

EXHIBIT B

Manifold, Betsy

From: Manifold, Betsy
Sent: Thursday, August 20, 2015 4:49 PM
To: kelly.klaus@mto.com; Kaplan, Adam <adam.kaplan@mto.com>
(adam.kaplan@mto.com)
Cc: Rifkin, Mark; Pomerantz, Glenn (Glenn.Pomerantz@mto.com); LeMoine, Melinda
(Melinda.LeMoine@mto.com)
Subject: Warner Chappell: Ex Parte Application Seeking Leave to File A Sur-Reply

Kelly and Adam:

I left a message for Adam but I wanted to reach out to both of you and cc everyone on the moving papers. Defendants' reply in support of its Motion for Leave to File Supplemental Evidence in Support of the Motion for Summary Judgment contained new arguments and law. In the interest of fairness, especially since the Court is not likely to hear oral argument on Defendants' Motion on August 31, 2015, Plaintiffs are seeking leave to file a short sur-reply to respond to both via an ex parte application. Under L.R. 7-10, we cannot file any response to Defendants' reply absent a court order. Defendants now argue for the first time that the scope of the copyright covered by E51990 is **broader** than the application or the registration certificate and covers work not done by Mr. Orem simply because the lyrics purportedly were included on the deposit copy. Defendants also cited two cases (not cited in any of the summary judgment briefing to date) in support of this new argument. See *Sylvestre v. Oswald*, No. 91 Civ. 5060 (JSM), 1993 U.S. Dist. LEXIS 7002, *5-6 (S.D.N.Y. May 18, 1993) and *Williams v. Bridgeport Music, Inc.*, No. LA CV13-06004 JAK (AGRx), 2014 U.S. Dist. LEXIS 182240, *25 (C.D. Cal. Oct. 30, 2014). Plaintiffs also dispute that these cases support your argument.

Please give me a call let me know whether you will oppose the ex parte application or not. We hope to file the papers tomorrow and I will provide you with copies as soon as they are available before I file.

If you could give me a call tonight it would be appreciated -- 619-234-3896. I am traveling tomorrow but if you could send me a convenient time to speak, I can give either or both of you a call.

Thanks, Betsy