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Attorneys for Plaintiff  
Random House, Inc.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RANDOM HOUSE, INC., .

.

Plaintiff, . .

**v.**

ROSETTA BOOKS LLC . .  
and ARTHUR M. KLEBANOFF, in his individual  
capacity and as principal of ROSETTA BOOKS LLC,

**AFFIDAVIT OF  
LISA CANTOS**

Defendants.

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STATE OF NEW YORK     )

:ss.:

COUNTY OF NEW YORK    )

LISA CANTOS, Esq. being duly sworn, deposes and says:

1.     I am an attorney associated with the law firm Weil, Gotshal & Manges LLP, counsel for plaintiff Random House, Inc. in the above-captioned matter. I am licensed to practice law in the State of New York. I submit this declaration in support of Random House's Motion for a Preliminary Injunction.

2.     On February 23, 2001, I visited defendant RosettaBooks' web site located at <http://www.RosettaBooks.com>. The site indicated that it was available for on-line

customers to “preview,” and that it would officially be open for business or “launch” on February 26, 2001. (See Exhibit A.)

3. This site listed numerous book titles that it would be offering for sale to the public in electronic book, or “eBook” format. The site explained that “[a]n e-book, or electronic book, is a digital book that you can read on a computer screen or electronic device.”

4. Among the titles RosettaBooks listed on its web site for future sale as electronic books (“eBooks”) were *The Confessions of Nat Turner* and *Sophie’s Choice* by William Styron; *Slaughterhouse-Five*, *Breakfast of Champions*, *The Sirens of Titan*, *Cat’s Cradle*, and *Player Piano* by Kurt Vonnegut; and *Promised Land* by Robert B. Parker (collectively the “Works”). *Sophie’s Choice* and *Slaughterhouse-Five* were among a selection of six books prominently displayed on the site as “marquee” items. (See Exhibits B and C.)

5. For each of the Works and many other titles advertised, the site provided a picture of what appeared to be a front cover or “jacket” of the work, which looked no different than the front cover of a typical hardcover or paperback book. Additionally, for each work advertised, the site provided information about the book and author, including awards won by either and other selling points such as whether the book was the basis for a successful movie. (See Exhibit C.)

6. The Styron eBooks *The Confessions of Nat Turner* and *Sophie’s Choice* and the Vonnegut eBooks *Slaughterhouse-Five*, *Breakfast of Champions*, *The Sirens of Titan*, *Cat’s Cradle*, and *Player Piano* were listed as currently being available for purchase in three eBook formats (Microsoft Reader, Secure Adobe PDF, and Glassbook).

The site indicated that these titles would in the future be available in additional eBook formats (Gemstar REB 1100, Gemstar REB 1200, Peanut for Palm and Peanut for P.P.C). (See Exhibit C.)

7. Also on February 23, 2001, I purchased by credit card for \$6.74 each (25% off RosettaBooks' usual price of \$8.99 each), eBook copies of Styron's *The Confessions of Nat Turner* and *Sophie's Choice* and Vonnegut's *Slaughterhouse-Five*, *Breakfast of Champions*, *The Sirens of Titan*, *Cat's Cradle*, and *Player Piano* in Microsoft Reader format. I was unable to purchase Parker's *Promised Land*, but the site indicated it would be "Available Soon." (See Exhibit C.)

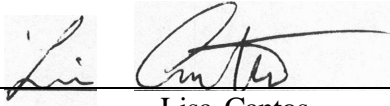
8. After completing the transaction for the purchase of the two Styron and five Vonnegut titles, I was invited by RosettaBooks to download all of these titles. Within minutes of my purchase, I was able to download the Vonnegut works onto the Microsoft Reader software residing on my laptop computer and was able to begin reading the books. Samples of each of the Vonnegut works that I purchased as they appear in Microsoft Reader are attached as Exhibit B of the Complaint (*Slaughterhouse-Five*), and Exhibits D – G hereto.

9. Attached as Exhibit H is a true and correct copy of Calvin Reid, *Rosetta Books to Bloom by Spring: A publishing veteran looks to the backlist for quality e-books*, Publishers Weekly, February 5, 2001.

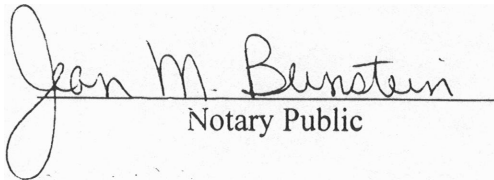
10. Attached as Exhibit I is a true and correct copy of the Affidavit of Richard Zokzarski dated January 31, 1995, and submitted to the United States District Court for the Southern District of New York in Boosey & Hawkes Music Publishers, Ltd. v. Walt Disney Co.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
February 27, 2001

  
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Lisa Cantos

Sworn to before me this  
27 day of February 2001

  
\_\_\_\_\_  
Notary Public

**JEAN M. BERNSTEIN**  
NOTARY PUBLIC, State of New York  
No. 01E88012788  
Qualified in Queens County  
Commission Expires June 15, 2001