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 PINEDA; and JAIME GOMEZ, all individually and collectively as the music
 11 group THE BLACK EYED PEAS; will.i.am music, llc; TAB MAGNETIC
 PUBLISHING; CHERRY RIVER MUSIC CO.; HEADPHONE JUNKIE
 12 PUBLISHING, LLC; JEEPNEY MUSIC, INC.; EMI APRIL MUSIC, INC.

13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

15 BRYAN PRINGLE, an individual,
 16 Plaintiff,
 17 v.

Case No. SACV10-1656 JST (RZx)
 Hon. Josephine Staton Tucker
 Courtroom 10A

18 WILLIAM ADAMS, JR.; STACY
 FERGUSON; ALLAN PINEDA; and
 19 JAIME GOMEZ, all individually and
 collectively as the music group the
 20 Black Eyed Peas; DAVID GUETTA;
 FREDERICK RIESTERER; UMG
 21 RECORDINGS, INC.; INTERSCOPE
 RECORDS; EMI APRIL MUSIC,
 22 INC.; HEADPHONE JUNKIE
 PUBLISHING, LLC; WILL.I.AM.
 23 MUSIC, LLC; JEEPNEY MUSIC,
 INC.; TAB MAGNETIC
 24 PUBLISHING; CHERRY RIVER
 MUSIC CO.; SQUARE RIVOLI
 25 PUBLISHING; RISTER EDITIONS;
 and SHAPIRO, BERNSTEIN & CO.,

DISCOVERY MATTER
DECLARATION OF JONATHAN S.
PINK IN SUPPORT OF
DEFENDANTS' EX PARTE
APPLICATION FOR A
PROTECTIVE ORDER

Hearing

Date:
 Time:
 Courtroom:

Complaint Filed: October 28, 2010
 Disc. Cutoff: September 15, 2011
 Pretrial Conf.: January 6, 2012
 Trial Date: January 24, 2012

26 Defendants.
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DECLARATION OF JONATHAN S. PINK

I, Jonathan S. Pink, declare:

1. I am an attorney duly licensed to practice law before the courts of the State of California and all federal courts in the State of California. I am an attorney with the law firm of Bryan Cave LLP, counsel of record for Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN PINEDA; and JAIME GOMEZ, all individually and collectively as the music group THE BLACK EYED PEAS; will.i.am music, llc; TAB MAGNETIC PUBLISHING; CHERRY RIVER MUSIC CO.; HEADPHONE JUNKIE PUBLISHING, LCC; JEEPNEY MUSIC, INC.; and EMI APRIL MUSIC, INC. (“Defendants”). I have personal knowledge of the matters set forth in this Declaration and, if called upon to testify regarding such matters, I could and would competently do so.

2. Plaintiff Bryan Pringle’s (“Plaintiff”) counsel in this case also represents the plaintiffs in another copyright infringement lawsuit against Defendants. Although they involve different musical works, the complaint in both this case and in *Batts v. Adams* (C.D. Cal. Case No. CV 10-8123 JFW (RZx)), are near carbon copies of one another. Both assert a single claim of copyright infringement, and generally assert a conspiracy amongst the Defendants to steal the work of unknown artists. In this case, the work allegedly copied consists of a single guitar chord progression featured in The Black Eyed Peas’ musical work, “I Got A Feeling.” The Black Eyed Peas license the musical score used in that song from David Guetta and Frederic Riesterer.

3. As Plaintiff’s counsel has already indicated, the allegations in each complaint are sufficiently similar that Plaintiff’s counsel will ask questions in the depositions noticed for *this* case that relate to the allegations in *Batts*, and visa-versa. Given the limited availability of the individual band members (who are currently on a world tour), the Defendants were agreeable to this.

4. The Black Eyed Peas return to the United States for a single week in

1 the end of July. Defendants isolated this week in their schedules, and agreed to
2 produce them then – for 7 hours each – during which time Plaintiff in this case (and
3 in *Batts*) can ask all the questions they believe are necessary to prosecute their
4 claims in *both* cases.

5 5. Defendants reasonably believe that for nearly every one of the
6 Defendants, 7 hours on the record will be more than sufficient to question the band
7 members about the issues at hand. Nonetheless, to the extent it is not, Defendants
8 offered to provide plaintiffs in both actions with additional time to question the band
9 members on August 29-September 1, 2011, after they return from tour.

