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8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

11 DON HENLEY and MIKE CAMPBELL,
 and DANNY KORTCHMAR,

12 Plaintiffs,
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14 v.

15 CHARLES S. DEVORE and JUSTIN
 HART,

16 Defendants.
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18 CHARLES S. DEVORE and JUSTIN
 HART,

19 Counterclaimants,
 20

20 v.

21 DON HENLEY, MIKE CAMPBELL and
 ROES 1-10 inclusive,
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23 Counter-defendants.
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 27
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Case No. SACV09-0481 JVS (RNBx)

**DECLARATION OF MARTIN
 ZEILINGER**

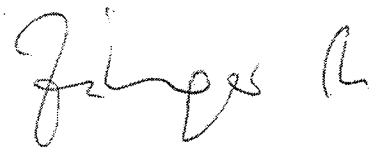
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I, Martin Zeilinger, declare as follows:

1. I am a University Lecturer in Literary Studies at Victoria College, University of Toronto. I also hold the position of Research Associate in an ongoing project concerned with issues of copyright and fair dealing, which is co-directed by professors from two other Canadian universities. I received my M.A. and my Ph.D. from the University of Toronto's Centre for Comparative Literature. My primary research interest and many of the courses I have taught concern the aesthetic and legal theories of authorship, ownership, copying, and appropriation, and my research frequently involves the close analysis of contemporary literature, film, video, music, sculpture and other art forms that employ parody and related modes of creative expression. I have prepared an expert report in this case, a copy of which is attached hereto as Exhibit A and hereby incorporated into this declaration. My curriculum vitae and a fuller description of my qualifications can be found in that report.

2. As set forth in detail in my report, I have concluded that the two videos created by Defendants which are the subject of this lawsuit are in fact parodies of Plaintiffs' songs The Boys of Summer and All She Wants to Do Is Dance. Defendants' videos transform the original songs, and comment on them in ways that are consistent with the aesthetic and legal definitions of parody even under the strictest and most narrow definitions and including the United States Supreme Court's definition in *Campbell v. Acuff-Rose Music, Inc.* I believe Dr. Mark Rose reaches a contrary conclusion because he uses a definition of parody that is narrow, somewhat imprecise, and dated.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 30th day of April, 2010, at Linz, Austria.



Martin Zeilinger