

1 Betsy C. Manifold (182450)
 manifold@whafh.com
 2 **WOLF HALDENSTEIN ADLER**
FREEMAN & HERZ LLP
 3 750 B Street, Suite 2770
 San Diego, CA 92101
 4 Telephone: 619/239-4599
 Facsimile: 619/234-4599

5 *Interim Lead Counsel for Plaintiffs and the*
 6 *[Proposed] Class*

7 GLENN D. POMERANTZ (State Bar No. 112503)
 glenn.pomerantz@mto.com
 8 KELLY M. KLAUS (State Bar No. 161091)
 kelly.klaus@mto.com
 9 MELINDA E. LeMOINE (State Bar No. 235670)
 melinda.lemoine@mto.com
 10 ADAM I. KAPLAN (State Bar No. 268182)
 adam.kaplan@mto.com
 11 **MUNGER, TOLLES & OLSON LLP**
 355 South Grand Avenue
 12 Thirty-Fifth Floor
 Los Angeles, California 90071-1560
 13 Telephone: (213) 683-9100
 14 Facsimile: (213) 687-3702

15 *Attorneys for Defendants Warner/Chappell Music, Inc.*
and Summy-Birchard, Inc.

16 **UNITED STATES DISTRICT COURT**
 17 **CENTRAL DISTRICT OF CALIFORNIA -**
 18 **WESTERN DIVISION**

19 GOOD MORNING TO YOU) Lead Case No. CV 13-04460-GHK (MRWx)
 20 PRODUCTIONS CORP., et al.,)
 21 Plaintiffs,) **[REDACTED] JOINT EVIDENTIARY**
 22) **APPENDIX IN SUPPORT OF NOTICE**
 23 v.) **OF MOTION AND CROSS-MOTION**
 24) **AND MOTION AND CROSS-MOTION**
 25) **FOR SUMMARY JUDGMENT**
 26 WARNER/CHAPPELL MUSIC,) **(VOLUMES 1 THROUGH 8)**
 27 INC., et al.,) Date: January 26, 2015
 28 Defendants.) Time: 9:30 a.m.
) Room: 650
) Judge: Hon. George H. King,
) Chief Judge
)

TABLE OF CONTENTS

		VOL.	PAGES
<u>PLAINTIFFS' EXHIBITS</u>			
Exhibit 1	Plaintiffs' Fourth Amended Consolidated Complaint ("FAC") filed on April 29, 2014 (Dkt. 95)	1	1
Exhibit 2	Defendants' Answer to Plaintiffs' FAC filed on May 6, 2014 (Dkt. 99)	1	45
Exhibit 3	[REDACTED] Declaration of Mark C. Rifkin in Support of Notice of Motion and Cross-Motion and Motion and Cross-Motion for Summary Judgment [<i>Unredacted version provisionally filed under seal</i>]	1	77
Exhibit 4	Declaration of Beth A. Landes in Support of Notice of Motion and Cross-Motion and Motion and Cross-Motion for Summary Judgment	1	81
Exhibit 5	Excerpts from <i>Song Stories for the Kindergarten</i> published in 1893 by Clayton F. Summy Co. (WC0000406-412)	1	86
Exhibit 6	Articles of Incorporation for the Clayton F. Summy Company filed with the State of Illinois on or about January 14, 1895 (P003572-3586)	1	94
Exhibit 7	Digital copy of <i>Song Stories for the Kindergarten</i> , published in 1896 by Clayton F. Summy Co. (P002057-2156)	1	110
Exhibit 8	Article entitled "First Grade Opening Exercises" printed in the January 1901 edition of <i>Inland Educator and Indiana School Journal</i> (P003608-3609)	1	211
Exhibit 9	Excerpt from the book <i>Tell Me a True Story</i> , published by Fleming H. Revell Co., arranged by Mary Stewart, in 1909 (P003729-3732)	1	214
Exhibit 10	Excerpt from 1909 Catalog of Copyright Entries for Books, Entry for Reg. No. A239690 (<i>Tell Me a True Story</i>) (P006323)	1	219
Exhibit 11	Digital copy of <i>The Elementary Worker and His Work</i> published by the Board of Sunday Schools of the Methodist Episcopal Church, written by Alice Jacobs and Ermina Chester Lincoln, (P002299-2563)	2	221

