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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15	GOOD MORNING TO YOU)	Lead Case No. CV 13-04460-GHK (MRWx)
16	PRODUCTIONS CORP., <i>et al.</i> ,)	
17	Plaintiffs,)	PLAINTIFFS' REQUEST FOR
18)	JUDICIAL NOTICE IN SUPPORT OF
19	v.)	OPPOSITION TO DEFENDANTS'
20	WARNER/CHAPPELL MUSIC,)	MOTION TO DISMISS SECOND
21	INC., <i>et al.</i> ,)	AMENDED COMPLAINT
22	Defendants.)	Date: September 30, 2013
23)	Time: 9:30 a.m.
24)	Room: 650 (Roybal)
25)	Judge: Hon. George H. King, Chief Judge

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1 **TO THE COURT, ALL PARTIES AND THEIR RESPECTIVE**
2 **COUNSEL OF RECORD:**

3 Plaintiffs Good Morning To You Productions Corp., Robert Siegel, Rupa
4 Marya, and Majar Productions LLC (collectively “Plaintiffs”) respectfully request
5 the Court take judicial notice of the documents described below in connection with,
6 and in support of, Plaintiffs’ Opposition To Defendants’ Motion To Dismiss Second
7 Amended Consolidated Class Action Complaint (“SAC”), ECF No. 59 (filed Sept. 4,
8 2013). The Court may take judicial notice of matters of public record to the extent
9 permitted by Rule 201 of the Federal Rules of Evidence (“Rule 201”). *See Lee v.*
10 *City of Los Angeles*, 250 F.3d 668, 688-689 (9th Cir. 2001). Moreover, Rule 201(b)
11 provides that courts may take judicial notice of documents that are “not subject to
12 reasonable dispute” because they are “(1) generally known within the territorial
13 jurisdiction of the trial court, or (2) capable of accurate and ready determination by
14 resort to resources whose accuracy cannot reasonably be questioned.”

15 **I. DOCUMENTS**

16 Plaintiffs respectfully request that the Court take judicial notice of the
17 documents attached to the concurrently filed Declaration of Betsy C. Manifold In
18 Support of Plaintiffs’ Opposition to Defendants’ Motion to Dismiss SAC (“Manifold
19 Declaration”). Specifically, these documents are as follows:

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EX. NO.	DESCRIPTION OF DOCUMENT
21 22 23 24 25 26 27 28	1. Warner Music Group Corp., Annual Report (SEC Form 10-K) (Nov. 25, 2008), at 11-16 (identifying <i>Happy Birthday To You</i> as revenue generating asset of nearly \$2 million per annum)
	2. Warner Music Group Corp., Annual Report (SEC Form 10-K) (Nov. 24, 2009) at 11-15 (identifying <i>Happy Birthday To You</i> as revenue generating asset of nearly \$2 million per annum)

3.	Warner Music Group Corp., Annual Report (SEC Form 10-K) (Nov. 17, 2010) at 11-15 (identifying <i>Happy Birthday To You</i> as revenue generating asset)
4.	Warner Music Group Corp., Annual Report (SEC Form 10-K) (Dec. 18, 2011) at 12-16 (identifying <i>Happy Birthday To You</i> as revenue generating asset)
5.	Warner Music Group Corp., Annual Report (SEC Form 10-K) (Nov. 13, 2012) at 12-16 (identifying <i>Happy Birthday To You</i> as revenue generating asset)

II. ARGUMENT

When deciding a motion to dismiss under Fed. R. Civ. P. Rule 12(b)(6) (“Rule 12(b)(6)”), a court may only judicially notice documents relevant to the matter at hand. *See Wietschner v. Monterey Pasta Co.*, 294 F. Supp. 2d 1102, 1109 (N.D. Cal. 2003) (judicial notice of facts allowed if “sufficiently relevant” to the allegations of the complaint). However, “[a] court may take judicial notice of facts outside the pleadings . . . [and] look beyond the complaint to matters of public record and doing so does not convert a Rule 12(b)(6) motion to one for summary judgment.” *Mack v. South Bay Beer Distribs.*, 798 F.2d 1279 (9th Cir. Cal. 1986) *abrogated on other grounds by Astoria Federal Sav. & Loan Ass’n v. Solimino*, 501 U.S. 104, 111 S. Ct. 2166 (1991).

As recently noted by this Court, judicial notice is appropriate in “situations in which [a] plaintiff’s claim depends on the contents of a document...even though [a] plaintiff [did] not explicitly allege the contents of the document in the complaint.” Order re Defs. Mot. To Dismiss, *Hill v. US Bank, N.A., et al.*, No. CV 12-6586-GHK (JCx) (C.D. Cal. Nov. 26, 2012) at 1-2, para. 3 (*quoting Knievel v. ESPN*, 393 F.3d

1 1068, 1076 (9th Cir. 2005)) (a true and correct copy of the Court's Order is attached
2 to the Manifold Declaration as Exhibit 6.) Here, the Defendants cannot dispute the
3 authenticity of the documents filed with the Securities and Exchange Commission
4 ("SEC") by Warner Music Group Corp., the parent company of defendant
5 Warner/Chappell Music, Inc. Furthermore, the content is relevant to Plaintiffs'
6 allegations in the SAC.

7 Furthermore, courts in this District routinely take judicial notice of SEC
8 filings, especially when such filings contain admissions by defendants that are
9 relevant to allegations contained in a complaint. *See, e.g., Benhabib v. Hughes Elecs.*
10 *Corp.*, No. CV 04-0095-CAS (VBKx), 2007 U.S. Dist. LEXIS 87500, at *21-22, n.11
11 (C.D. Cal. Mar. 30, 2007) (overruling defendants' objections, "[T]he Court may take
12 judicial notice of the SEC 10-K statements, as they are readily available and
13 verifiable to the Court through the SEC's website, and . . . the statements are party
14 admissions, and are therefore an exception to the hearsay rule").

15 **III. CONCLUSION**

16 Under Rule 201(b), Plaintiffs respectfully request that this Court take judicial
17 notice of Exhibits 1-5 (Warner Music Group Corp. Annual Reports, SEC Form 10-K)
18 attached to the Manifold Declaration.

19 Dated: September 9, 2013

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