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 14 Facsimile: 949.718.4580

15 Attorneys for Plaintiff
 BRYAN PRINGLE

17 **UNITED STATES DISTRICT COURT**
 18 **CENTRAL DISTRICT OF CALIFORNIA**
 19 **SOUTHERN DIVISION**

20 BRYAN PRINGLE, an individual,
 21 Plaintiff,
 22 v.
 23 WILLIAM ADAMS, JR.; STACY
 24 FERGUSON; ALLAN PINEDA; and
 25 JAIME GOMEZ, all individually and
 collectively as the music group The Black
 Eyed Peas; DAVID GUETTA;
 26 FREDERICK RIESTERER; UMG
 RECORDINGS, INC.; INTERSCOPE
 27 RECORDS; EMI APRIL MUSIC, INC.;
 HEADPHONE JUNKIE PUBLISHING,
 28 LLC; WILL.I.AM. MUSIC, LLC;

Case No. SACV10-1656 JST (RZx)

**DECLARATION OF
 DAVID GALLANT IN
 SUPPORT OF PLAINTIFF'S EX
 PARTE APPLICATION FOR
 TEMPORARY RESTRAINING
 ORDER AND ORDER TO
 SHOW CAUSE RE
 PRELIMINARY INJUNCTION**

1 JEEPNEY MUSIC, INC.; TAB
2 MAGNETIC PUBLISHING; CHERRY
3 RIVER MUSIC COL.; SQUARE
4 RIVOLI PUBLISHING; RISTER
EDITIONS; and SHAPIRO,
BERNSTEIN & CO.,

5 Defendants.

6 **DECLARATION OF DAVID GALLANT**

7 I, David Gallant, have personal knowledge of the facts contained within this
8 declaration, and if called as a witness, could testify regarding the following facts:

9 1. I am president of Gallant Computer Investigative Services, and have
10 over 22 years investigative experience, including over 14 years dedicated primarily
11 to computer related crimes. I served as a federal agent in the US Air Force with the
12 Air Force Office of Special Investigations (AFOSI), and was the case agent on
13 numerous significant investigations involving sensitive Air Force assets, and
14 coordinated the initial investigative activity for one of the most successful, multi-
15 agency international computer hacker investigations in history. I then entered the
16 corporate security world with a startup company and helped build it into an
17 internationally recognized leader in computer forensics, incident response, and
18 incident response training, and was a key contributor to the success of Helix(TM), a
19 leading open source incident response software suite. I am an AccessData Certified
20 Instructor and AccessData Certified Examiner, as well as a contract instructor for
21 AccessData Corp where I teach computer forensics. I have trained hundreds of
22 federal, state and local law enforcement officials, as well as IT security personnel in
23 the proper methodology for securing computer evidence. I am a Certified
24 Information Systems Security Professional (CISSP), an internationally recognized
25 computer security certification. I have multiple computer forensics certifications
26 and have published numerous articles on computer forensics, e- discovery, and
27 other computer security-related matters. Specific information regarding my
28

1 qualifications is contained in my CV, a copy of which is attached to this
2 Declaration as Exhibit A.

3 2. I was retained by the Gould Law Group on May 7, 2010, as a
4 computer forensics expert, to analyze a CD-ROM that contained the creation file of
5 the derivative version Bryan Pringle's song, "Take a Dive," related to the above
6 mentioned litigation, to determine the date(s) the file(s) were created, as well as the
7 date the CD-ROM was created (burned).

8 2. On May 7, 2010, Mr. Pringle personally delivered to me one CD-ROM
9 for analysis. The disc contained a faded, hand written marking "Ensoniq Disk 2."
10 The disk's serial number was "130-H912072346D10."

11 3. After initiating a chain of custody form, I created a forensic copy of
12 the CD-ROM for analysis.

13 4. Analysis of the disk determined there were four files present as
14 follows: "Disk05.NRG," "Disk06.NRG," "Disk07.NRG," and "IODisk1.NRG."

15 5. The file named "Disk05.NRG," which, according to Mr. Pringle, is the
16 creation file containing the derivative version of Pringle's song "Take a Dive," has
17 a creation date of June 14, 1999, with a last modified time of 1:39 a.m.

18 6. I also examined the original CD-ROM with a utility called
19 NeroInfoTool, which determined that the content of this particular CD-ROM was
20 created on "17 May 2001" (i.e. the CD-ROM was burned May 17, 2001).