		VOL.	PAGES
Exhibit 12	Certified Copy of Additional Certificate of Registration to Claim of Copyright for <i>The Elementary Worker and His Work</i> (P006331-6333) [original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]	3	487
Exhibit 13	Excerpt of sheet music from the <i>Beginners' Book of Songs with Instructions</i> published by the Cable Company Chicago in 1912 (P003423-3424)	3	491
Exhibit 14	Excerpt of the sheet music published in <i>The Golden Book of Favorite Songs, A Treasury of the Best Songs of our People</i> (P003425-3427)	3	494
Exhibit 15	Compilation video of <i>Happy Birthday</i> performance scenes from <i>Bosko's Party</i> (Ex. 25), <i>Girls About Town</i> (Ex. 35), <i>Strange Interlude</i> (Ex. 26), <i>Baby Take A Bow</i> (Ex. 30), <i>Way Down East</i> (Ex. 41), and <i>The Old Homestead</i> (Ex. 39) [manually lodged & filed pursuant to L.R. 11-5.1]	3	498
Exhibit 16	Photograph of the "Application for the RENEWAL of a Copyright Subsisting in Any Work" submitted by Jessica Hill, as next of kin for Mildred J. Hill, <i>Song Stories for the Kindergarten</i> (Reg. No. 45997) on September 3, 1921 (Renewal Reg. No. 19043) (P003297-3298)	3	499
Exhibit 17	Certificate of Incorporation for Educational Music Bureau ("EMB") filed with the Illinois Secretary of State on or about August 11, 1923, (WC0002034-2038)	3	502
Exhibit 18	Excerpt of sheet music published in <i>Harvest Hymns</i> in 1924 (P003590-3593)	3	508
Exhibit 19	Certified Copy of Additional Certificate of Registration to Claim of Copyright for <i>Harvest Hymns</i> (Reg. No. A777856) (P006325-6327) [original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]	3	513
Exhibit 20	Articles of Incorporation of Clayton F. Summy Co. filed with the Illinois Secretary of State on or about April 15, 1925 (P003537-3542)	3	517

		VOL.	PAGES
Exhibit 21	Excerpt of sheet music from <i>Children's Praise and Worship</i> published in 1928 (P003431-3434)	3	524
Exhibit 22	Certified Copy of Additional Certificate of Registration to Claim of Copyright for <i>Children's Praise and Worship</i> (A1068883) (P006328-6330) [original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]	3	529
Exhibit 23	[REDACTED] Declaration of Randall S. Newman in Support of Plaintiffs' Motion for Summary Judgment [Unredacted version provisionally lodged & filed under seal]	3	533
Exhibit 24	Excerpt from the Catalog of Copyright Entries (<i>Cumulative Series</i>) for Motion Pictures from 1912 to 1939 (P006351, P006353, P006357-6359)	3	545
Exhibit 25	Animated Short " <i>Bosko's Party</i> "(manually lodged with the Court) [manually lodged & filed pursuant to L.R. 11-5.1]	3	551
Exhibit 26	Motion picture " <i>Strange Interlude</i> "(manually lodged with the Court) [manually lodged & filed pursuant to L.R. 11-5.1]	3	552
Exhibit 27	Warner/Chappell Music, Inc.'s "New Song Information Sheet," printed from its electronic database (WC0001983-1984) [provisionally lodged under seal]	3	553
Exhibit 28	C.F.S. Musical Co. was dissolved by a decree entered by the Superior Court of Cook County, Illinois on or about May 17, 1933 (P003547-3548)	3	556
Exhibit 29	Copy of Sam H. Harris Theatrical Enterprises, Inc.'s Interrogatory Responses dated March 25, 1935, filed in the captioned action <i>Jessica M. Hill v. Sam H. Harris, et al.</i> Eq. No. 78-350 (P003116-3131)	3	558
Exhibit 30	Motion picture " <i>Baby Take A Bow</i> " [manually lodged & filed pursuant to L.R. 11-5.1]	3	575
Exhibit 31	Photograph of Application for Copyright for Republished Musical Composition (Reg. No. E51988) dated December 6, 1935 (P003290-3291)	3	576

