

1 **BRYAN CAVE LLP**  
 Jonathan Pink, California Bar No. 179685  
 2 3161 Michelson Drive, Suite 1500  
 Irvine, California 92612-4414  
 3 Telephone: (949) 223-7000  
 Facsimile: (949) 223-7100  
 4 E-mail: [jonathan.pink@bryancave.com](mailto:jonathan.pink@bryancave.com)

5 **BRYAN CAVE LLP**  
 Kara E. F. Cenar, (*Pro Hac Vice*)  
 6 Mariangela M. Seale, (*Pro Hac Vice*)  
 161 North Clark Street, Suite 4300  
 7 Chicago, IL 60601-3315  
 Telephone: (312) 602-5000  
 8 Facsimile: (312) 602-5050  
 E-mail: [kara.cenar@bryancave.com](mailto:kara.cenar@bryancave.com)  
 9 [merili.seale@bryancave.com](mailto:merili.seale@bryancave.com)

10 Attorneys for Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN  
 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. Ralph Zarefsky  
 Courtroom 540

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' MOTION TO COMPEL SUPPLEMENTAL RESPONSES BY PLAINTIFF BRYAN PRINGLE TO INTERROGATORIES AND FOR MONETARY SANCTIONS**

Date: January 23, 2012  
 Time: 10:00 a.m.  
 Courtroom: 540

Disc. Cut-Off: November 14, 2011  
 Pretrial Conf.: February 13, 2012  
 Trial Date: February 28, 2012

26 Defendants.  
 27  
 28

BRYAN CAVE LLP  
 3161 MICHELSON DRIVE, SUITE 1500  
 IRVINE, CALIFORNIA 92612-4414

**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. This action involves a single count of copyright infringement. Plaintiff Bryan Pringle (“Plaintiff”), an unknown artist, contends Defendants conspired to steal a guitar twang sequence from Plaintiff’s work “Take A Dive,” and featured it in the song, “I Gotta Feeling,” recorded and released by The Black Eyed Peas and co-produced by defendants David Guetta and Frederic Riesterer.

3. Central to the case are issues involving Plaintiff’s ownership of a valid copyright, who created that guitar twang sequence, when and how it was created, whether it was original to Plaintiff (or as Defendants’ believe, Plaintiff copied that isolated element from Defendants and slapped it into a subsequently created version of Plaintiff’s song), and Plaintiff’s access to Defendants’ work.

4. On July 24, 2010, in anticipation of litigation and following cease and desist letters from Plaintiff, Defendants’ counsel sent a letter to Plaintiff’s counsel requesting preservation of evidence, including Plaintiff’s computer files. Attached hereto as **Exhibit “1”** is a true and correct copy of the July 24, 2010 letter sent to Plaintiff’s counsel.

5. On December 12, 2010 this Court issued an order setting the

1 scheduling conference for March 7, 2011. Included within that order was a directive  
2 to the parties to meet and confer on numerous issues, including a discovery plan.  
3 Attached hereto as **Exhibit “2”** is a true and correct copy of the Order issued by this  
4 Court on December 15, 2010.

5 6. In preparation for the Joint Rule 26 Report, Defendants attempted to  
6 work with Plaintiff to create a discovery plan. However, Plaintiff refused to fully  
7 identify Plaintiff’s electronically stored information (“ESI”).

8 7. On February 18, 2011, the parties submitted their Joint Rule 26 Report.  
9 In that report, Defendants reported Plaintiff’s refusal to engage in a meaningful  
10 discussion of the nature and extent of Plaintiff’s ESI. Attached hereto as **Exhibit**  
11 **“3”** is a true and correct copy of the Joint Rule 26 Report.

12 8. On February 24, 2011 the Court issued its Scheduling Order. Per the  
13 parties’ request, on October 26, 2011, the Court modified the order by continuing  
14 the expert discovery cutoff dates. The Scheduling Order and its amendment are  
15 attached hereto as **Exhibit “4.”**

16 9. On March 14, 2011, Stacy Ferguson propounded her First Set of  
17 Interrogatories on Plaintiff. Attached hereto as **Exhibit “5”** is a true and correct  
18 copy of Stacy Ferguson’s First Set of Interrogatories.

19 10. On April 13, 2011, Plaintiff responded to Stacy Ferguson’s First Set of  
20 Interrogatories. Attached hereto as **Exhibit “6”** is a true and correct copy of  
21 Plaintiff’s responses to Stacy Ferguson’s First Set of Interrogatories.

22 11. On August 24, 2011, Defendants took Plaintiff’s deposition and learned  
23 for the first time that Plaintiff had discarded a critical piece of evidence that  
24 Defendants’ believe would establish the fraudulent nature of his copyright claim.  
25 Specifically, Plaintiff admitted that in the middle of the litigation he knowingly  
26 disposed of a hard drive that contained files directly relevant to the issues of  
27 Plaintiff’s alleged creation and Defendants’ contention that Plaintiff has copied from  
28 The Black Eyed Peas and attempted to fabricate a claim to the contrary. Instead of

1 backing up the entire hard drive, or providing notice to and an opportunity for  
2 Defendants to examine the contents thereof, Plaintiff claims to have dumped that  
3 critical hard drive *in a landfill*. Attached hereto as **Exhibit “7”** are true and correct  
4 copies of excerpts of Plaintiff’s deposition.

5 12. On August 30, 2011, Defendant Headphone Junkie Publishing, LLC  
6 propounded its First Set of Interrogatories on him. Attached hereto as **Exhibit “8”**  
7 is a true and correct copy of Headphone Junkie Publishing, LLC’s First Set of  
8 Interrogatories on Plaintiff.

9 13. On October 3, 2011, Plaintiff served his responses and objections to  
10 Headphone Junkie Publishing, LLC’s First Set of Interrogatories. Attached hereto  
11 as **Exhibit “9”** is a true and correct copy of Plaintiff’s Responses to Headphone  
12 Junkie Publishing, LLC’s First Set of Interrogatories.

13 14. On November 7, 2011, Plaintiff served Amended Responses to Stacy  
14 Ferguson’s First Set of Interrogatories. Attached hereto as **Exhibit “10”** are  
15 Plaintiff’s amended responses.

16 15. Following receipt of Plaintiff’s Responses to Stacy Ferguson’s First Set  
17 of Interrogatories and Plaintiff’s responses to Headphone Junkie Publishing, LLC’s  
18 First Set of Interrogatories, I, along with co-counsel Kara Cenar, met and conferred  
19 with Plaintiff’s counsel on numerous occasions regarding the objections and  
20 deficient responses. Despite requests for a privilege log in support of the privilege  
21 objections, Plaintiff has failed to provide one. The parties have also been unable to  
22 resolve the dispute.

23 ///

24 ///

25 ///

26 ///

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

16. Defendants' have spent in excess of \$15,000.00 to bring this Motion.  
I declare under penalty of perjury under the laws of the State of California  
and the United States of America that the foregoing is true and correct.

Executed this 16<sup>th</sup> day of November, 2011, at Irvine, California.

/s/ Jonathan Pink  
Jonathan S. Pink