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16 Matthew Katzer and Kamind Associates, Inc.

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 ROBERT JACOBSEN, an individual, )  
21 )  
22 Plaintiff, )  
23 )  
24 vs. )  
25 )  
26 MATTHEW KATZER, an individual, AND )  
KAMIND ASSOCIATES, INC., an Oregon )  
corporation dba KAM Industries, )  
Defendants. )

Case Number C06-1905-JSW

[PROPOSED] ORDER DISMISSING  
PLAINTIFF'S CLAIMS 5, AND 6  
UNDER FED. R. CIV. P. 12(b) (6); AND  
STRIKING CERTAIN PORTIONS OF  
THE AMENDED COMPLAINT

27 This matter came before the court on February 8, 2008 on Defendants Matthew Katzer  
28 and Kamind Associates, Inc.'s Motion to Dismiss Counts 5 and 6 and motion to strike portions  
29 of the amended complaint. The court reviewed the parties' written submissions and oral  
30 argument and finds as follows:

- 1.) Counts 5 and 6 fail to state a claim on which relief can be granted;

1 2.) Certain paragraphs and statements in the amended complaint must be stricken;

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3 Therefore, based upon the above findings and being fully advised in the premises, it is  
4 **ORDERED** that KAM and Katzer's motion to dismiss Count 5 and Count 6 under Fed. R. Civ.  
5 P. 12(b)(6); KAM and Katzer's motion to strike Plaintiff's request for statutory damages and  
6 attorney fees pursuant to 17 U.S.C. §§ 504, 505 are **GRANTED** and Counts 5 and 6the amended  
7 complaint are **DISMISSED** without leave to amend.  
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Hon. Jeffrey S. White  
District Court Judge

11 Presented by:

12       /s/      Scott Jerger  
13 R. Scott Jerger (*pro hac vice*)  
Field Jerger LLP  
Attorney for KAM and Katzer  
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