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10 **UNITED STATES DISTRICT COURT**  
 11 **CENTRAL DISTRICT OF CALIFORNIA -**  
 12 **WESTERN DIVISION**

13 GOOD MORNING TO YOU  
 PRODUCTIONS CORP., *et al.*,

14 Plaintiffs,

15 v.

16 WARNER/CHAPPELL MUSIC,  
 17 INC., *et al.*,

18 Defendants.

) Lead Case No. CV 13-04460-GHK (MRWx)

) **[PROPOSED] ORDER COMPELLING**  
 ) **DEFENDANTS TO PRODUCE**  
 ) **WITHHELD DOCUMENTS TO**  
 ) **PLAINTIFFS BY JUNE 27, 2014, OR IN**  
 ) **THE ALTERNATIVE, EXTENDING**  
 ) **DISCOVERY CUTOFF TO PERMIT**  
 ) **THE COURT TO CONDUCT AN *IN***  
 ) **CAMERA INSPECTION/REVIEW OF**  
 ) **THE DISPUTED DOCUMENTS**

) Date: June 25, 2014  
 ) Time: 9:30 am  
 ) Room: H-9th Floor  
 ) Judge: Mag. Michael R. Wilner  
 ) Disc. Cutoff: June 27, 2014  
 ) Pretrial Conf.: N/A  
 ) Trial Date: N/A  
 ) L/D File Jt. MSJ: Nov. 14, 2014

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1           **HAVING FOUND GOOD CAUSE APPEARING** in Plaintiffs’, Good  
2 Morning To You Productions Corp., Robert Siegel, Rupa Marya, and Majar  
3 Productions, LLC (“Plaintiffs”), Notice of Motion, Plaintiffs’ and Defendants’,  
4 Warner/Chappell Music, Inc. and Summy-Birchard, Inc. (“Defendants”), Local Rule  
5 37-2 Joint Stipulation Regarding Plaintiffs’ Motion for an Order: (i) Compelling  
6 Defendants to Produce Documents Identified in Privilege Log, or (ii) Extending  
7 Discovery Cutoff Deadline to Permit the Court to Conduct *In Camera*  
8 Inspection/Review of the Documents, the declarations in support thereof, all written  
9 and oral evidence, supplemental memoranda of law, the operative pleadings, and  
10 arguments of counsel presented at the hearing conducted on June 25, 2014, at 9:30  
11 a.m. by the Honorable Michael R. Wilner in department H-9th Floor of the above-  
12 entitled court, the Courts makes the following findings:

13                           **Findings of Fact and Conclusions of Law**

- 14           1. Defendants were properly served with Plaintiffs’ First Set of Requests  
15           for Production of Documents (the “Document Requests”) on February  
16           12, 2014, which contained only twelve separate requests;
- 17           2. Federal Rule of Civil Procedure 34(b)(2)(A) requires that a party to  
18           whom a request to produce documents, electronically stored  
19           information, or tangible things is directed, respond in writing within  
20           30 days of being served; thus, Defendants responses were originally  
21           due on or before March 12, 2014;
- 22           3. Rule 34(a)(1) requires that a party produce or make available for  
23           inspection all information that is within the “party’s possession,  
24           custody, or control”;
- 25           4. After requesting, and receiving, an extension of time comply with the  
26           requirements of Rule 34, Defendants served their written Objections  
27           and Responses to Plaintiffs’ Document Requests (the “Objections”)  
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1 on March 27, 2014, but did not produce any responsive documents at  
2 that time;

3 5. On April 11, 2014, approximately 60 days after the date Plaintiffs  
4 personally served their Document Requests, Defendants produced  
5 1104 pages of responsive documents to Plaintiffs, bearing bates  
6 numbers WC000001-1103 (the “April 11 Production”);

7 6. Defendants’ April 11 Production failed to include any redacted  
8 documents or the required privilege log of the documents they were  
9 withholding on the basis of any claim of protection under the  
10 attorney-client privilege or the attorney work product doctrine;

11 7. Despite promising to deliver a privilege log sooner, Defendants  
12 waited until May 9, 2014, *another* 30 days, to supplement their  
13 original production of documents with approximately 800 additional  
14 pages of documents which included certain redacted documents and  
15 contemporaneously produced a redaction log and 42-page privilege  
16 log, which vaguely described 157 documents that Defendants asserted  
17 as privileged communications and thus not discoverable;

18 8. Plaintiffs did not receive Defendants’ supplemental production of  
19 documents until May 13, 2014, but in the interim, began their review  
20 of the items in Defendants’ redaction and privilege logs;

21 9. On May 12, 13, and 14, 2014, Plaintiffs’ counsel wrote to  
22 Defendants’ counsel asserting that given the unjustifiable delay  
23 between the service of Defendants’ Objections on March 27, 2014,  
24 and the service of their privilege log on May 9, 2014, effectively  
25 waived any and all claims of privilege asserted by Defendants  
26 regarding the withheld documents;

1 10. Defendants' Objections to Plaintiffs' Document Requests are  
2 incomplete and, therefore, constitute a failure to respond under Rule  
3 37(a)(4);

4 11. In addition, the Court agrees with Plaintiffs that Defendants'  
5 descriptions of the documents withheld as privileged communications  
6 are inadequate, overly vague, and provide virtually no information  
7 that is required for a party, let alone the Court, to properly assess their  
8 claims of privilege especially given that a great number of these  
9 documents appear to have been authored, addressed, or provided to a  
10 numerous third-parties.

11 **ORDER**

12 **THEREFORE**, based upon the foregoing Findings of Fact and Conclusions of  
13 Law, Plaintiffs' Motion (Dkt. ) is hereby GRANTED in part, and DENIED in part  
14 without prejudice, as follows:

- 15 1. Having failed to provide a timely and complete privilege log,  
16 Defendants shall produce unredacted copies of all documents  
17 identified on the Privilege Log within three (3) days from the date of  
18 the Order; or in the alternative
- 19 2. Defendants are ORDERED to provide this Court with all 157  
20 withheld documents for an *in camera* inspection within two days of  
21 entry of this Order;
- 22 3. Discovery cutoff is hereby extended as to this limited discovery  
23 dispute until the Court completes its review of Defendants' documents  
24 and makes a further ruling on the issue; and
- 25 4. The Court DENIES WITHOUT PREJUDICE Plaintiffs' Motion to the  
26 extent it seeks an order declaring that Defendants' have waived any  
27 claims of privilege by their dilatory conduct in asserting same, but  
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reserves the right modify this decision after completion of the *in camera* review.

**IT IS SO ORDERED.**

Dated:

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HON. MICHAEL R. WILNER  
UNITED STATES DISTRICT COURT  
MAGISTRATE JUDGE

WARNER/CHAPPELL:20878v2