		VOL.	PAGES
Exhibit 32	“Complaint” filed August 14, 1934, in the United States District Court, Southern District of New York, captioned <i>Jessica M. Hill v. Sam H. Harris</i> , Eq. No. 78-350 (P002800-2807)	3	579
Exhibit 33	Excerpt from 1934 Catalog of Copyright Entries for Musical Compositions, Vols. 1 to 12 (P113096)	3	588
Exhibit 34	<i>New York Times</i> article entitled “Shy Women Teachers Who Wrote Child’s Ditty Figure in Plagiarism Suit Over Broadway Hit” appearing in August 15, 1934, edition (P003598)	3	590
Exhibit 35	Parts 1, 5, and 6 of Motion Picture “Girls About Town” as retrieved from YouTube available at http://www.youtube.com/watch?v=zbeni6pmJHk&feature&share&list=PL8DEBB572FF5195FB&index=4 [manually lodged & filed pursuant to L.R. 11-5.1]	3	592
Exhibit 36	“Amended Complaint” filed January 28, 1935, in the United States District Court, Southern District of New York, captioned <i>Jessica M. Hill v. Sam H. Harris, et al.</i> , Eq. No. 78-350 (P002825-2832)	3	593
Exhibit 37	<i>New York Herald</i> article entitled “Sam H. Harris is Sued Over Melody of Song” appearing in the August 15, 1934, edition (P006322)	3	602
Exhibit 38	Excerpts from 1935 Catalog of Copyright Entries for Musical Compositions, Vols. 1 to 12 (P114300, P114523, P114524, P114589, P114980, P114903, P114966, P115008)	3	604
Exhibit 39	Motion picture “ <i>The Old Homestead</i> ”(manually lodged with the Court) [manually lodged & filed pursuant to L.R. 11-5.1]	3	613
Exhibit 40	Photograph of Application for Copyright for Republished Musical Composition with New Copyright Material submitted December 6, 1935 and Registered as E51990 (P003295-3296)	3	614
Exhibit 41	Motion picture “ <i>Way Down East</i> ”(manually lodged with the Court) [manually lodged & filed pursuant to L.R. 11-5.1]	3	617
Exhibit 42	Assignment of Copyrights, Patty S. Hill & Jessica M. Hill, Assignors, and The Hill Foundation, Inc., Assignors dated June 2, 1942, recorded with the U.S. Copyright Registrar’s Office on June 8, 1942 (WC00001453-1455)	3	618

