

Exhibit 1



Kara E. F. Cenar
Direct: 312-602-5019
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July 24, 2010

VIA E-MAIL, US MAIL AND HAND DELIVERY

Ira P. Gould
Law Offices of Ira Gould
120 N. LaSalle Street, Suite 2750
Chicago, Illinois 60602-2422

Re: Pringle Matter

Dear Ira and Ryan,

This letter is sent to confirm the information sent to you on Friday July 23, 2010 regarding the Pringle matter and to confirm, by letter, my request for preservation of evidence.

In my email of Friday July 23, 2010 I relayed the following information:

I also wanted to follow up with you regarding the Pringle matter as I know you intend to soon travel to meet him for the first time. During our meeting you affirmatively represented to me that you would never bring a claim if there were questions about its veracity. Your prior emails indicate your acknowledgement of the reputational harm that could be caused to my clients by the mere filing of a claim (legitimate or not). I share this information with you out of respect for you and Ryan and out of interest in keeping illegitimate claims where they belong.

I thought it was important to provide an example of the concerns I expressed during our meeting today. I also wanted to provide you with one example of why I have legitimate questions over the authenticity of Mr. Pringle's representations regarding the dates of his computer files. There are more examples, but this one should be sufficient. The basis for my concerns and my preservation request that follows is set forth below.

On May 21, 2010 you sent me a letter with several sets of two disc's, each set had a CD in an orange case and a CD in a purple case.

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You said in your letter that the CD in the Orange case was the Dance Version of Take a Dive, which was created in 1999. You represented that the CD in the purple case was the "Original Version of Take a Dive" which was copyrighted in 1998. We understand that these disc's were prepared by Mr. Pringle, and sent to you.

In the body of the May 21, 2010 letter you represent that Mr. Pringle wrote the Original Version of Take a Dive in 1997, and the Original Version was copyrighted in 1998.

I attach a pdf of a screen shot of the properties files of set one of the orange disc you sent me. The creation date and the modified date of this orange disc "Take a Dive Dance Version" file is December 31, 1994 at 7:00:02 pm. This is at least 5 years before you represent he allegedly created the Dance Version and three 3 years before he even allegedly wrote the original version of Take a Dive. The orange disc from set 2 of your May 21, 2010 letter has a different creation time. Interestingly, if you copy the file from the orange disc to your desk top, it changes these dates to the following: Created today, with a last modified date of December 31, 1994.

Would you please provide me with an explanation of the 1994 creation date?

I hope you share our genuine concerns regarding the computer files Mr. Pringle is using to try to convince you (and us) that his dates are what he is holding them out to be. I am sure you are aware that there are easy ways for Mr. Pringle to modify the Creation, Accessed and Modified dates of his computer files. There are software programs available on the internet that permit it, and there are articles all over the web with step by step instructions on how to alter these dates.

Since he is an "unsolicited client" from Texas that you have never represented before or met before, I am not sure how you can confront Mr. Pringle with this information without running the risk of him altering or tampering with computer files in the future to try to "fix" things. Given that you have advanced a claim on his behalf I am sure you have already advised Mr. Pringle of his duty to preserve all computer records. Out of caution, before Mr. Pringle is confronted with the topic of potential altered dates etc, it is likely appropriate for you to have an independent forensic computer person image his entire hard drive etc. to capture and preserve everything on his system before you confront him. It will be something we will necessarily request in discovery should this case ever reach a filed action. I leave the

Ira P. Gould
July 24, 2010
Page 3

preservation mechanism to your choice as long as there is a mechanism put in place to preserve the evidence before he is alerted to concerns over his file dating practices and inconsistencies.

On behalf of my clients', as I am sure you understand, I have to formally make a request for preservation of evidence. Please consider this email my formal request for preservation of evidence.

I am happy to discuss this with you further. I am hopeful that you will be candid with me. Since I am on the road, but still working (sigh), my cell number is the most appropriate way to reach me.

I wanted to reconfirm this by letter since I did not hear from you in response to my email, and because I believe it is important to keep preservation requests in a more formal correspondence.

Very truly yours,

/s/Kara Cenar

Kara E. F. Cenar

KEC

cc:

Ed McPherson
Linda Burrow

Exhibit 2

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

BRYAN PRINGLE, etc.,)	Case No. SACV 10-1656-JST(RZx)
Plaintiff/s,)	
v.)	ORDER SETTING SCHEDULING CONFERENCE FOR
WILLIAM ADAMS JR., etc., et al.,)	
<u>Defendant/s</u>)	MARCH 7, 2011 1:30 P.M., COURTROOM 10-A

READ THIS ORDER CAREFULLY. IT DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.

This case has been assigned to Judge Josephine Staton Tucker. If plaintiff has not already served the complaint (or any amendment thereto) on **all** defendants, plaintiff shall promptly do so and shall file proofs of service within three (3) days thereafter. Defendants also shall timely serve and file their responsive pleadings and file proofs of service within three days thereafter.

This case is set for a scheduling conference under Fed. R. Civ. P. 16(b) on the date and time stated in the caption of this Order, in Courtroom 10-A of the Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, California. Unless excused for good cause shown in advance of the scheduling

1 conference, **lead counsel** shall appear at the scheduling conference and at all pretrial
2 hearings fully informed concerning the facts of the case.

3 **1. Joint Rule 26(f) Report and ADR-01 Form**

4 As provided in Fed. R. Civ. P. 26(f), the parties shall meet at least 21 days before
5 the scheduling conference and file a Joint 26(f) Report ("Report") **no later than 14**
6 **days before the date set for the scheduling conference.** The Report shall be drafted
7 by plaintiff (unless the parties agree otherwise), but shall be submitted and signed
8 jointly. "Jointly" contemplates a single report, regardless of how many separately-
9 represented parties there are. The Report shall separately address all matters described
10 below, which include those required to be discussed by Fed. R. Civ. P. 26(f) and Local
11 Rule 26:

- 12 a. Statement of the case: a short synopsis (not to exceed two pages) of the
13 main claims, counterclaims, and affirmative defenses.
- 14 b. Legal issues: a brief description of the key legal issues, including any
15 unusual substantive, procedural, or evidentiary issues.
- 16 c. Damages: the realistic range of provable damages.
- 17 d. Insurance: whether there is insurance coverage, the extent of coverage,
18 and whether there is a reservation of rights.
- 19 e. Motions: a statement of the likelihood of motions seeking to add other
20 parties or claims, file amended pleadings, transfer venue, etc.
- 21 f. Manual for Complex Litigation: whether all or part of the procedures of
22 the Manual for Complex Litigation should be utilized.
- 23 g. Status of Discovery: a discussion of the present state of discovery,
24 including a summary of completed discovery.
- 25 h. Discovery Plan: a detailed discovery plan, as contemplated by Fed. R.
26 Civ. P. 26(f)(3), including a discussion of the proposed dates for expert
27 witness disclosures under Fed. R. Civ. P. 26(a)(2)(see Local Rule 26-1(f)).

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A statement that discovery will be conducted as to all claims and defenses, or other vague description, is not acceptable.

