61. Plaintiffs incorporate herein by reference the allegations of the foregoing paragraphs of this Complaint.

62. NAPSTER, USC, YALE and INDIANA are "persons" within the meaning of 18 U.S.C. sections 1961(3) and 1964(c).

63. Defendants collectively constitute an "enterprise" within the meaning of 18 U.S.C. sections 1961(3) and 1964(c). The enterprise was engaged in and conducted activities affecting interstate commerce during all relevant times herein.

64. Defendants' knowing participation in the unauthorized transfer of the MP3 files containing the Songs and the Sound Recordings constituted interstate transportation and receipt of stolen property and, therefore, racketeering activity within the meaning of 18 U.S.C. sections 2314 and 2315. The value of the MP3 files containing the Songs and the Sound Recordings exceed \$5,000.00.

65. Defendants conducted the affairs of the enterprise through a pattern of racketeering activity. Defendants' participation in the conduct of participating in the unauthorized transfer of the MP3 files containing the Songs and the Sound Recordings is open-ended in that it projects into the future with a threat of repetition.

66. As a direct and proximate result of defendants' violations of the RICO statute, plaintiffs have received harm to its business and property in an as-yet-undetermined amount.

WHEREFORE, plaintiffs pray for judgment against defendants, and each of them, as follows:

1. For actual damages in such amount as may be found for infringements of plaintiffs' copyrights; alternatively, for maximum statutory damages in the amount of not less than \$100,000 with respect to each copyrighted work infringed or for such other amount as may be proper pursuant to 17 U.S.C. section 504(c);

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1 2. For actual damages as may be found for violation of 17 U.S.C. section 1002; and  
2 for numerous statutory damages of \$2,500.00 per device involved in such violation;

3 3. For damages as may be found for violations of 18 U.S.C. section 1962(c), the sum  
4 duly trebled in accordance with 18 U.S.C. section 1964(c);

5 4. For a preliminary and a permanent injunction enjoining defendants, and each of  
6 them, and their respective agents, servants, employees, officers, attorneys, successors, licensees  
7 and assigns, and all persons acting in concert or participation with each or any of them, from:  
8 (i) directly or indirectly infringing in any manner any of plaintiffs' respective copyrights (whether  
9 now in existence or hereafter created), including, without limitation, the Songs and Sound  
10 Recordings listed on Exhibits "1" and "2" attached hereto, and (ii) from causing, contributing to,  
11 enabling, facilitating or participating in the infringement of any of plaintiffs' respective  
12 copyrights, including, without limitation, the Songs and Sound Recordings listed on Exhibits "1"  
13 and "2" attached hereto;

14 5. For a preliminary and a permanent injunction requiring defendants, and each of  
15 them, and their respective agents, servants, employees, officers, attorneys, successors, licensees  
16 and assigns, and all persons acting in concert or participation with each or any of them, during the  
17 course of this litigation and thereafter, to deliver up for impoundment or destruction all  
18 instrumentalities or devices in their possession, custody or control which were used by defendants  
19 in their unlawful conduct as alleged above;

20 6. For an order authorizing the United States Marshal, plaintiffs' authorized agents,  
21 the state and local police and/or any persons working under their supervision, to seize and  
22 impound any and all computer discs, drives, servers, hardware or software containing or allowing  
23 unlawful access to any Songs, Sound Recordings or Bootlegs in defendants' possession, custody  
24 or control;

25 7. For prejudgment interest according to law;

26 8. For plaintiffs' attorney fees, costs and disbursements in this action; and

27 9. For such other and further relief as the Court may deem just and proper.

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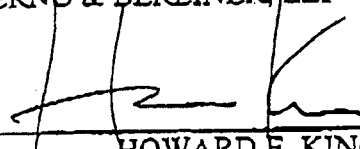
DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial pursuant to Federal Rule of Civil Procedure 38(b).

DATED: April 13, 2000

KING, PURTICH, HOLMES,  
PATERNO & BERLINER, LLP

By: \_\_\_\_\_



HOWARD E. KING  
Attorneys for Plaintiffs METALLICA, E/M  
VENTURES and CREEPING DEATH MUSIC