		VOL.	PAGES
Exhibit 43	Copy of the sheet music deposited and registered as Reg. No. E51988 (WC0000413-414)	3	622
Exhibit 44	Certified Copy of Additional Certificate of Registration to Claim of Copyright for Reg. No. E51988 (P006334-6335) [original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]	3	625
Exhibit 45	Letter from Adam Kaplan, Munger Tolles, to Betsy C. Manifold, Wolf Haldenstein dated November 6, 2014	3	628
Exhibit 46	Letter from the Copyright Office dated January 23, 1961 (WC000405)	3	632
Exhibit 47	Excerpts of Confidential Deposition Transcript of Defendant Warner/Chappell Music, Inc., Pursuant to Fed. R. Civ. P. 30(b)(6) deponent Thomas Marcotullio, taken June 3, 2014 [provisionally lodged under seal]	3	634
Exhibit 48	Certified Copy of Additional Certificate of Registration to Claim of Copyright for Reg. No. E51990 (P006336-6337) [original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]	3	652
Exhibit 49	“Assignment of Copyrights,” Patty S. Hill & Jessica M. Hill, Assignors, and Summy Co. III, Assignee, dated September 2, 1939, recorded with the U.S. Copyright Registrar’s Office on September 21, 1939 (WC0001446-1449)	3	655
Exhibit 50	“Amended Complaint” filed December 16, 1943, in the United States District Court for the Southern District of New York, captioned <i>The Hill Foundation, Inc. v. Clayton F. Summy Co.</i> , Civil No. 19-377 (P002647-2661)	3	660
Exhibit 51	“Answer to Amended Complaint” filed December 29, 1942 in the United States District Court for the Southern District of New York, captioned <i>The Hill Foundation, Inc. v. Clayton F. Summy Co.</i> , Civil No. 19-377 (P002935-2947)	3	676
Exhibit 52	“Complaint” filed March 2, 1943 in the United States District Court, Southern District of New York, <i>The Hill Foundation, Inc. v. Postal Telegraph-Cable Co.</i> , Civil No. 20-439 (P002590-2595)	3	690

		VOL.	PAGES
Exhibit 53	“Assignment,” Patty S Hill and Jessica M. Hill, as Assignees, The Hill Foundation, Inc., as Assignors, dated October 16, 1944, recorded November 10, 1944 in the U.S. Copyright Registrar’s Office (WC00000106-107)		697
Exhibit 54	“Assignment,” The Hill Foundation, Inc., as Assignee, Clayton F. Summy Co., a Delaware corporation, Assignor, dated October 16, 1944, recorded November 10, 1944, in the U.S. Copyright Registrar’s Office (WC0000957-962)	3	700
Exhibit 55	National Archives and Records Administration Certified Copy of “Complaint” filed March 28, 1945, in the United States District Court, Southern District of New York, captioned <i>Clayton F. Summy Co. v. McLoughlin Brothers, Inc.</i> , Civil No. 30-284 (P006051-6058)	4	707
Exhibit 56	National Archives and Records Administration Certified Copy of “Complaint” filed March 28, 1945, in the United States District Court, Southern District of New York, captioned <i>Clayton F. Summy Co. v. Louis Marx & Company, Inc.</i> , Civil No. 30-285 (P006042-6050)	4	719
Exhibit 57	National Archives and Records Administration Certified Copy of “Complaint” filed January 11, 1946, in the United States District Court, Southern District of New York, captioned <i>Clayton F. Summy Co. v. Paul Feigay and Oliver Smith</i> , Civil No. 34-481 (P006034-6041)	4	731
Exhibit 58	Article appearing in the <i>New York Herald</i> entitled “Happy Birthday Trouble” on December 16, 1947 (P004319)	4	741
Exhibit 59	Articles of Amendment to EMB filed with the Illinois Secretary of State on or about June 2, 1948 (WC0002039-2043)	4	743
Exhibit 61	Certified Copy of Additional Certificate to Claim of Copyright for renewal of <i>Harvest Hymns</i> (Renewal Reg. No. R90447) (P006344-6345) [original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]	4	756