- i. Discovery cut-off: a proposed discovery cut-off date. This means the final day for completion of discovery.
- j. Dispositive motions: a description of the issues or claims that any party believes may be determined by motion for summary judgment or motion *in limine*.
- k. Settlement: a statement of what settlement discussions or written communications have occurred (excluding any statement of the terms discussed) and a statement pursuant to Local Rule 16-15.4 selecting a settlement mechanism under that Rule. Note, however, that the parties may not choose a settlement conference before the magistrate judge. Along with the Report, parties shall submit a completed ADR-01 "Settlement Procedure Selection" Form that designates selection of either Settlement Procedure 2 or 3. A copy of the ADR-01 form can be found in the "Forms" section of the Central District of California's official website (<http://www.cacd.uscourts.gov>). No case will proceed to trial unless all parties, including the principals of all corporate parties, have appeared personally at a settlement conference.
- l. Trial estimate: a realistic estimate of the time required for trial and whether trial will be by jury or by court. Each side should specify (by number, not by name) how many witnesses it contemplates calling. If the time estimate for trial given in the Report exceeds four court days, counsel shall be prepared to discuss in detail the estimate.
- m. Trial counsel: the name(s) of the attorney(s) who will try the case.
- n. Independent Expert or Master: whether this is a case in which the Court should consider appointing a master pursuant to Fed. R. Civ. P. 53 or an independent scientific expert. (The appointment of a master may be

1 especially appropriate if there are likely to be substantial discovery
2 disputes, numerous claims to be construed in connection with a summary
3 judgment motion, a lengthy Daubert hearing, a resolution of a difficult
4 computation of damages, etc.)
5 o. Other issues: a statement of any other issues affecting the status or
6 management of the case (*e.g.*, unusually complicated technical or
7 technological issues, disputes over protective orders, extraordinarily
8 voluminous document production, non-English speaking witnesses,
9 discovery in foreign jurisdictions, etc.) and any proposals concerning
10 severance, bifurcation, or other ordering of proof.

11 The Report should set forth the above-described information under section
12 headings corresponding to those in this Order.

13 **2. Notice to be Provided by Counsel**

14 Plaintiff's counsel or, if plaintiff is appearing *pro se*, defendant's counsel, shall
15 provide this Order to any parties who first appear after the date of this Order and to
16 parties who are known to exist but have not yet entered appearances.

17 **3. Disclosures to Clients**

18 Counsel are ordered to deliver to their respective clients a copy of this Order and
19 of the Court's trial order, which will contain the schedule that the Court sets at the
20 scheduling conference.

21 The Court thanks the parties and their counsel for their anticipated cooperation in
22 complying with these requirements.

23 IT IS SO ORDERED.

24
25 Dated: December 15, 2010

26 **JOSEPHINE STATON TUCKER**
27 **JOSEPHINE STATON TUCKER**
28 United States District Judge

Exhibit 3

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16 Attorneys for Plaintiff
BRYAN PRINGLE
17

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

22 BRYAN PRINGLE, an individual,

23 Plaintiff,

24 v.

25 WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
26 JAIME GOMEZ, all individually and
collectively as the music group The Black
27 Eyed Peas, *et al.*,

28 Defendants.

) Case No. SACV 10-1656 JST(RZx)

) **JOINT RULE 26 REPORT**

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Plaintiff Bryan Pringle (“Plaintiff”) and Defendants, William Adams, Stacy Ferguson, Allan Pineda, Jaime Gomez, individually and professionally known as the musical group The Black Eyed Peas, Tab Magnetic Publishing, Headphone Junkie Publishing, LLC, will.i.am. music, llc, Jeepney Music, Inc., Cherry River Music Co., EMI April Music, Inc., UMG Recordings, Inc., Interscope Records, Shapiro, Bernstein & Co., Inc, and David Guetta (together “Defendants”)¹ jointly submit the following report pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Local Rule 26-1, and this Court’s Order dated December 15, 2010.

A. Statement of the Case

The following constitutes a separate statement of the case by Plaintiff and Defendants:

(i) Plaintiff’s Statement of the Case

Pringle wrote and recorded the song “Take a Dive,” an original work, in 1998. He registered a claim for “Take a Dive,” along with the other songs of the CD *Dead Beat Club: 1998*, with the United States Copyright Office. Approximately a year later, Pringle made a slightly different derivative work of “Take a Dive,” to, among other things, add what can best be described as a repeating eight-bar melody, using a “guitar twang” instrument, utilizing a total of four notes (D4, C4, B3 and G3), in the following progression: D4-C4-B3-C4-B3-C4, (in the key of G3) (the “guitar twang sequence”). This “guitar twang sequence” of notes was modeled after “Take a Dive’s” progression of notes in the chorus vocals, sung by Pringle. Pringle registered the derivative version of “Take a Dive” in November 2010.

¹ Each of the Defendants has answered Plaintiff’s Amended Complaint. Plaintiff’s Amended Complaint lists other individuals and entities as defendants, who have not yet been properly served.

1 Since 1999, Pringle has been, and still is, the proprietor of the statutory
2 copyright in the musical composition and sound recording for "Take a Dive." From
3 1994 to 2008, Pringle regularly submitted demo CDs of his original music to many
4 entities and individuals in the music industry, including Defendants UMG,
5 Interscope and EMI, in the hopes of promoting his work, becoming signed as an
6 artist to a major label, or selling his songs to publishing companies and/or other
7 already established artists. He also advertised his music on the internet via multiple
8 music websites, and had his music played internationally via radio and internet.

9 In response, Pringle received rejections, including a handwritten letter, from
10 representatives at Interscope, UMG and EMI, informing him that while his music
11 was of good quality, the labels were not currently interested in signing him as an
12 artist or purchasing any of his music. Pringle has alleged that one or more of the
13 Black Eyed Peas Defendants, Defendant Guetta, and/or Defendant Riesterer accessed
14 one or more of Pringle's demo CDs that included one or more of his derivative
15 versions of "Take a Dive," listened to the song, and directly copied significant
16 portions of the song when they wrote and recorded "I Gotta Feeling."

17 Pringle further alleges that Defendants UMG and Interscope are, upon
18 information and belief, also direct infringers due to their conspiracy with the
19 members of the Black Eyed Peas to conduct an ongoing pattern and practice of
20 intentional copyright infringement. EMI, Headphone Junkie, Will.I.Am Music,
21 Jeepney Music, Tab Magnetic, Cherry River Music, Square Rivoli, Rister and
22 SB&Co., are all contributory or vicarious infringers as all had some degree of
23 supervisory control over the release, performance, sale and distribution of the single
24 "I Gotta Feeling," and the Black Eyed Peas' album, The E.N.D., which contains the
25 song "I Gotta Feeling," and all obtained direct financial benefit from doing so.

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1 **(ii) Defendants' Statement of the Case²**

2 This case involves a single claim of copyright infringement related to
3 Defendants' song "I Gotta Feeling." Although Plaintiff's assertions have evolved
4 over the course of these proceedings, Plaintiff presently asserts that the song "I Gotta
5 Feeling" is an infringement of: (a) the musical composition of a song titled "Take a
6 Dive," which Plaintiff allegedly created in 1998 and which is allegedly covered by
7 Copyright Registration No. SRu387-433, (b) the unregistered musical composition of
8 a derivative version of "Take A Dive," which Plaintiff allegedly created in 1999
9 ("Take a Dive' Derivative"), and which the Copyright Office refused to register, and
10 (c) the sound recording of "Take a Dive" Derivative allegedly covered by Copyright
11 Registration No. SR 659-360, with an effective date of November 15, 2010.

12 As detailed in the prior motions presented to this Court, there are material
13 factual, evidentiary and legal issues regarding almost every aspect of Plaintiff's
14 claim, including (i) whether Mr. Pringle created the works at issue using material that
15 is original to him, including the authenticity and proffered dates of certain computer
16 files related to Mr. Pringle's alleged creation of these works, (ii) the copyrightability
17 of Mr. Pringle's asserted works and the validity of the registration, or lack of
18 required registration, for such works, (iii) Mr. Pringle's allegation that he distributed
19 his works and that Defendants had access to those works, and (iv) whether
20 Defendants infringed any of the works at issue. There will also be factual and
21 evidentiary issues regarding Defendants' defenses, including fraud on the Copyright
22 Office, copyright misuse and unclean hands.

23 **B. Legal Issues**

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26 ² For additional background regarding the issues involved in this case, Defendants
27 respectfully refer the Court to their briefing on their prior Motions to Dismiss and to
28 Strike, and on Plaintiff's *Ex Parte* Application for a Temporary Restraining Order
and Motion for a Preliminary Injunction.