10 6. Attached as Exhibit “1” is a true and correct copy of the deposition
11 notices issued by the plaintiffs in *Batts* on May 25, 2011 for the Black Eyed Peas’
12 depositions, along with the enclosure letter sent by Plaintiff’s counsel.

13 7. On June 13, 2011, Plaintiff’s counsel sent me a letter with amended
14 deposition notices for Defendants enclosed. The subject line of the letter, and the
15 caption of the deposition notices, only referenced this matter. Attached as Exhibit
16 “2” is a true and correct copy of the letter I received on June 13, 2011 from
17 Plaintiff’s counsel along with the deposition notices enclosed.

18 8. The following day, on June 14, 2011, Plaintiff’s counsel sent an email
19 correspondence to me and several other attorneys in this matter wherein he informed
20 us for the first time of his intent to move to compel The Black Eyed Peas’
21 depositions in the *Batts* matter. Attached to that email was Plaintiff’s draft of their
22 section of the Joint Stipulation. Thereafter, several of us began to email Plaintiff’s
23 counsel to inquire about the basis of the motion and the complete lack of a meet and
24 confer on the issues, as counsel never contacted Defendants for an in-person or
25 telephonic conference to resolve any further disputes. Had the *Batts* plaintiffs
26 alerted us there were still outstanding issues, Defendants would have met and
27 conferred in an effort to resolve any remaining dispute. Presently, the Motion to
28 Compel in *Batts* is scheduled to be heard by this Court on July 25, 2011. Attached as

1 Exhibit “3” is a true and correct copy of the emails exchanged with Plaintiff’s
2 counsel on June 14, 2011.

3 9. Defendants remain ready and able to appear at their depositions in this
4 matter and the *Batts* matter during the week of July 22-27. Defendants are ready
5 and able to appear for a second set of depositions on their next available dates of
6 August 29, 2011 through September 1, 2011. Practically speaking, it makes sense
7 for Plaintiff’s counsel to use the August dates for *this* lawsuit and the July dates for
8 *Batts*. Nonetheless, for whatever reason, Plaintiff’s counsel has refused to take that
9 approach, insisting on deposition in this case in July (and that the proffered dates in
10 August are too late for use in the *Batts* matter). Again, this is a conflict of Plaintiff’s
11 counsels’ own making. If Plaintiff’s counsel (or this Court) would simply postpone
12 the deposition dates in this case from July to August, the *Batts* plaintiffs would use
13 the July dates to depose The Black Eyed Peas, thus eliminating the need for motion
14 practice in *both* cases. Yet, almost immediately after the August dates were
15 provided to Plaintiff on July 1, 2011, Plaintiff’s counsel refused to use them for this
16 matter (or the *Batts* matter). Attached as Exhibit “4” is a true and correct copy of
17 the email correspondence exchanged with Plaintiff’s counsel on July 1, 2011.

18 10. The outstanding, and conflicting deposition notices for the Black Eyed
19 Peas do not take into account the availability of the Defendants or their counsel’s
20 ability to appear and defend depositions in each case. For illustration purposes,
21 attached as Exhibit “5” is a true and correct copy of a chart created for the Court’s
22 reference that evidences the conflicting dates and times of the depositions set by
23 Plaintiff’s counsel in this matter and the *Batts* matter.

24 11. Defendants met and conferred with Plaintiff’s counsel regarding the
25 conflicting deposition notices on June 14, 2011, June 15, 2011, and June 22, 2011;
26 they met and conferred on this Motion on July 1, 2011. During the meet and confer
27 process, Plaintiff’s counsel indicated that while he had no intention of going forward
28 with the depositions notices in *Batts*, the plaintiffs in that case would not withdraw

1 the depositions notices because doing so would negatively impact their pending
2 Motion to Compel.

3 12. To date, Plaintiff has conducted minimal written discovery. Plaintiff
4 has not served requests for admissions on any of the Black Eyed Peas. Plaintiff has
5 not propounded any interrogatories on the Black Eyed Peas except a single set of
6 interrogatories propounded on William Adams.

7 13. estimate that Defendants will conservatively have spent \$5,000 to
8 bring this *ex parte* application.

9 I declare under penalty of perjury under the laws of the State of California
10 and the United States of America that the foregoing is true and correct.

11 Executed this 5th day of July, 2011, at Irvine, California.

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13 /s/ Jonathan Pink
14 Jonathan S. Pink
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