		VOL.	PAGES
Exhibit 62	Certificate of Amendment and Certificate of Incorporation changing name of Clayton F. Summy Co., a Delaware corp., to Summy Publishing Company, filed January 23, 1956, with the Delaware Secretary of State (WC0002000-2002)	4	759
Exhibit 63	Excerpt from <i>Twice 55 Community Songs, The Brown Book, Revised Ed.</i> , published 1957 by C.C. Birchard Co., of <i>Happy Birthday</i> sheet music (P005997-5998)	4	763
Exhibit 64	Excerpts of Deposition Transcript of Plaintiffs' Expert Witness, Joel Sachs, Ph.D., taken on September 9, 2014	4	766
Exhibit 65	Certificate of Amendment and Certificate of Incorporation changing name of Summy Publishing Company, a Delaware corp., to Summy-Birchard Publishing Company, filed September 27, 1957 with the Delaware Secretary of State (WC0002003-2005)	4	799
Exhibit 66	Certificate of Amendment and Certificate of Incorporation changing name of Summy-Birchard Publishing Company, a Delaware corp., to Summy-Birchard Company, filed December 22, 1961, with the Delaware Secretary of State (WC0002006-2008)	4	803
Exhibit 67	Certified Copy of Additional Certificate of Registration of a Claim to Copyright for Renewal Reg. No. R306185 (Original Reg. No. E51988) (P006338-6340) <i>[original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]</i>	4	807
Exhibit 68	Certified Copy of Additional Certificate of Registration of a Claim to Copyright for Renewal Reg. No. R306186 (Original Reg. No. E51990) (P006341-6343) <i>[original exhibit manually lodged and filed pursuant to L.R. 11-5.4; copy of original exhibit attached]</i>	4	811
Exhibit 69	<i>New York Times</i> obituary article for John Sengstack, appearing on October 13, 1970 (P006354)	4	815
Exhibit 71	Articles of Merger of Domestic and Foreign Corporation for EMB and Summy-Birchard Company filed with the Illinois Secretary of State on or about December 28, 1973 (WC0002064-2068)	4	823

		VOL.	PAGES
Exhibit 72	Plan and Agreement of Merger entered into on or about December 21, 1973 between Summy-Birchard Company (Delaware) and EMB (WC002069-2075)	4	829
Exhibit 73	National Archives and Records Administration Certified Copy of “Answer” filed March 28, 1945, in the United States District Court, Southern District of New York, captioned <i>Clayton F. Summy Co. v. Louis Marx & Company, Inc.</i> , Civil No. 30-285 (P006360-6367)	4	837
Exhibit 74	Articles of Merger filed with the Wyoming Secretary of State on or about January 8, 2010 (WC0002076-2080)	4	847
Exhibit 75	Articles of Merger filed with the Wyoming Secretary of State on or about March 19, 1976 (WC0002019, 2018, 2032, 2031)	4	853
Exhibit 76	Agreement and Plan of Merger between Summy-Birchard Company, an Illinois corporation, and New Summy-Birchard Company, a Wyoming corporation (WC0002029, 2028, 2027, 2026, 2025, 2024, 2030)	4	858
Exhibit 77	Articles of Amendment filed with the Wyoming Secretary of State on or about November 9, 1978 (WC0002015-2017)	4	866
Exhibit 78	Articles of Amendment dated May 1, 1979 that were filed with the Wyoming Secretary of State, (WC0002013-2014)	4	870
Exhibit 79	Articles of Amendment filed with the Wyoming Secretary of State on or about August 3, 1979 (WC0002011-2012)	4	873
Exhibit 80	Articles of Amendment filed with the Wyoming Secretary of State on or about October 12, 1979 (WC0002009-2010)	4	876
Exhibit 81	Confidential Stock Purchase Agreement between Warner/Chappell Music, Inc. and David K. Sengstack dated December 1, 1988 (WC000760-827) <i>[provisionally lodged under seal]</i>	4	879
Exhibit 82	Articles of Amendment of Birch Tree Group Limited filed with the Wyoming Secretary of State on or about December 27, 1988 (WC0001995-1997)	5	948
Exhibit 83	Confidential Stock Certificate for Birch Tree Group Limited dated February 12, 1986 (WC0000574) <i>[provisionally lodged under seal]</i>	5	952