1 Plaintiff submits that the legal issues currently include whether: (a) Plaintiff
2 has established a claim for copyright infringement against each of the Defendants;
3 (b) Plaintiff can establish that Defendants intentionally infringed on his copyright,
4 and (c) Plaintiff can establish his claim for damages.

5 Defendants submit that,³ although the parties do not dispute the basic elements
6 of a claim for copyright infringement under Ninth Circuit authority, there is dispute
7 over several subsidiary legal issues, including (a) the test for infringement with
8 respect to the alleged sampling of a sound recording, (b) whether Plaintiff's
9 infringement claim with respect to "Take a Dive" Derivative musical composition is
10 barred by the Copyright Office's refusal to register such composition, (c) whether the
11 asserted registration for a 2010 sound recording of "Take a Dive" Derivative validly
12 protects Plaintiff's sound recording allegedly created in 1999, (d) whether Plaintiff
13 can establish that Defendants had access to the works at issue under established
14 Ninth Circuit authority, (e) whether Plaintiff's claim for attorney's fees and statutory
15 damages are barred by delinquent registration of copyright under 17 USC § 411, and
16 (f) whether Plaintiff's claim is barred by Defendants' defenses, including copyright
17 misuse, fraud on the Copyright Office and unclean hands.

18 **C. Damages**

19 Plaintiff seeks permanent injunctive relief to enjoin Defendants from
20 infringing his copyright, including the imposition of a constructive trust over
21 wrongfully made profits during the pendency of the litigation. Plaintiff also seeks
22 actual damages, including lost profits and disgorgement of Defendants' profits, and
23 songwriting credit for the infringing song "I Gotta Feeling," in turn entitling him to
24 future revenue from the song.

25 _____
26 ³ For additional discussion of the legal issues involved in this case Defendants
27 respectfully refer the Court to their briefing on their prior Motions to Dismiss and to
28 Strike, and on Plaintiff's *Ex Parte* Application for a Temporary Restraining Order
and Motion for a Preliminary Injunction.

1 Defendants seek recovery of their attorneys' fees and costs under the
2 Copyright Act, as well as any and all other relief to be granted by the Court.

3 **D. Insurance**

4 Plaintiff has no applicable insurance coverage.

5 Defendants do not have applicable insurance coverage.

6 **E. Motions**

7 On February 13, 2011, Defendants moved to dismiss or strike Plaintiff's
8 Amended Complaint and for a more definite statement, which motions were denied
9 on January 27, 2011. Plaintiff moved for an *Ex Parte* Application for Temporary
10 Restraining Order on November 19, 2010, which was denied on November 20, 2010.
11 Plaintiff filed a Motion for Preliminary Injunction on January 7, 2010, which motion
12 was denied on February 8, 2011 following a hearing on January 31, 2011.

13 While the parties do not currently anticipate filing such motions, they
14 nonetheless reserve their respective rights to move for leave, or to oppose a motion
15 for leave, to file amended pleadings or to add additional parties or claims as
16 discovery proceeds or as additional new relevant parties are discovered. Neither
17 party anticipates moving for transfer of venue. Defendants anticipate that they may
18 file dispositive motions on one or more issues in this case.

19 **F. Manual for Complex Litigation**

20 The parties agree that this is not a complex case and the Manual for Complex
21 Litigation will not be necessary, except Defendants submit that, as discussed in
22 Section H below, phased discovery would be appropriate

23 **G. Status of Discovery**

24 The parties have not yet exchanged written discovery, nor have the parties
25 commenced oral discovery. The parties anticipate having exchanged their respective
26 initial disclosures prior to the March 7, 2011 Initial Scheduling Conference in this
27 matter.

28 **H. Discovery Plan**

1 **Rule 26(f)(3)(A) – Changes in Timing, Form or Requirement for**

2 **Disclosures:**

3 Plaintiff and Defendants agree that Initial Disclosures pursuant to Rule
4 26(a)(1)(A) be made on February 28, 2011, fourteen days after the parties' Rule 26(f)
5 conference, as provided in Rule 26(a)(1)(C).

6 **Rule 26(f)(3)(B) – Subjects and Schedule for Discovery:**

7 Plaintiff proposes a discovery cutoff of July 29, 2011.

8 Plaintiff anticipates written and oral discovery will include discovery on the
9 following subjects: (a) validity of Plaintiff's copyright; (b) willfulness of
10 Defendants' conduct; (c) publication of "Take a Dive"; (d) damages; (e) access by
11 Defendants to "Take a Dive"; (f) creation of "I Gotta Feeling"; (g) Defendants'
12 pattern and practice of intentional infringement; and (h) Defendants' business
13 practices regarding intentional infringement of others' intellectual property. Plaintiff
14 reserves the right to take discovery on additional topics as information is uncovered
15 during the course of discovery. Plaintiff anticipates taking 10 fact witness
16 depositions.

17 Defendants submit that they have been unable to prepare a comprehensive
18 discovery plan because Plaintiff's counsel refused to engage in a meaningful
19 discussion of the nature and extent of Mr. Pringle's electronically stored information
20 (ESI), as is required by Rule 26(f)(3)(C), during the Rule 26(f) conference between
21 the parties. Mr. Pringle's ESI will likely play a crucial role in discovery in this
22 action, as it goes directly to the threshold issues of Plaintiff's ownership of a valid
23 copyright, including, the dates and manner of Plaintiff's alleged creation of "Take a
24 Dive" and "Take a Dive" Derivative, and the validity of Plaintiff's asserted copyright
25 registrations of those works. Plaintiff's counsel's refusal to discuss the nature and
26 extent of Mr. Pringle's ESI, what form it takes, and how difficult it will be to inspect,
27 produce and review, makes it impossible to realistically assess the amount of time
28 that will be needed to complete discovery. Defendants respectfully seek the Court's

1 assistance regarding Plaintiff's refusal to provide the required information.
 2 However, without waiving their rights to propose an alternate schedule following
 3 Plaintiff's compliance with Rule 26(f)(3)(C), Defendants propose the discovery
 4 schedule below.

6 Matter	Defendants' Proposed Dates
7 Deadline for dispositive motions	January 6, 2012
8 9 Deadline for depositions of expert 10 witnesses who served reports on issues as 11 to which the party does not bear the burden of proof; Close of all discovery	November 25, 2011
12 Deadline to serve responsive Rule 13 26(a)(2) expert reports on issues as to 14 which the party does not bear the burden of proof	October 28, 2011
15 16 Deadline for depositions of expert 17 witnesses who served reports on issues as 18 to which the party bears the burden of proof	September 30, 2011
19 20 Deadline to serve affirmative Rule 21 26(a)(2) expert reports on issues as to which the party bears the burden of proof	September 2, 2011
22 Fact discovery cut-off	August 5, 2011
23 Deadline to amend the pleadings	June 10, 2011
24 Rule 26(a)(1)(A) Initial Disclosures	February 28, 2011

26
 27 Because Mr. Pringle's ESI goes directly to the issue of his ownership of valid
 28 copyrights, which, as the Court recognized in its decision denying Plaintiff's Motion

1 for Preliminary Injunction, is a threshold issue in this case, Defendants submit that it
2 would be appropriate to conduct discovery as to Mr. Pringle's ESI before engaging
3 in discovery of other issues, such as access, copying, similarity and damages.
4 Discovery on those other issues is likely to be burdensome for both the parties and
5 the Court, as there are likely to be disputes about, among other things, the scheduling
6 and location of depositions (particularly given the nature of Defendants' work and
7 Plaintiff's stated desire to take discovery abroad), the extent of discovery into alleged
8 infringements of works not involved in this case, and the entry of a protective order
9 governing confidential financial information. Conducting discovery first as to
10 Plaintiff's ESI will therefore allow the parties to address the threshold issue of
11 Plaintiff's copyright ownership, and likely save valuable party and Court resources.

