

EXHIBIT K

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

14 MISC 00179

In Re:

GOOD MORNING TO YOU
PRODUCTIONS CORP.; ROBERT
SIEGEL; RUPA MARYA; and
MAJAR PRODUCTIONS, LLC,
On Behalf of Themselves and All
Others Similarly Situated,

Plaintiffs,

v.

WARNER/CHAPPELL MUSIC, INC.;
and SUMMY-BIRCHARD, INC.,

Defendants.

No. _____

Subpoena issued in
CASE NO: 2:13-cv-04460-GHK-MRW
(United States District Court for the
Central District of California)

DECLARATION OF RICHARD H. REIMER

I, Richard H. Reimer, declare as follows:

1. I am Senior Vice President, Legal Services for the American Society of Composers, Authors and Publishers ("ASCAP"), and have worked at ASCAP as an attorney since 1971 in various positions. I submit this declaration in support of ASCAP's motion to quash the subpoena served on non-party ASCAP by plaintiffs in the above-captioned litigation pending in the United States District Court for the District of California (the "California Action").

2. I make this declaration based upon personal knowledge, the files and documents of ASCAP that I have reviewed, and information supplied to me by employees of ASCAP whom I believe to be reliable.

The California Action

3. In the California Action, plaintiffs, a putative class of music users, seek a declaration that defendants Warner/Chappell Music, Inc. and Summy-Birchard, Inc. do

not own the copyright to the song “Happy Birthday to You,” and that the song is in the public domain. A true and correct copy of the operative complaint in the California Action is attached hereto as Exhibit 1.

4. On June 4, 2014, plaintiffs in the California Action served ASCAP with a deposition subpoena pursuant to Rule 45 of the Federal Rules of Civil Procedure. A true and correct copy of plaintiffs’ subpoena is attached hereto as Exhibit 2.

ASCAP

5. Founded in 1914, ASCAP is a voluntary membership association that represents more than 500,000 composers, songwriters, lyricists and music publishers, and licenses on a non-exclusive basis the public performance rights in the musical works owned or administered by its members—including the song “Happy Birthday to You.” ASCAP operates on a non-profit-making basis, distributing all license fees collected, less operating expenses, as royalties to its songwriter, composer and music publisher members whose works are publicly performed. ASCAP does not have any ownership interest in any of the musical works it licenses on behalf of its members, nor does it have any interest in the fees or royalties it collects on behalf of its members.

The Privilege Dispute

6. The plaintiffs’ subpoena served on ASCAP on April 4, 2014 contained 21 separate document requests. In response to that subpoena, ASCAP produced, to both plaintiffs’ and defendants’ counsel, approximately 500 documents, including all of its non-privileged files and records concerning “Happy Birthday to You.” Included in the documents produced by ASCAP were communications from the 1970s between defendant Summy-Birchard and its then-counsel, Coudert Brothers, and related correspondence (the “Documents”). After ASCAP produced those communications,

defendants' counsel informed ASCAP that defendants consider the Documents to be privileged. ASCAP immediately advised plaintiffs of defendants' claim of privilege.

7. Plaintiffs challenged defendants' claim of privilege and, on May 22, 2014, served a Rule 30(b)(6) deposition notice on defendants concerning the privilege claim. A true and correct copy of plaintiffs' Rule 30(b)(6) deposition notice to defendants is attached hereto as Exhibit 3.

8. By letter dated June 2, 2014, defendants objected to the deposition notice as outside the scope of permissible discovery, and refused to provide a witness to testify in response to the deposition notice. A true and correct copy of defendants' June 2, 2014 letter to plaintiffs is attached hereto as Exhibit 4.

9. Thereafter, on June 4, 2014, plaintiffs served a second subpoena on ASCAP, seeking testimony—five days later, on June 9, 2014—concerning the very same 30(b)(6) deposition topics objected to by defendants. As plaintiffs acknowledged in a letter sent to defendants on June 5, 2014 (the day after plaintiffs served the present subpoena on ASCAP), plaintiffs seek the deposition of an ASCAP representative “[b]ecause Warner Chappell has refused to provide any information about its relationship with ASCAP.” A true and correct copy of plaintiffs' June 5, 2014 letter to defendants is attached hereto as Exhibit 5.

The Subpoena

10. Plaintiffs' subpoena seeks testimony relating to events that largely occurred 40 years ago, and there is no one at ASCAP who had any involvement in, or is otherwise capable of testifying about, those events.

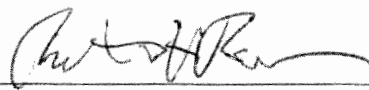
11. Any and all information that ASCAP has as to topics 1, 3, 4, 5, 6, 7, 8, 9, 10 and 11 in the subpoena is clearly and unambiguously set forth on the face of the

documents previously produced, and any deposition testimony by an ASCAP witness as to those same facts would be redundant.

12. Finally, since I was responsible for collecting, reviewing, selecting and producing documents on behalf of ASCAP in response to plaintiffs' previous document subpoena, topic 2, which seeks testimony concerning "ASCAP's collection, review, selection, and production of the Documents," would require me to testify as to my mental impressions in selecting and reviewing the documents produced by ASCAP in the California Action.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 6th day of June, 2014 in New York, New York.



RICHARD H. REIMER