		VOL.	PAGES
Exhibit 84	Confidential Stock Power Assignment from Sengstack to Warner/Chappell Music, Inc., dated January 3, 1989 (WC0000573) [provisionally lodged under seal]	5	954
Exhibit 85	Articles of Merger of Summy-Birchard, Inc., a Wyoming corp., and Summy-Birchard, Inc., a Wyoming corp. (WC0002076-2080)	5	956
Exhibit 86	Affidavit of Joel Sachs in Support of Cross-Motions for Summary Judgment & Exhibits of Sheet Music for <i>Happy Birthday</i>	5	962
	Exhibit A – <i>Happy Birthday to You!</i> (WC0000977-978)		968
	Exhibit B – <i>Happy Birthday to You!</i> (Deposit Copy for E51988 -WC0000413-414)		971
	Exhibit C – <i>Happy Birthday</i> (WC0000119-121)		974
	Exhibit D – <i>Happy Birthday</i> (WC0000984-989)		978
	Exhibit E – <i>Happy Birthday</i> (WC0000990-995)		985
	Exhibit F – <i>Happy Birthday</i> (WC0000996-1001)		992
Exhibit 87	Deposition Transcripts <i>de benne esse</i> of Patty S. Hill and Jessica Hill taken July 1, 1935, filed in the <i>Hill v. Harris</i> , Eq. No. 78-350 (P002756-2797)	5	999
Exhibit 89	Metro-Goldwyn-Mayer’s Notice of Intent to Use Musical Compositions in connect with the “photoplay” entitled “STRANGE INTERLUDE” dated July 14, 1932 (Production #608) identifying Happy Birthday as being in the public domain (WB042)	5	1044
Exhibit 90	TIME Magazine article: “Music: Good Morning” appearing in the August 27, 1934, edition of TIME (P004318)	5	1046

		VOL.	PAGES
Exhibit 91	“Answer” filed April 12, 1943, in the United States District Court, Southern District of New York, <i>The Hill Foundation, Inc. v. Postal Telegraph-Cable Co.</i> , Civil No. 20-439 (P002869-2877)	5	1048
Exhibit 92	Confidential Purchase Agreement between Clayton F. Summy and John Sengstack dated August 7, 1931 (WC0002081-2090) [provisionally lodged under seal]	5	1058
Exhibit 93	State of Illinois Death Index for Clayton F. Summy (P006368)	5	1069
Exhibit 94	Plaintiffs’ Requests for Production of Documents to Defendants – Set No. One dated February 12, 2014	5	1071
Exhibit 95	Excerpts from Defendants’ Objections and Responses to Plaintiffs’ First Set of Requests for Production of Documents dated March 21, 2014	5	1083
Exhibit 96	Excerpts from Plaintiff Good Morning To You Corp.’s Interrogatories to Defendants – Set No. One dated February 12, 2014	5	1095
Exhibit 97	Excerpts from Defendants’ Objections and Responses to Plaintiffs’ First Set of Interrogatories dated April 11, 2014	5	1103
Exhibit 98	Plaintiffs’ Receipt for Additional Certificates of Registration of a Claim to Copyright for E 51988 & 7 Others from the Records Research and Certification Section, Office of Public Records and Repositories, U.S. Copyright Office dated June 12, 2014 (P006370)	5	1117
Exhibit 99	Excerpts from Compendium of Copyright Office Practices II, Ch. 1900, Records, Indexes, And Deposits Of The Copyright Office; Inspection, Copying, Additional Certificates, And Other Certifications (1984) (P006371-6392)	5	1119

DEFENDANTS’ EXHIBITS

Exhibit 100	Declaration of Adam I. Kaplan in Support of Notice of Motion and Cross-Motion and Motion and Cross-Motion for Summary Judgment	6	1200
-------------	--	---	------