12 Following discovery on that threshold issue, Defendants anticipate that, if
13 necessary, discovery will take place on the following subjects: (1) alleged access to
14 the works at issue, (2) alleged copying of the works at issue, (3) alleged similarity of
15 the works at issue, (4) independent creation of "I Gotta Feeling", (5) alleged
16 sampling of "Take a Dive" Derivative, (6) financial issues related to Plaintiffs'
17 claims of actual damages, (7) financial issues related to Plaintiffs' claims directed to
18 Defendants' profits. Discovery will also be taken on issues related to Defendants'
19 defenses, including laches, unclean hands, unjust enrichment, copyright misuse,
20 setoff, estoppel, and waiver. Defendants submit that discovery on Plaintiffs
21 proposed topics (b), (g), and (h) above are not relevant to the single claim of
22 copyright infringement, as state of mind is not relevant where, as here, statutory
23 damages are unavailable. Defendants reserve the right to take up to 10 depositions,
24 excluding expert depositions.

25 There will be expert discovery involved in this case, and related expert
26 discovery and depositions are expected.

27 **Rule 26(f)(3)(C) – Issues About Electronically Stored**
28 **Information:**

1 Plaintiff proposes, over Defendants' objection, that production of
2 electronically stored information will be produced in TIFF format, in a Concordance
3 load file (*.lfp or *.opt) in a format capable of being uploaded into counsel's
4 systems. If an issue arises about metadata, the parties have agreed to meet and
5 confer and then, if necessary, bring the issue to the Magistrate. Plaintiff proposes
6 that the parties will not be required to OCR the TIFF files produced, however, the
7 parties agree to exchange OCR data as available.

8 Plaintiff further proposes that with respect to discovery requests of any sound
9 files or music files, the parties anticipate that such production will be in native
10 format, but reserve the right to revisit this issue with respect to sound files or music
11 files and meet and confer, and then if necessary bring the issue to the Magistrate.

12 Defendants submit that there has not been the required Rule 26(f) conference
13 on the topic of Mr. Pringle's ESI, thereby making it impossible to formulate
14 appropriate ESI procedures. Without a full discussion of these issues and
15 implementation of appropriate ESI procedures, Defendants' ability to obtain
16 important evidence without engaging in expensive and time-consuming motion
17 practice (which Plaintiffs' proposal would entail), will be impaired. In particular,
18 Defendants believe that metadata for many files will be required, and that in addition
19 to sound and music files, there are other categories of ESI in Mr. Pringle's
20 possession, that will need to be produced in native form or forensically examined.
21 Moreover, Plaintiff's counsel has refused to even confirm the existence of certain
22 categories of ESI, including (i) computer equipment and files related to Mr. Pringle's
23 alleged creation of the works at issue in 1998 and 1999, (ii) back up discs, old hard
24 drives or other ESI related to Mr. Pringle's alleged creation of these works, and (iii)
25 computer systems used by Mr. Pringle subsequent to his alleged creation of the
26 works at issue, which may contain evidence refuting the alleged creation dates and
27 showing that Mr. Pringle had access to Defendants' works prior to creating his own
28 works. Plaintiff's refusal to engage in a meaningful discussion of these ESI issues

1 has made it impossible for Defendants to know what additional categories of ESI will
2 need to be produced in native format or forensically examined, or to assess the
3 timing or costs involved in possible review of native files or forensic examination.
4 Therefore, adoption of Plaintiff's above proposal for production of ESI will
5 materially prejudice Defendants access to important evidence. Defendants
6 respectfully reserve their right to submit a proposal under this section after a proper
7 disclosure and discussion regarding Plaintiff's ESI has occurred.

8 **Rule 26(f)(3)(D) – Issues About Claims of Privilege or**
9 **Protection:**

10 Plaintiff does not anticipate any particular problems regarding production of
11 privileged documents that relate to this case. Both parties reserve the right to raise
12 these issues with the Judge or Magistrate if they arise during the course of discovery.

13 Defendants have been informed by Plaintiff's counsel that Plaintiff will
14 oppose *any* request for a protective order governing confidential information
15 produced during discovery, or relating to potential claw-back of inadvertently
16 produced privileged documents, without even seeing a draft of the proposed order.
17 Defendants believe that Plaintiff's position makes it likely that the parties will have a
18 dispute related to the handling of confidential information and/or inadvertently
19 produced privileged documents, and that motions for protective orders will be
20 necessary.

21 **Rule 26(f)(3)(E) – Changes to Discovery Limitations in Federal**
22 **Rules:**

23 Plaintiff does not propose any limitations or modification to the discovery
24 rules outside of those limitations already in place pursuant to the Federal Rules of
25 Civil Procedure and the Local Rules of this Court.

26 Defendants propose that, given the nature of Defendants' work and related
27 travel, and the fact that they have a world-tour scheduled in 2011, no depositions be
28 scheduled by merely issuing a Notice under Rule 34. Instead, the parties should be

1 required to meet and confer with respect to dates, times and locations of depositions,
2 and attempt to accommodate the work and travel schedules of the parties and their
3 counsel. If the parties cannot reach agreement in this manner, they should be
4 required to raise the issue with the Judge or Magistrate Judge before noticing
5 depositions.

6 Defendants are not presently able to assess whether any other changes should
7 be made to the limitations on discovery imposed under the Rules or the Local Rules,
8 given Plaintiff's counsel's refusal to participate in the required discussion of Mr.
9 Pringle's ESI. Defendants reserve their rights to submit a supplemental proposal
10 under this section after proper disclosure and discussion regarding Plaintiff's ESI has
11 occurred.

12 **Rule 26(f)(3)(F) – Orders:**

13 Plaintiff does not anticipate any particular problems regarding production of
14 privileged documents but reserves the right to raise these issues if they arise during
15 the course of discovery. Plaintiff does not propose any limitations or modification to
16 the discovery rules outside of those limitations already in place pursuant to the
17 Federal Rules of Civil Procedure and the Local Rules of this Court or those
18 specifically identified within this Report.

19 Defendants anticipate requesting a protective order pursuant to Rule
20 26(c)(1)(G) governing confidential information produced during discovery, pursuant
21 to Rule 26(c)(1)(B) regarding the time and place for depositions, and pursuant to
22 Rule 26(c)(1)(E) governing persons who may be present while discovery is
23 conducted. Defendants also anticipate that they will have to seek a protective order
24 pursuant to Rule 26(c)(1)(D), precluding Plaintiff from conducting discovery into
25 unrelated lawsuits that have been filed against certain of the defendants, which bear
26 no relevance to this action, and to prevent other burdensome, oppressive, and
27 potentially harassing discovery. In particular, Defendants intend to seek an order
28 precluding Plaintiff from seeking discovery as to matters involved in the case entitled

1 *Batts v. Adams*, C.D. Cal. Case No. CV 10-8123 (RZx). Counsel for Plaintiff in this
2 case also represents the Plaintiffs in the *Batts* case. (A copy of the Court's order
3 Denying Motion for Preliminary Injunction in *Batts* is attached to this Report as
4 Exhibit "A"). Accordingly, permitting discovery as to the matters involved in the
5 *Batts* case will risk duplicative and potentially abusive discovery and circumvention
6 of the discovery Rules (including the seven-hour limit on depositions and the rule
7 limiting each party to a single deposition of each witness) and of the scheduling
8 orders discovery plans, and protective orders to be issued in the *Batts* case and in this
9 case

10 Defendants also submit that, unless Plaintiff's counsel engages in an
11 informative and meaningful discussion of Mr. Pringle's ESI, a motion to compel
12 discovery may be required.

