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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CDDB, INC. dba GRACENOTE, Plaintiff, vs. ADAPTEC, INC., and ROXIO, INC., Defendants.	No. C-01 20428 JW **STIPULATION AND [PROPOSED] ORDER RE DISMISSAL OF ADAPTEC, INC.**
AND RELATED COUNTERCLAIMS.	

WHEREAS, plaintiff CDDB, Inc. d/b/a Gracenote ("Gracenote") filed this action against defendants Adaptec, Inc. ("Adaptec") and Roxio, Inc. ("Roxio") alleging claims of patent

infringement, violations of the Digital Millennium Copyright Act, federal service mark infringement, federal unfair competition, common law service mark infringement, breach of contract, declaratory judgment, and correction of inventorship of patent;

WHEREAS, Adaptec and Roxio answered the Complaint;

WHEREAS, the Gracenote has agreed to dismiss all claims against Adaptec; ;

NOW THEREFORE, pursuant to Local Rule 7-11, Adaptec and Gracenote, through their respective counsel of record and without admitting to any liability under the claims in this case, hereby stipulate as follows:

1. All claims against Adaptec are dismissed with prejudice; and

2. Each party shall bear its own costs, expenses, and attorneys' fees.

Dated: December 31, 2001.

SHAW PITTMAN LLP MARK KOEHN
LAWRENCE J. GOTTS

HARVEY SISKIND JACOBS LLP
D. PETER HARVEY
IAN K. BOYD

By: ___/s/ Lawrence J. Gotts_____
Lawrence J. Gotts
Attorneys for Plaintiff CDDB, Inc. dba Gracenote

Dated: December 31, 2001.

O'MELVENY & MEYERS LLP
DAVID P. ENZMINGER
RYAN YAGURA

By: ___/s/ David P. Enzminger_____
David P. Enzminger
Attorneys for Defendant Adaptec, Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: _____

_____
Judge James Ware
United States District Court

DECLARATION OF CONSENT

I, David P. Enzminger, hereby attest:

1. Concurrence in the filing of the following document has been obtained from each of the other signatories, which shall serve in lieu of their signatures on the document:

STIPULATION AND [PROPOSED] ORDER RE DISMISSAL OF ADAPTEC, INC.

2. I shall maintain records to support this concurrence for subsequent production for the Court if so ordered or for inspection upon request by a party until one year after final resolution of the action pursuant to General Order 45 of the United States District Court for the Northern District of California.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed in Los Angeles, California on December 31, 2001.

s/ David P. Enzminger
David P. Enzminger