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Contact: Carey R. Ramos
212-373-3240
cramos@paulweiss.com

Ken Sunshine / Dieter Metzger
212-691-2800 / 917-913-7873
metzger@kensunshineconsultants.com

SONGWRITERS AND MUSIC PUBLISHERS SEEK INFRINGEMENT RULING AGAINST UNLICENSED PEER-TO-PEER MUSIC SERVICES

Lamont Dozier and Mike Stoller Expected to Attend Court Hearing

Los Angeles, CA, December 2, 2002 – Songwriters and music publishers will take center stage this afternoon in Federal Court to argue before U.S. District Judge Stephen V. Wilson that the operators of three unlicensed Internet music services – Kazaa, MusicCity, and Grokster – are liable for infringing copyrights in musical compositions. The three defendants have been operating their on-line music services as early as mid-2000, resulting in billions of music files being made available and downloaded without any compensation whatsoever to the songwriters and music publishers.

Expected in attendance in the courtroom are legendary songwriters **Lamont Dozier** – part of the songwriting team Holland-Dozier-Holland, that wrote internationally acclaimed songs including “Stop! In the Name of Love”, “Where Did Our Love Go”, “Reach Out, I’ll Be There”, and “How Sweet it is (To Be Loved By You)”; and **Mike Stoller**, who along with co-author Jerry Leiber penned such renowned rock-and-roll classics as “Jailhouse Rock”, “Hound Dog,” “Stand By Me”, “On Broadway”, and “Kansas City.” Both are plaintiffs in the litigation.

For the better part of this year, the songwriters and music publishers have been engaged in extensive discovery against the defendants, culminating in the filing of summary judgment motions this past fall intended to establish conclusively the defendants’ liability for copyright infringement.

“From the very beginning, this lawsuit has been about protecting the rights of music creators from flagrant piracy,” said Edward P. Murphy, President, National Music Publishers’ Association, Inc. “As the legitimate market for online music develops, it is

also about fundamental fairness to the music services that wish to comply with the law by taking licenses.”

According to Motown legend Dozier, “I feel very strongly that writers and artists are being robbed of their livelihoods, and that’s why I got involved in a lawsuit on behalf of writers and copyright owners like me. But lawsuits alone don’t solve these problems. A number of websites – Emusic, Full Audio, Listen.com and Streamwaves, to name just a few – have rejected the ‘get it for free’ mantra and are offering music on a licensed basis that compensates the creators. By using those sites rather than the unlicensed sites, people can rest assured that the creators of the songs they love are being properly compensated.”

Indeed, under the statutory compulsory license established under the U.S. copyright laws in 1909, the defendants can readily obtain licenses so as to operate legitimate Internet music services. “If these defendants had approached Harry Fox or another licensing agent, they would have learned that songwriters and music publishers would have provided them a license with the statutorily prescribed 8 cents royalty rate so that they could operate businesses that complied with the copyright laws,” said Gary Churgin, President and CEO of The Harry Fox Agency, Inc. “Depriving songwriters and music publishers of this royalty works a tremendous injustice. They are stealing their bread and butter.”

Stoller added, “My deep concern about these pirate services and their implications for songwriting and music publishing have led me to take a leading role in this lawsuit, as well as in similar actions against Napster, Aimster, and Audiogalaxy. I am committed to seeing that businesses that openly and flagrantly encourage the free exchange of pirated music comply with the copyright laws. When millions of people use these unlicensed services, they aren’t doing so because they think the technology is ‘cool.’ They are using them because they can get our songs without paying for them. This has got to stop.”

The summary judgment motions filed by the songwriters and music publishers this past fall specifically seek to impose liability on two separate theories: In the first, the defendants may be held liable as “contributory infringers” because they possess knowledge of their users’ infringing activity and materially contribute to the infringing conduct. In the second, the defendants are “vicariously” liable because they have the

right and ability to supervise the infringing activity, while also having a direct financial interest in that activity.

“Our legitimate licensees should not be competitively disadvantaged simply because they have chosen to comply with the law. A court ruling that the operators of these pirate services are violating the copyright laws will go a long way towards leveling the playing field,” Murphy added.

The **National Music Publishers’ Association, Inc.**, founded in 1917, works to protect and advance the interests of the music publishing industry. With over 900 members, the NMPA represents the most important and influential music publishing firms throughout the United States.

The **Harry Fox Agency, Inc.** provides an information source, clearing house and monitoring service for licensing musical copyrights, and acts as licensing agent for more than 27,000 music publisher principals, who in turn represent the interests of more than 160,000 songwriters. Besides the core business functions of licensing, collections and distribution of royalties, HFA conducts periodic record company and other user audits on behalf of its principals. HFA is the licensing affiliate of the National Music Publishers’ Association.

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