13 **I. Discovery Cut-off**

14 Plaintiff proposes a discovery cut-off date of July 29, 2011.

15 Defendants propose a fact discovery cut-off date of August 5, 2011 and an
16 expert discovery cut-off date of November 25, 2011, along with the other dates set
17 forth in the proposed schedule above.

18 **J. Dispositive motions**

19 Plaintiff does not anticipate making any motions which may be dispositive or
20 partially dispositive at this time but reserves the right to do so as information is
21 developed through discovery.

22 Defendants anticipate moving for summary judgment on several issues,
23 including (i) (a) lack of copyright ownership, (b) lack of access, (c) failure to prove
24 copying, (d) lack of substantial similarity, and (e) failure to comply with statutory
25 registration requirements,

26 Defendants also anticipate filing motions under *Daubert* with respect to
27 Plaintiff's expert disclosures, and motions *in limine* with respect to alleged
28

1 infringements of works not at issue in this action. Motions *in limine* may also arise
2 in connection with Mr. Pringle's ESI.

3 **K. Settlement**

4 The parties engaged in settlement discussions beginning in 2010 but were
5 unable to resolve the dispute. No settlement discussions are currently ongoing.
6 Plaintiff and Defendants elect private mediation for settlement.

7 **L. Trial Estimate**

8 Each party has made a jury demand. Plaintiff estimates that the trial of this
9 matter will take ten (10) days to complete due to the nature of the claims and the
10 number of defendants. Plaintiff further estimates that he will call a minimum of ten
11 (10) to fifteen (15) witnesses at the trial of this matter. Plaintiff proposes a trial date
12 of November 11, 2011.

13 Defendants estimate that the trial of this matter will take no more than seven
14 (7) days. Defendants estimate that they will call approximately seven (7) witnesses.
15 Defendants propose a February 24, 2012 trial date because Judge Walker has set a
16 trial date of January 24, 2012 in the *Batts* case, which involves a majority of the
17 Defendants in this case, and both Plaintiff's and many of the same Defendants'
18 counsel. In addition, as Plaintiffs' counsel were informed during the scheduling
19 conference in this action and in the *Batts* case, The Black Eyed Peas, key defendants
20 in this case, have long been committed to a 2011 tour schedule, which includes travel
21 in the Middle East in and around the November 11, 2011 trial date suggested by
22 Plaintiffs. A tour of this magnitude requires a commitment of substantial financial
23 and human resources. If forced to return to the United States for trial during the tour,
24 Defendants (and dozens of other unrelated individuals) would incur significant undue
25 financial hardship associated with delay, rerouting of equipment and personnel, and
26 breached touring agreements (all of which could amount to many hundreds of
27 thousands of dollars, or more). In light of the foregoing, the individual members of
28 The Black Eyed Peas, who will be traveling in connection with the tour in and

1 around November 2011, will be prejudiced in their ability to prepare for trial if it
 2 were to commence in November 2011.

3 Plaintiff proposes the following schedule:
 4

5 Matter	Plaintiff's Proposed Dates
6 Trial date (jury) (court) Estimated length: 10 days	November 11, 2011
7 Final Pretrial Conference; Hearing on Motions 8 <i>in Limine</i> ; File Agreed Upon Set of Jury 9 Instructions and Verdict Forms and Joint 10 Statement re Disputed Instructions and Verdict Forms; File Proposed Voir Dire Qs and Agreed- to Statement of Case	October 28, 2011
11 Lodge Pretrial Conference Order 12 File Memo of Contentions of Fact and Law; 13 Exhibit List; Witness List; Status Report re Settlement	October 21, 2011
14 Last day for hand-serving Motions <i>in Limine</i>	October 7, 2011
15 Last day for hearing motions	September 23, 2011
16 Last day for hand-serving motions and filing 17 (other than Motions <i>in Limine</i>)	August 26, 2011
18 Rebuttal Expert Witness Disclosure	October 27, 2011
19 Opening Expert Witness Disclosure	August 26, 2011
20 Non-expert Discovery cut-off	July 29, 2011
21 Last Day to Conduct Settlement Conference	April 27, 2011
22 Last Day to Amend Pleadings or Add Parties	May 27, 2011

23 Defendants propose the following Schedule:⁴

24 Matter	Defendants' Proposed Dates
25 _____ 26	

27 ⁴ A schedule specific to ESI may be required if after the required conference there
 28 are particular ESI issues identified.

1	Trial; (Estimated length no more than seven (7) days)	February 24, 2012
2	Final Pretrial Conference; Hearing on Motions <i>in Limine</i> ; File Agreed Upon Set of Jury Instructions and Verdict Forms and Joint Statement re Disputed Instructions and Verdict Forms; File Proposed Voir Dire Qs and Agreed-to Statement of Case	February 17, 2012
3		
4		
5		
6	Lodge Pretrial Conference Order	February 10, 2012
7	File Memo of Contentions of Fact and Law; Exhibit List; Witness List; Status Report re Settlement	
8		
9	Deadline for filing motions <i>in limine</i>	January 27, 2012
10	Deadline for filing dispositive motions	January 6, 2012
11		
12	Deadline for depositions of expert witnesses who served reports under on issues as to which the party does not bear the burden of proof; Close of all discovery	November 25, 2011
13		
14		
15	Deadline to serve responsive Rule 26(a)(2) expert reports on issues as to which the party does not bear the burden of proof	October 28, 2011
16		
17		
18	Deadline for depositions of expert witnesses who served reports on issues as to which the party bears the burden of proof	September 30, 2011
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20		
21	Deadline to serve affirmative Rule 26(a)(2) expert reports on issues as to which the party bears the burden of proof	September 2, 2011
22		
23	Close of fact discovery	August 5, 2011
24		
25	Deadline to amend the pleadings	June 10, 2011
26		
27		
28		

1 Service of Rule 26(a)(1)(A) initial 2 disclosures	February 28, 2011
--	-------------------

3
4 **M. Trial Counsel**

5 Trial counsel for Plaintiff is Dean A. Dickie of Miller, Canfield, Paddock and
6 Stone, P.L.C.

7 Trial Counsel for Defendants Adams, Pineda, Gomez, Ferguson, will.i.am
8 music, llc, Jeepney Music, Tab Magnetic, Headphone Junkie, Cherry, EMI, are Kara
9 E.F.Cenar and Jonathan Pink of Bryan Cave LLP.

10 Trial Counsel for Defendants Universal Music and Interscope is Linda M.
11 Burrow of Caldwell, Leslie and Proctor, PC

12 Trial Counsel for Defendants Shapiro, Bernstein & Co., Inc. and David Guetta
13 is Barry I. Slotnick of Loeb & Loeb LLP.

14 **N. Independent Expert or Master**

15 It is Plaintiff's position that an independent scientific expert or master
16 pursuant to Fed. R. Civ. P. 53 is not necessary in this litigation. Defendants submit
17 that the issue of Mr. Pringle's ESI could potentially require a Special Master.

18 **O. Other Issues**

19 The parties anticipates that there will likely be disputes over entry of a
20 protective order governing confidential information, potential forensic ESI issues,
21 and proceeding with discovery in foreign jurisdictions, but do not anticipate other
22 issues affecting the status or management of the case at this time.

23 Defendants submit that there may be non-English speaking witnesses who will
24 require a translator for depositions and/or trial testimony.

25 As discussed above, Defendants request that discovery on Plaintiff's ESI and
26 copyright ownership take place before discovery on other issues, and Defendants
27 reserve the right to seek bifurcation or severance of damages.

28

1 Defendants state that Plaintiffs' intention of conducting discovery on other
2 unrelated litigation and settlements, and on claims not asserted, but which would be
3 pre-empted under 17 U.S.C. 301 or are otherwise unavailable under California law,
4 will raise some unusual legal issues in this case.

