

Exhibit A

Ex. A

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION

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5 -----x

6 GOOD MORNING TO YOU PRODUCTIONS CORP.,
7 et al.,

8 Plaintiffs,

9 vs.

10 WARNER/CHAPPELL MUSIC INC., et al.,

11 Defendants.

12 -----x

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

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17 DEPOSITION OF THOMAS B. MARCOTULLIO

18 New York, New York

19 Tuesday, June 3, 2014

20 CONFIDENTIAL

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24 Reported by: David Henry

25 JOB NO. 80120

1 referring to when I was referencing other
2 materials. I also was referencing the
3 record of registration which identifies the
4 two deposit copies were provided.

5 Q. Okay. And in this letter the
6 acting head of the reference section of the
7 Copyright Office whose last name I won't
8 try to pronounce again says that the
9 Copyright Office does not have a copy of
10 the work that was deposited with 51990,
11 correct?

12 A. That's what it says, correct.

13 Q. When you made your inquiry in
14 December of 2013, did you ask again for a
15 deposit copy?

16 A. Not that I am aware, but my
17 understanding is we asked for the letters
18 relating to the copyright registration
19 51990.

20 Q. Okay. What did you do if
21 anything to search the records of either
22 Warner/Chappell or Summy-Birchard or anyone
23 to see if somewhere there was a copy of the
24 work deposited with E51990?

25 MR. KLAUS: Object to the form,

1 outside the scope. I believe you can
2 testify to what your factual
3 investigation told you about the
4 search for documents in the case.

5 A. Sure. So as I mentioned, I spoke
6 with Jeremy Blietz and others at
7 Warner/Chappell. I understand, I think, I
8 believe we may have received this in
9 connection with our request from the
10 Copyright Office. In any case they
11 conducted an extensive investigation of
12 their records, including microfiche files
13 that they had, hard copy files that were
14 retained by Warner/Chappell, and other
15 digital files that they had already copied
16 and pdf'd into a digital file. So they
17 went through a fairly extensive review of
18 those materials including with respect to
19 the copyrights, the Hills, Summy-Birchard
20 and otherwise, in addition as I mentioned
21 earlier the requests to the Copyright
22 Office.

23 Q. Okay. And as a result of all
24 that you were told, or you learned that you
25 do not have a copy of the deposit copy

1 either, correct?

2 MR. KLAUS: Object to the form.

3 You can answer.

4 A. My understanding is they could
5 not find a copy of it either.

6 Q. Okay. Were you told what that
7 work was?

8 A. What work was?

9 Q. What the deposited work was.

10 MR. KLAUS: Object to the form.

11 You can answer.

12 A. I think we believe that the work
13 was the Happy Birthday To You, I think you
14 called it the familiar Happy Birthday To
15 You.

16 Q. Well, why do you think -- what is
17 your basis for thinking that?

18 A. Sure, so obviously we know from
19 both this letter and the record that there
20 were deposit copies received. We know from
21 the registration that those were I think on
22 December 9th they were received. We know
23 that on the same day they registered --
24 they applied for and registered for the
25 51988, which as I mentioned earlier is