21 7. In addition, forensic analysis determined there was only one "session"
22 written to this CD-ROM. Due to this fact, no additional data was added to the CD-
23 ROM after it was initially burned, and thus none of the existing files on the CD-
24 ROM, including "Disk05.NRG," were modified after May 17, 2001. This means
25 that the guitar twang sequence existed in the original "Disk05.NRG" file, and could
26 not possibly have been added to the file contained on the CD-ROM after May, 17,
27 2001 (i.e. Mr. Pringle could not have gone back and later added the guitar twang
28

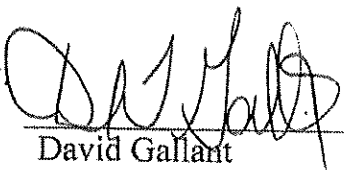
1 sequence to the "Disk05.NRG" file contained on the CD-ROM, after he heard "I
2 Gotta Feeling" in 2009).

3 8. In my professional opinion, based on an analysis of the data provided
4 to me, June 14, 1999, at 1:39am was the last time the "Disk05.NRG" file, which
5 contains the creation file for the derivative version of "Take a Dive," was modified.

6 9. Additionally, my analysis concludes the CD-ROM was created
7 (burned) on May 17, 2001, and could not have been subsequently burned (i.e. no
8 new material could have been added after that date).

9 I declare under penalty of perjury under the state law of California that the
10 statements contained in this Declaration are true and accurate to the best of my
11 knowledge.

12 Executed this 18th day of November,
13 2010

By 
David Gallant

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16
17 18,543,668.1\146614-00001
11/18/10 10:58 AM

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CURRICULUM VITAE

David T. Gallant (USAF Retired)

President, Gallant Computer Investigative Services, LLC

EDUCATION:

- Bachelor of Science, University of the State of New York, Albany, NY, 1995
- AA, Criminal Justice, Community College of the Air Force, 1993

TRAINING RECEIVED:

- New Horizons Training for CISSP Certification, May 2009
- Acquisition Data First Responder, April 2009
- AccessData Windows Forensics (Advanced), November 2005
- AccessData Boot Camp (Intermediate), June 2005
- Advanced Forensic Toolkit - Graphics Forensics, HTCIA Annual Meeting, September 2004
- Advanced SMART Forensics, HTCIA Annual Meeting, September 2004
- National Security Agency Information Security Assessment Methodology, March 2001
- Windows NT Enterprise Technologies, San Antonio, TX, August 1998
- Windows NT System Administration, San Antonio, TX, July 1998
- AFOSI Computer Intrusion Workshop, RAFB, TX, March 1997
- UNIX System Administrators Course, February 1997
- Seized Computer & Evidence Recovery Specialist Course, Federal Law Enforcement Training Center, February 1995
- AFOSI Basic Investigation's Academy, HQ AFOSI, December 1987

CERTIFICATIONS/CLEARANCES:

- AccessData Certified Instructor, July 2010
- Certified Information Systems Security Professional (CISSP), August 2009
- AccessData Certified Examiner (ACE), June 2009
- Certified Acquisition Specialist (CAS), Acquisition Data, April 2009
- Civil Process Server, Texas Supreme Court (SCH0000005005), April 2009
- Qualified Manager/Private Investigator, Texas Private Security Bureau, May 2008
- Current Top Secret Security Clearance, (Updated Jan 2006)
- National Security Agency, INFOSEC Assessment Methodology, March 2001
- Air Force Office of Special Investigations Computer Crime Investigator, June 2000
- Digital Evidence Analysis, AFOSI, May 1999

FEDERAL LAW ENFORCEMENT/INVESTIGATIONS EXPERIENCE:

- President, GCIS, San Antonio, TX, February 2009 - Present
- Computer Security and Forensics Specialist, e-fense Inc, San Antonio, TX, January 2001 - February 2009
- Branch Chief, Computer Crime Investigation, AFOSI Detachment 401, August 1998 - January 2001
- Computer Crime Investigator, AFOSI Detachment 401, Randolph AFB, TX, August 1997 - August 1998
- Computer Crime Investigative Liaison to AFIWC/AFCERT, Kelly AFB, TX, April 1997 - August 1997
- Computer Crime Investigator, AFOSI Detachment 401, Randolph AFB, TX, June 1996 - March 1997
- Criminal Investigator, AFOSI Detachment 623, Misawa AB, Japan, August 1993 - June 1996
- Criminal Investigator, AFOSI Detachment 523, Izmir AB, Turkey, July 1991 - July 1993

- Criminal Investigator, AFOSI Detachment 430, Pease AFB, NH, August 1987 – June 1990

EXPERT WITNESS QUALIFICATIONS:

- Qualified as a Computer Forensics Expert, U.S. v. Sean Block, Western District of Texas, May 2009
- Qualified as a Computer Forensics Expert, U.S. v. Mackey, Brooks AFB, TX, Dec 2000

EXPERT CONSULTATION/TESTIMONY:

Date:	Name:	Type:
May 2009	United States v. Block	Defense Expert Witness
March 2009	United States v. Escher	Appointed Defense Computer Forensic Consultant
March 2009	State of Texas v. Carden	Defense Expert Witness
March 2008	Steves & Sons v. Trinity Glass	Expert Witness Deposition
March 2008	Johnson v. Centerpoint Inc., et. al.	Arkansas Public Utility Commission, Little Rock, AR
October 2006	United States v. Nieland	Appointed Defense Computer Forensic Consultant
August 2005	United States v. Miller	Appointed Defense Computer Forensic Consultant
October 2003	United States v. Bresnahan	Appointed Defense Computer Forensic Consultant
December 2000	United States v. Mackey	Prosecution Expert Witness

LECTURES/TRAINING I HAVE PROVIDED:

Date:	Organization/Course:
Oct 2010	Introduction to Electronic Discovery Data Collection Hughes, Hubbard, & Reed, LLP New York, NY
Sept 2010	New Horizons Computer Learning Center CISSP Prep Course San Antonio, TX
Aug 2010	AccessData Forensic Toolkit BootCamp Sterling, VA (Live Online Training Format)
July 2010	New Horizons Computer Learning Center CISSP Prep Course San Antonio, TX
June 2010	The Association of Information Technology Professionals (AITP) San Antonio, TX

April 2010	AccessData Forensic Toolkit BootCamp Sterling, VA (Live Online Training Format)
March 2010	AccessData Forensic Toolkit BootCamp Denver, CO
February 2010	AccessData Forensic Toolkit BootCamp Bellevue, WA
February 2010	A Prioritized Response to Compromised Computer Leander Independent School District IT Staff
February 2010	Computer Security for Educators; Internet Safety for Children Leander Independent School District, Continuous Improvement Process
January 2010	New Horizons Computer Learning Center CISSP Prep Course San Antonio, TX
December 2009	AccessData Forensic Toolkit BootCamp Lindon, UT (Live Online Training Format)
October 2009	New Horizons Computer Learning Center CISSP Prep Course San Antonio, TX
September 2009	AccessData Forensic Toolkit BootCamp Orlando, FL
August 2009	AccessData Forensic Toolkit BootCamp (Assistant Instructor) Sterling, VA
June 2009	New Horizon's Computer Learning Center SpecTECHular Responding to a Computer Incident: Are You Ready?
February 2009	Alamo Chapter of the Armed Forces Communications and Electronics Association (AFCEA) A Prioritized Response to Compromised Computer
December 2008	Veteran's Administration Law Enforcement Training Center, Little Rock, AR Helix Three-Day Incident Response Course
November 2008	San Antonio North Chamber of Commerce Technology Counsel Previewing, Securing and Preserving Digital Evidence
August 2008	Central Michigan University, Mt. Pleasant, MI Helix Three-Day Incident Response Course
June 2008	New Horizon's Computer Learning Center, San Antonio, TX Securing Volatile Computer Evidence with Helix Seminar
April 2008	New Horizon's Computer Learning Center, San Antonio, TX Securing Volatile Computer Evidence with Helix Seminar
April 2008	Optimists Club of San Antonio, San Antonio, TX Computer Forensic Issues in the Workplace
November 2007	S.E.A.R.C.H., Sacramento, CA

Helix Three-Day Incident Response Course

April 2007	San Antonio Criminal Defense Lawyers Association CLE: Computer Forensics in Defense Cases
November 2006	Maine Licensed Private Investigators Association Annual Meeting CLE: Electronic Discovery and Computer Forensics
November 2006	Venable, LLP, Washington, DC CLE: Electronic Discovery and Computer Forensics
October 2006	Langley & Banack, Inc., San Antonio, TX CLE: Electronic Discovery and Computer Forensics
October 2006	Ball & Weed, LLP, San Antonio, TX CLE: Electronic Discovery and Computer Forensics
September 2006	McManus, Schor, Asmar, & Darden LLP, Washington, DC CLE: Electronic Discovery and Computer Forensics
July 2006	Veteran's Administration Law Enforcement Training Center, Little Rock, AR Helix Three-Day Incident Response & Forensics Course
March 2006	San Antonio Area Computer Crime Investigators' Group Using Helix to perform Incident Response/Forensic Imaging of a Live System
March 2006	University of Texas, San Antonio, IS 4483, Cyber Forensics (Senior Level) Computer Forensics from a Government/Law Enforcement Perspective
June 2005	Austin Police Department, High Tech Crimes Unit, Austin, TX Two-Day Computer Incident Response Training
June 2004	Veteran's Administration Law Enforcement Training Center, Little Rock, AR Introduction to Computer Search and Seizure
April 2004	Veteran's Administration Law Enforcement Training Center, Little Rock, AR Introduction to Computer Search and Seizure
August 2003	University of Texas, San Antonio, TX Computer Crime Investigations
June 2002	Library of Congress, Washington, DC Two-Day Computer Incident Response Training
August 2002	Sector 5 Global Summit, Washington, DC Panel Discussion – Critical Infrastructure Disaster Recovery Planning
April 2002	Information Technology Executive Committee (ITEC), San Antonio, TX Panel Discussion – Protecting Critical Infrastructure
March 2002	American Water Works Association (AWWA), Buffalo, NY Protecting Critical Infrastructure from Computer Hackers
August 1998	AFOSI Computer Crime Investigators' Annual Training, Dam Neck, VA Investigating Computer Crimes