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1 Dated: February 18, 2011

Dean A. Dickie (appearing *Pro Hac Vice*)
Kathleen E. Koppenhoefer (appearing *Pro Hac Vice*)
MILLER, CANFIELD, PADDOCK AND STONE,
P.L.C.

Ira Gould (appearing *Pro Hac Vice*)
Ryan L. Greely (appearing *Pro Hac Vice*)
GOULD LAW GROUP

George L. Hampton IV (State Bar No. 144433)
Colin C. Holley (State Bar No. 191999)
HAMPTONHOLLEY LLP

By: \s\
Attorneys for Plaintiff BRYAN PRINGLE

BRYAN CAVE LLP

By: \s\
Kara E.F. Cenar
Jonathan Pink

Attorneys 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, LLC;
JEEPNEY MUSIC, INC.; EMI APRIL MUSIC,
INC.

CALDWELL LESLIE AND PROCTOR PC

By: \s\
Linda M Burrow
Attorneys for Defendants
UMG Recordings, Inc. Interscope Records

LOEB & LOEB LLP

By: \s\
Barry I. Slotnick
Tal E. Dickstein
Attorneys for Defendants Shapiro, Bernstein & Co.,
Inc. and David Guetta

Hellwig, Elaine

From: cacd_ecfmail@cacd.uscourts.gov
Sent: Friday, February 18, 2011 3:30 PM
To: ecfnef@cacd.uscourts.gov
Subject: Activity in Case 8:10-cv-01656-JST -RZ Bryan Pringle v. William Adams Jr et al Joint Report Rule 26(f) Discovery Plan

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by Hampton, George on 2/18/2011 at 3:30 PM PST and filed on 2/18/2011

Case Name: Bryan Pringle v. William Adams Jr et al
Case Number: 8:10-cv-01656-JST -RZ
Filer: Bryan Pringle
Document Number: 110

Docket Text:

JOINT REPORT Rule 26(f) Discovery Plan ; estimated length of trial 10 days, filed by Plaintiff Bryan Pringle.. (Hampton, George)

8:10-cv-01656-JST -RZ Notice has been electronically mailed to:

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8:10-cv-01656-JST -RZ Notice has been delivered by First Class U. S. Mail or by fax to :

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:Final Joint Rule 26 report(18831423_1).pdf

Electronic document Stamp:

[STAMP cacdStamp_ID=1020290914 [Date=2/18/2011] [FileNumber=11148645-0
] [9bb0985c8cd8b3da07212cbb90160c98549bed7efe844ea4d5e38875597516c2487
769f99aca6943217e80e953c073cd7c7c86f79df865f8a022f8e11d4bcf7c]]

Exhibit 4

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 10-1656 JST (RZx)

Date: February 24, 2011

Title: BRYAN PRINGLE v. WILLIAM ADAMS, JR., et al.

Present: The Honorable JOSEPHINE STATON TUCKER, U.S. DISTRICT JUDGE

Nancy Boehme
Deputy Clerk

N/A
Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

Not Present

Not Present

**Proceedings: (In Chambers) ORDER VACATING SCHEDULING
CONFERENCE AND SETTING CASE MANAGEMENT DATES**

On the Court's own motion, the Scheduling Conference set for hearing on March 7, 2011, is VACATED and taken off calendar, and the following dates are set. The Court declines, at this time, to order the parties to conduct staged discovery or to formally modify the manner in which depositions are scheduled. However, the Court expects counsel to meet and confer regarding discovery issues, including both scheduling and efficient ordering of discovery. Counsel's attention is directed to the Court's Order on Jury Trial filed concurrently with this minute order.

Last Day to Submit Settlement Procedure Selection (ADR-01 Form and Order):	03-21-11
Last Day for Hearing on Motion to Add Parties and Amend Pleadings:	06-06-11
Discovery Cut-off (Fact and Expert):	11-14-11
Last Day to Conduct Settlement Proceedings:	11-28-11
Last Day for Law & Motion Hearings:	12-19-11
Final Pre-Trial Conference (1:30 p.m.):	02-13-12
Exhibit Conference (3:00 p.m.):	02-24-12
Jury Trial (9:00 a.m.):	02-28-12
Trial Estimate:	7-10 Days

Initials of Preparer: nkb

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

BRYAN PRINGLE, an individual,

Plaintiff,

v.

WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
JAIME GOMEZ, all individually and
collectively as the music group The Black
Eyed Peas, *et al.*,

Defendants.

) Case No. SACV 10-1656 JST(RZx)

) **ORDER CONTINUING EXPERT
DISCOVERY CUTOFF DATES
PURSUANT TO STIPULATION**

1 Upon the Stipulation of the parties to this action, and for good cause shown, IT
2 IS HEREBY ORDERED THAT:

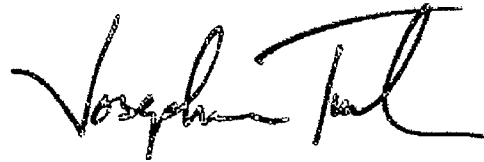
3 1. The date by which initial expert disclosures must be made is now
4 **November 23, 2011;**

5 2. The date by which rebuttal expert disclosures must be made – including
6 Defendants’ rebuttal disclosures, if any, on costs and net profits attributable to the
7 alleged infringement (including but not limited to, the apportionment of such profits)
8 – is now **December 16, 2011;** and

9 3. The deadline by which to complete expert discovery is continued from
10 November 14, 2011 to **January 6, 2012.**

11 4. All other case management deadlines to remain.

12
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14 Dated: October 26, 2011



HON. JOSEPHINE STATON TUCKER
UNITED STATES DISTRICT JUDGE

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Exhibit 5

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

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10 Attorneys for Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN
11 PINEDA; and JAIME GOMEZ, all individually and collectively as the music
group THE BLACK EYED PEAS; will.i.am music, llc; TAB MAGNETIC
12 PUBLISHING; CHERRY RIVER MUSIC CO.; HEADPHONE JUNKIE
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
17 Plaintiff,
18 v.

19 WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
20 JAIME GOMEZ, all individually and
collectively as the music group the
Black Eyed Peas; DAVID GUETTA;
21 FREDERICK RIESTERER; UMG
RECORDINGS, INC.; INTERSCOPE
22 RECORDS; EMI APRIL MUSIC,
INC.; HEADPHONE JUNKIE
23 PUBLISHING, LLC; WILL.I.AM.
MUSIC, LLC; JEEPNEY MUSIC,
24 INC.; TAB MAGNETIC
PUBLISHING; CHERRY RIVER
25 MUSIC CO.; SQUARE RIVOLI
PUBLISHING; RISTER EDITIONS;
26 and SHAPIRO, BERNSTEIN & CO.,
27
28 Defendants.

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

**DEFENDANT STACY
FERGUSON'S FIRST SET OF
INTERROGATORIES TO
PLAINTIFF BRYAN PRINGLE**

Complaint Filed: October 28, 2010
Trial Date: Not Assigned

1 Pursuant to Federal Rules of Civil Procedure 26 and 33, defendant Stacy
2 Ferguson (“Ferguson”) submits this First Set of Interrogatories (the
3 “Interrogatories”) to plaintiff Bryan Pringle (“Pringle”). Pringle must respond to
4 these Interrogatories in writing and submit such responses to the offices of Bryan
5 Cave, LLP, 3161 Michelson Drive, Suite 1500, Irvine, California, 92612, within
6 thirty (30) days of receipt hereof.

7 **DEFINITIONS AND INSTRUCTIONS**

8 For the purposes of the following Interrogatories:

9 1. The terms “DOCUMENT” or “DOCUMENTS” are used herein in their
10 customary broad sense, and include any tangible things that come within the
11 meaning of “document” or “tangible thing” contained in Rule 34 of the Federal
12 Rules of Civil Procedure, or within the meaning of “writing” as contained in Rule
13 1001 of the Federal Rules of Evidence.