		VOL.	PAGES
Exhibit 101	Copy of Registration E51990 (WC0000388-90, marked as Marcotullio Dep. Ex. 9)	6	1204
Exhibit 102	Certificate of Registration of a Claim to Renewal Copyright R306186 (WC0000103-104)	6	1208
Exhibit 103	Copy of Registration E51988 (WC0000385-87, marked as Marcotullio Dep. Ex. 4)	6	1211
Exhibit 104	Certificate of Registration of a Claim to Renewal Copyright R306185(WC0000953-54)	6	1215
Exhibit 105	Record of the Filing of Copyright Deposits under the Act of March 4, 1909 (P003299)	6	1218
Exhibit 106	Copy of sheet music for <i>Happy Birthday to You!</i> , published in 1935 by Clayton F. Summy Co. as publication number 3075 (WC0000977-979)	6	1220
Exhibit 107	Confidential Deposition Transcript of Defendant Warner/Chappell Music, Inc., Pursuant to Fed. R. Civ. P. 30(b)(6) deponent Thomas Marcotullio, taken June 3, 2014 [<i>provisionally lodged under seal</i>]	6	1224
Exhibit 108	Declaration of Thomas B. Marcotullio in Support of Defendants' Motion for Summary Judgment	7	1541
Exhibit 109	Excerpts of Deposition Transcript of Jeremy Blietz, taken on July 10, 2014	7	1546
Exhibit 110	Excerpts of Deposition Transcript of Plaintiffs' Expert Witness, Joel Sachs, Ph.D., taken on September 9, 2014	7	1566
Exhibit 111	Excerpts of Exhibit 47 to the Deposition of Joel Sachs, Ph.D (Expert Report of Joel Sachs, Ph.D. and Exs. J and L thereto)	7	1623
Exhibit 112	Recorded Assignment of Copyright from Patty S. Hill and Jessica S. Hill to The Hill Foundation, Inc., dated October 16, 1944 (WC0001450-52) (illegible copy)	7	1647
Exhibit 113	Recorded Assignment of Copyright from Patty S. Hill and Jessica S. Hill to The Hill Foundation, Inc., dated October 16, 1944 (WC0000844-45) (legible copy)	7	1651
Exhibit 114	Recorded Assignment of Copyright from The Hill Foundation, Inc., to Clayton F. Summy Co., dated October 16, 1944 (WC0001456-62) (illegible copy)	7	1654

		VOL.	PAGES
Exhibit 115	Recorded Assignment of Copyright from The Hill Foundation, Inc., to Clayton F. Summy Co., dated October 16, 1944 (WC0000838-45) (legible copy)	7	1662
Exhibit 116	Declaration of David K. Sengstack, dated January 20, 1981, recorded in the Copyright Office on February 2, 1981 (WC0001998-2075)		
	Exhibit 116 A	7	1671
	Exhibit 116 B	7	1718
Exhibit 117	Confidential Minutes of a September 29, 1931, Meeting of the Board of Directors of C.F.S. Musical Co. (WC WC0002091-93) <i>[provisionally lodged under seal]</i>	8	1751
Exhibit 118	Confidential Stock Certificate for Birch Tree Group Ltd. And Stock Power (WC0002094-97) <i>[provisionally lodged under seal]</i>	8	1755
Exhibit 119	Excerpt of October 1988 “Confidential Information Memorandum” regarding Birch Tree Group Ltd. (WC0001137, WC0001142-43)	8	1760
Exhibit 120	Plaintiffs’ Complaint, filed on June 20, 2013 (Dkt. 9)	8	1764
Exhibit 121	Plaintiffs’ Consolidated First Amended Complaint, filed on July 26, 2013 (Dkt. 29)	8	1799
Exhibit 122	Plaintiffs’ Second Amended Consolidated Complaint, filed on September 4, 2013 (Dkt. 59)	8	1834
Exhibit 123	Plaintiffs’ Third Amended Consolidated Complaint, filed on November 5, 2013 (Dkt. 72)	8	1875
Exhibit 124	Joint Report on Parties’ Planning Meeting, filed February 10, 2014 (Dkt. No. 89)	8	1917
Exhibit 125	Letter from United States Copyright Office to Lisa Minnerly (Warner/Chappell Music, Inc.), dated December 9, 2013 (WC0002098)	8	1936

Exhibit 126 Agreement between The Hill Foundation, Inc., and Clayton F. Summy Co., dated October 16, 1944 (WC0000963-973) 8 1938

