

1 GLENN D. POMERANTZ (State Bar No. 112503)
glenn.pomerantz@mto.com

2 KELLY M. KLAUS (State Bar No. 161091)
kelly.klaus@mto.com

3 ADAMI I. KAPLAN (State Bar No. 268182)
adam.kaplan@mto.com

4 MUNGER, TOLLES & OLSON LLP

5 355 South Grand Avenue

6 Thirty-Fifth Floor

7 Los Angeles, California 90071-1560

8 Telephone: (213) 683-9100

9 Facsimile: (213) 687-3702

10 Attorneys for Defendants

11 Warner/Chappell Music, Inc. and

12 Summy-Birchard, Inc.

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

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

22 Plaintiffs,

23 v.

24 WARNER/CHAPPELL MUSIC, INC.,
25 and SUMMY-BIRCHARD, INC.,

26 Defendants.

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

**DEFENDANTS' STATEMENT IN
RESPONSE TO PLAINTIFFS'
SUBMISSION OF OCTOBER 8,
2013**

Date: N/A

Time: N/A

Courtroom: 650 (Roybal)

Judge: Hon. George H. King,
Chief Judge

1 Defendants Warner/Chappell Music, Inc. and Summy-Birchard, Inc.
2 (collectively, "Warner/Chappell") respectfully submit the following response to
3 Plaintiffs' October 8, 2013 submission to the Court (Dkt. No. 66).

4 1. None of the numerous paragraphs of the Second Amended
5 Consolidated Complaint ("SAC") that Plaintiffs cite in their submission,
6 individually or collectively, set forth the two-step theory that Plaintiffs described at
7 the October 7, 2013 hearing, *i.e.*, that (1) the scope of Warner/Chappell's copyrights
8 in *Happy Birthday to You*, cited in Plaintiffs' complaints, does not encompass the
9 rights that Warner/Chappell licensed to Plaintiffs; but if it does, (2) those copyrights
10 are not valid.

11 2. Without waiving any of Warner/Chappell's arguments in the pending
12 motion to dismiss, Warner/Chappell does not object to the Court's granting
13 Plaintiffs leave to file a further amended complaint, provided that the only changes
14 made by this amendment are to describe Plaintiffs' two-step theory.

15 3. As discussed at the hearing, Warner/Chappell agrees with the Court
16 that the case should be bifurcated, for case management purposes, and that it makes
17 sense for the Court to set a schedule allowing for a brief period of discovery, limited
18 solely to the copyright scope and validity issues raised by Plaintiffs' first cause of
19 action for declaratory judgment, followed by summary judgment/adjudication
20 motions limited to these issues. Warner/Chappell requests that the Court schedule a
21 case management/scheduling conference to set the timeframe and parameters for the
22 aforementioned period of discovery and motion practice.

23 4. Warner/Chappell submits that, if the Court proceeds with the case
24 management plan described above, that Warner/Chappell's pending motion to
25 dismiss be held in abeyance pending resolution of the aforementioned summary
26 judgment/adjudication motions, and that Warner/Chappell's time for answering or
27 otherwise responding to the SAC (or any amended complaint that Plaintiffs file in
28 accordance with their pending request) be stayed pending resolution of the summary

1 judgment/adjudication motions, at which point in time the Court could resolve the
2 preemption and other issues that Warner/Chappell's pending motion raises.

3 Respectfully submitted,

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5 DATED: October 9, 2013

MUNGER, TOLLES & OLSON LLP

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7 By: /s/ Kelly M. Klaus

8 KELLY M. KLAUS

9 Attorneys for Defendants Warner/Chappell
10 Music, Inc. and Summy-Birchard, Inc.

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