14 2. “COMMUNICATION” or “COMMUNICATIONS” shall mean and
15 include all oral, written, electronic, or other forms of communication, including
16 conversations, meetings, conferences, telephone calls, and means of communication
17 through any document, including e-mail.

18 3. “PERSON” or “PERSONS” shall mean and refer to any natural person
19 in any capacity whatsoever, and any entity or organization, including without
20 limitation, a corporation, partnership, joint venture, firm, business trust, estate, trust,
21 group, association, municipal corporation, government, governmental subdivision,
22 agency, commission, bureau, department, or any other type of business or legal
23 entity.

24 4. “YOU” or “YOUR” refers to plaintiff Bryan Pringle, which may be
25 expressed in terms of proper name, any nicknames, any professional or other alias
26 names, any screen names, including DJ Spanky, Altared State, Dead Beat Club,
27 DRDR313, or any other identifier used by you, in all social media, the Internet, and
28 other forms of COMMUNICATION, as well as each of your agents, attorneys,

1 representatives, employees, and PERSONS acting or purporting to act on your
2 behalf.

3 5. "DEFENDANTS" refers to William Adams, Stacy Ferguson; Allan
4 Pineda; and Jaime Gomez, all individually and collectively as the music group The
5 Black Eyed Peas; will.i.am music, llc; Tab Magnetic Publishing; Cherry River
6 Music Co.; Headphone Junkie Publishing, LLC; Jeepney Music, Inc., EMI April
7 Music, Inc.

8 6. "COMPLAINT" refers to the Complaint for damages filed by YOU
9 and on or about October 28, 2010, in the United States District Court for the Central
10 District of California, Case No. SACV10-1656 JST (RZx), and any amendments
11 thereto.

12 7. "RELATING TO" OR "REFERRING TO" includes, but is not limited
13 to, the following meanings: bearing upon, concerning, addressing, respecting,
14 regarding, discussing, mentioning, describing, reflecting, responding to, identifying,
15 constituting, pertaining to, having to do with, or being in any way pertinent to the
16 given subject.

17 8. "FACTS" shall mean all DIRECT EVIDENCE and non-speculative
18 information (whose truth may be proven) about circumstances or events known to
19 have occurred (as opposed to those based on conjuncture or inference). "DIRECT
20 EVIDENCE" means evidence that immediately proves a proposition without
21 inference or presumption and which, when in the form of testimony, comes from a
22 witness who actually saw the acts done or heard the words spoken that constitute the
23 precise information to be proven, and when in the form of a DOCUMENT shows
24 the *factum probandum* without intervention from other proof.

25 9. "IDENTIFY" when relating to a PERSON means to state the
26 PERSON's full name; present or last known business address; present or last known
27 residential address (for natural persons); present or last known business telephone
28 number; and present or last known residential telephone numbers (for natural

1 persons). "IDENTIFY" when relating to a COMMUNICATION(S) means to
2 provide the entire substance of the COMMUNICATION(S); the date of the
3 COMMUNICATION(S); the PERSON or PERSON making the
4 COMMUNICATION(S); all PERSONS who received the COMMUNICATION(S);
5 whether the COMMUNICATION(S) was written, oral, or electronic; and if the
6 COMMUNICATION(S) was memorialized in writing or mechanical or other
7 means of recording, state the date on which such memorialization occurred and the
8 present location of said writing or mechanical recording.

9 10. "MUSICAL COMPOSITION" and "MUSICAL COMPOSITIONS" as
10 used herein shall have the same meaning as contemplated in 17 U.S.C. § 102(a)(2).

11 11. "SOUND RECORDING" as used herein shall have the same meaning
12 as that term is expressly defined in 17 U.S.C. § 101.

13 12. "TAKE A DIVE" as used herein shall mean the MUSICAL
14 COMPOSITION of the same name YOU claim to have authored in 1998, as
15 expressed in Paragraph 27 of YOUR COMPLAINT, and further, YOU claim is
16 subject to Copyright Registration No. SRu000387433, as expressed in Paragraph 28
17 of YOUR COMPLAINT.

18 13. "TAKE A DIVE SR" as used herein shall mean the SOUND
19 RECORDING embodying the MUSICAL COMPOSITION "TAKE A DIVE,"
20 which YOU claim to have created in 1998 as expressed in Paragraph 27 of YOUR
21 COMPLAINT, and further, YOU claim is subject to Copyright Registration No.
22 SRu000387433, as expressed in Paragraph 28 of YOUR COMPLAINT.

23 14. "TAKE A DIVE (DANCE VERSION)" as used herein shall mean the
24 MUSICAL COMPOSITION of the same name that YOU claim to have authored in
25 1999 as an adaptation of "TAKE A DIVE," as expressed in Paragraph 29 of YOUR
26 COMPLAINT, and further, an application to register a claim to copyright in which
27 was rejected by the United States Copyright Office in or about November 2010.

28 15. "TAKE A DIVE (DANCE VERSION) SR" as used herein shall mean

1 the SOUND RECORDING embodying the MUSICAL COMPOSITION "TAKE A
2 DIVE (DANCE VERSION)," which YOU claim to have created in 1999 as
3 expressed in Paragraph 29 of YOUR COMPLAINT, and further, YOU claim is
4 subject to Copyright Registration No. SR0000659360.

5 16. "PUBLIC PERFORMANCE" as used herein incorporates and is
6 coextensive with the definitions of "perform" and "publicly" as contained in 17
7 U.S.C. § 101.

8 17. "DISTRIBUTION" as used herein shall have the same meaning as the
9 term "publication" as it is defined in 17 U.S.C. § 101.

10 18. "COPIES" as used herein shall have the same meaning as that term is
11 expressly defined in 17 U.S.C. § 101.

12 19. "PHONORECORDS" as used herein shall have the same meaning as
13 that term is expressly defined in 17 U.S.C. § 101.

14 20. "APPLICATION SOFTWARE" means a set of electronic instructions,
15 also known as a program, which instructs a COMPUTER or other electronic device
16 to perform a specific set of processes.

17 21. "ARCHIVE" means a copy of data on a COMPUTER drive, or on a
18 portion of a drive, maintained for historical reference.

19 22. "BACKUP" means a copy of active data, intended for use in restoration
20 of data.

21 23. The connectives "and" and "or" shall be construed either disjunctively
22 or conjunctively, as necessary, to bring within the scope of the discovery request all
23 responses that might otherwise be construed to be outside of its scope.

24 24. The singular shall include the plural and vice versa, as necessary, to
25 bring within the scope of the discovery request all responses that might otherwise be
26 construed to be outside its scope.

27 25. The past tense shall include the present tense and vice versa, as
28 necessary, to bring within the scope of the discovery request all responses that might

1 otherwise be construed to be outside its scope.

2 26. Where knowledge or information in YOUR possession is requested, the
3 request extends to knowledge or information in the possession of YOUR
4 predecessors and/or successors, as well as to information in the possession of
5 YOUR agents, employees, servants, representatives, and, unless privileged,
6 attorneys. Whenever an answer to these Interrogatories contains information that is
7 not based upon YOUR personal knowledge, state the source and the nature of such
8 information.

9 27. If any information called for by any Interrogatory herein is withheld
10 because YOU claim that such information is privileged in whole or in part, state all
11 facts supporting such privilege, and IDENTIFY each PERSON having knowledge
12 of the factual basis on which the privilege is asserted.

13 28. These Interrogatories are deemed to be continuing, and YOU are
14 required to supplement YOUR answers in a timely manner in accordance with the
15 requirements of Rule 26 of the Federal Rules of Civil Procedure.