Dated: November 25, 2014

Respectfully Submitted,

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

By: /s/Betsy C. Manifold

BETSY C. MANIFOLD
FRANCIS M. GREGOREK
gregorek@whafh.com
BETSY C. MANIFOLD
manifold@whafh.com
RACHELE R. RICKERT
rickert@whafh.com
MARISA C. LIVESAY
livesay@whafh.com
750 B Street, Suite 2770
San Diego, CA 92101
Telephone: 619/239-4599
Facsimile: 619/234-4599

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**
MARK C. RIFKIN (*pro hac vice*)
rifkin@whafh.com
JANINE POLLACK (*pro hac vice*)
pollack@whafh.com
BETH A. LANDES (*pro hac vice*)
landes@whafh.com
270 Madison Avenue
New York, NY 10016
Telephone: 212/545-4600
Facsimile: 212-545-4753

Interim Lead Counsel for Plaintiffs

RANDALL S. NEWMAN PC
RANDALL S. NEWMAN (190547)
rsn@randallnewman.net
37 Wall Street, Penthouse D
New York, NY 10005
Telephone: 212/797-3737

**HUNT ORTMANN PALFFY
NIEVES DARLING & MAH, INC.**
ALISON C. GIBBS (257526)
gibbs@huntortmann.com
OMEL A. NIEVES (134444)
nieves@huntortmann.com
KATHLYNN E. SMITH (234541)
smith@ huntortmann.com
301 North Lake Avenue, 7th Floor
Pasadena, CA 91101
Telephone 626/440-5200
Facsimile 626/796-0107
Facsimile: 212/797-3172

DONAHUE FITZGERALD LLP
WILLIAM R. HILL (114954)
rock@donahue.com
ANDREW S. MACKAY (197074)
andrew@donahue.com
DANIEL J. SCHACHT (259717)
daniel@donahue.com
1999 Harrison Street, 25th Floor
Oakland, CA 94612-3520
Telephone: 510/451-0544
Facsimile: 510/832-1486

**GLANCY BINKOW & GOLDBERG
LLP**

LIONEL Z. GLANCY (134180)
lglancy@glancylaw.com
MARC L. GODINO (188669)
mgodino@glancylaw.com
1925 Century Park East, Suite 2100
Los Angeles, CA 90067
Telephone: 310/201-9150
Facsimile: 310/201-9160

Attorneys for Plaintiffs

Dated: November 25, 2014

MUNGER TOLLES & OLSON LLP

By: /s/Kelly M. Klaus
KELLY M. KLAUS

KELLY M. KLAUS (161091)
kelly.klaus@mto.com
ADAM I. KAPLAN (268182)
adam.kaplan@mto.com
560 Mission St., 27th Floor
San Francisco, CA 94105
Telephone: 415/512-4000

MUNGER TOLLES & OLSON LLP

GLENN D. POMERANTZ (112503)
glenn.pomerantz@mto.com
MELINDA E. LEMOINE
melinda.lemoine@mto.com
355 South Grand Ave., 35th Floor
Los Angeles, CA 90071
Telephone: 213/683-9100

Attorneys for Defendants

DECLARATION REGARDING CONCURRENCE

I, Betsy C. Manifold, am the ECF User whose identification and password are being used to file this [REDACTED] JOINT EVIDENTIARY APPENDIX IN SUPPORT OF NOTICE OF MOTION AND CROSS-MOTION AND MOTION AND CROSS-MOTION FOR SUMMARY JUDGMENT (VOLUMES 1 THROUGH 8). In compliance with Civil Local Rule 5-4.3.4(a)(2), I hereby attest that Kelly M. Klaus has concurred in this filing.

Executed this 25th day of November 2014, in the City of San Diego, State of California.

By: /s/Betsy C. Manifold
BETSY C. MANIFOLD

WARNER/CHAPPELL:21336v5.JA.TC