October 1997 San Antonio Area Forensics Seminar, Randolph AFB, TX
Computer and Internet Crimes

PUBLISHED WORKS:

February 2010 Protecting Yourself on Facebook, North San Antonio Chamber of Commerce
Technology News You Can Use

February 2009 Are You Prepared to Respond to a Serious Computer Compromise?, North San Antonio
Chamber of Commerce Technology News You Can Use

January 2009 Follow-up to Experts on Computer Forensics, A Defense Counsel's Ally, SA Lawyer

November 2008 Experts on Computer Forensics, A Defense Counsel's Ally, San Antonio Lawyer

October 2008 Password Security, North San Antonio Chamber of Commerce Technology News You
Can Use

COMPUTER FORENSICS/COMPUTER SECURITY EXPERIENCE:

- Qualified as a computer forensic expert in federal court
- 22+ years total investigative experience
- 14+ years as a Federal Agent with the Air Force Office of Special Investigations (AFOSI)
- 15+ years of computer forensic examinations using numerous industry standard tools and techniques. Cases investigated range from child pornography, use of the Internet to solicit sex from minors, crimes against persons, homicides, fraud, threats, corporate espionage, family law issues, theft of proprietary data, malicious attacks and system abuse
- Investigation of large-scale network attacks that led to successful prosecutions
- Computer and physical penetration tests for several Fortune-500 companies
- Design and implementation of security policies for several companies
- Planned and executed electronic discovery efforts for significant civil litigations
- Reviewer, Journal of Digital Forensic Practice, February 2008 - Present

PROFESSIONAL ASSOCIATION MEMBERSHIPS:

- Association of Former AFOSI Special Agents (AFOSISA)
- North San Antonio Chamber of Commerce Technology Committee
- Texas Association of Licensed Investigators

1 **PROOF OF SERVICE**

2 I am employed in the County of Orange, State of California. I am over the age of 18 and
3 not a party to the within action. My business address is 2101 East Coast Highway, Suite 260,
4 Corona del Mar, California 92625. On November 22, 2010, I served the within document(s)
5 described as:

6 **DECLARATION OF DAVID GALLANT IN SUPPORT OF PLAINTIFF'S EX PARTE
7 APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW
8 CAUSE RE PRELIMINARY INJUNCTION**

9 on the interested parties in this action as stated below:

10 **Kara Cenar**
11 [E-mail address: kara.cenar@bryancave.com]
12 **Bryan Cave LLP**
13 161 North Clark Street, Suite 4300
14 Chicago, IL 60601-3315

15 **Jonathan Pink**
16 [E-mail address: jonathan.pink@bryancave.com]
17 **Bryan Cave LLP**
18 3161 Michelson Drive, Suite 1500
19 Irvine, CA 92612-4414

20 **Linda Burrow**
21 [E-mail address: burrow@caldwell-leslie.com]
22 **Caldwell Leslie & Proctor, PC**
23 1000 Wilshire Blvd., Suite 600
24 Los Angeles, CA 90017-2463

25 **Barry I. Slotnick**
26 [E-mail address: bslotnick@loeb.com]
27 **Loeb & Loeb LLP**
28 345 Park Avenue, New York, NY 10154

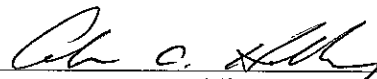
19 (BY ELECTRONIC MAIL) I electronically mailed a true copy of the foregoing document
20 to the email address as noted above; AND.

21 (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly
22 maintained by Federal Express, an express service carrier, or delivered to a courier or driver
23 authorized by said express service carrier to receive documents, a true copy of the foregoing
24 document(s) in a sealed envelope or package designated by the express service carrier,
25 addressed as set forth above, with fees for overnight delivery paid or provided for.

26 I declare under penalty of perjury under the laws of the United States that the foregoing is
27 true and correct.

28 Executed on November 22, 2010, at Corona del Mar, California.

Colin C. Holley
(Type or print name)


(Signature)

HAMPTONHOLLEY LLP
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