16 29. If YOU contend that it would be unreasonably burdensome to obtain
17 and provided all information responsive to any one of these Interrogatories, then in
18 response the appropriate request, please (1) set forth all information that can be
19 produced by YOU without undertaking what YOU contend to be an unreasonable
20 burden; and (2) state with particularity the grounds upon which YOU contend that it
21 would be unreasonably burdensome to produce further responsive information.

22 **INTERROGATORIES**

23 **INTERROGATORY NO. 1:**

24 State with specificity, using standard music notation and concrete musical
25 examples (as opposed to merely listing generalized musical elements and
26 descriptions) each and every difference between the MUSICAL COMPOSITIONS
27 embodied in TAKE A DIVE and TAKE A DIVE (DANCE VERSION).

28

1 **INTERROGATORY NO. 2:**

2 State *in seriatim* and with specificity all things YOU used to create the
3 MUSICAL COMPOSITION embodied in TAKE A DIVE (DANCE VERSION),
4 including all hardware, software, instruments (including human voice), or otherwise.

5 **INTERROGATORY NO. 3:**

6 State *in seriatim* and with specificity all things YOU used to create TAKE A
7 DIVE (DANCE VERSION) SR, including all hardware, software, instruments
8 (including human voice), or otherwise.

9 **INTERROGATORY NO. 4:**

10 State with specificity the date or dates during which YOU claim to have
11 authored the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION).

12 **INTERROGATORY NO. 5:**

13 State with specificity the date or dates during which YOU claim to have
14 authored the TAKE A DIVE (DANCE VERSION) SR.

15 **INTERROGATORY NO. 6:**

16 IDENTIFY all other PERSONS besides YOU who assisted with, participated
17 in, have knowledge concerning, or are in any way connected with, the creation of
18 the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION).

19 **INTERROGATORY NO. 7:**

20 IDENTIFY all other PERSONS besides YOU who assisted with, participated
21 in, have knowledge concerning, or are in any way connected with the creation of
22 TAKE A DIVE (DANCE VERSION) SR, including as a result of having rendered a
23 performance of the MUSICAL COMPOSITION embodied therein.

24 **INTERROGATORY NO. 8:**

25 State all FACTS that YOU contend demonstrate that any of the
26 DEFENDANTS had ACCESS to the MUSICAL COMPOSITION, TAKE A DIVE
27 (DANCE VERSION), prior to 2009. The term "ACCESS" as used herein means to
28 have actually heard, or had a reasonable opportunity or possibility to hear the

1 MUSICAL COMPOSITION at issue.

2 **INTERROGATORY NO. 9:**

3 State with specificity each element of the MUSICAL COMPOSITION,
4 TAKE A DIVE (DANCE VERSION), that YOU contend to be ORIGINAL to
5 YOU. The term "ORIGINAL" as used herein means those elements of the
6 MUSICAL COMPOSITION that were actually created by YOU as opposed to
7 copied from, or merely reference, other sources, and that exhibit some minimal level
8 of creativity.

9 **INTERROGATORY NO. 10:**

10 State *in seriatim*, and in full and explicit terms, each element of the
11 MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), that YOU
12 contend is protectable according to established copyright law irrespective of whether
13 YOU view the work to be copyrightable subject matter under either 17 U.S.C. §
14 102(a)(2), 17 U.S.C. § 103, or both.

15 **INTERROGATORY NO. 11:**

16 State *in seriatim*, and with specificity, all DOCUMENTS, copyright
17 principles and authority, music-related texts, expert reports, or other sources of
18 authority that YOU actually used in determining YOUR response to Interrogatory
19 No. 10, above.

20 **INTERROGATORY NO. 12:**

21 State *in seriatim*, explicitly and with specificity, all protectable elements
22 YOU set forth in response to Interrogatory No. 10 above, that YOU contend appear
23 in, or are shared by, the MUSICAL COMPOSITION, "I Gotta Feeling."

24 **INTERROGATORY NO. 13:**

25 For each element set forth in YOUR response to Interrogatory No. 12, above,
26 state all FACTS supporting YOUR contention that each shared element resulted
27 from, and only from, copying the MUSICAL COMPOSITION, "TAKE A DIVE
28 (DANCE VERSION)."

1 **INTERROGATORY NO. 14:**

2 List *in seriatim* and in full and explicit terms, each similarity YOU perceive
3 to exist between the MUSICAL COMPOSITIONS “TAKE A DIVE (DANCE
4 VERSION)” and “I Gotta Feeling.”

5 **INTERROGATORY NO. 15:**

6 State all FACTS that evidence that any of the DEFENDANTS actually copied
7 the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), when
8 creating the MUSICAL COMPOSITION entitled “I Gotta Feeling.”

9 **INTERROGATORY NO. 16:**

10 State all FACTS that YOU contend demonstrate that any of the
11 DEFENDANTS had ACCESS to TAKE A DIVE (DANCE VERSION) SR prior to
12 2009. The term “ACCESS” as used herein means to have actually heard, or had a
13 reasonable opportunity or possibility to hear, the SOUND RECORDING at issue.

14 **INTERROGATORY NO. 17:**

15 List *in seriatim* and in full and explicit terms, each similarity YOU perceive
16 to exist between TAKE A DIVE (DANCE VERSION) SR and “I Gotta Feeling.”

17 **INTERROGATORY NO. 18:**

18 State all FACTS that any of the DEFENDANTS physically appropriated any
19 portion of TAKE A DIVE (DANCE VERSION) SR when creating “I Gotta
20 Feeling.”

21 **INTERROGATORY NO. 19:**

22 State with specificity, and according to YOUR personal knowledge, each and
23 every PUBLIC PERFORMANCE, throughout the world, of the MUSICAL
24 COMPOSITION, TAKE A DIVE (DANCE VERSION), including FACTS
25 concerning when, where, by what means, and by whom the work was performed.

26 **INTERROGATORY NO. 20:**

27 State with specificity, and according to YOUR personal knowledge, each and
28 every DISTRIBUTION, throughout the world, of the MUSICAL COMPOSITION,

1 TAKE A DIVE (DANCE VERSION), including FACTS concerning when, where,
2 by what means, by whom, and to whom the work was distributed.

3 **INTERROGATORY NO. 21:**

4 State with specificity, and according to YOUR personal knowledge, each and
5 every PUBLIC PERFORMANCE, throughout the world, of TAKE A DIVE
6 (DANCE VERSION) SR, including FACTS concerning when, where, by what
7 means, and by whom the work was performed.

8 **INTERROGATORY NO. 22:**

9 State with specificity, and according to YOUR personal knowledge, each and
10 every DISTRIBUTION, throughout the world, of TAKE A DIVE (DANCE
11 VERSION) SR, including FACTS concerning when, where, by what means, by
12 whom, and to whom the work was distributed.

13 **INTERROGATORY NO. 23:**

14 To the extent not covered by Interrogatories Nos. 19 and 20 above, state with
15 specificity all non-public or limited exploitations, throughout the world, of the
16 MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), including all
17 such performances and dispositions of COPIES thereof, as well as the activities
18 YOU reference in Paragraphs 31 and 32 of YOUR COMPLAINT. In connection
19 with such non-public or limited exploitations, YOU are to state all FACTS
20 concerning when, where, by what means, by whom TAKE A DIVE (DANCE
21 VERSION) was performed or distributed, and to whom it was distributed.

22 **INTERROGATORY NO. 24:**

23 To the extent not covered by Interrogatories Nos. 21 and 22 above, state with
24 specificity all non-public or limited exploitations, throughout the world, of TAKE A
25 DIVE (DANCE VERSION) SR, including all such performances and dispositions of
26 PHONORECORDS thereof, as well as the activities YOU reference in Paragraphs
27 31 and 32 of YOUR COMPLAINT. In connection with such non-public or limited
28 exploitations, YOU are to state all FACTS concerning when, where, by what means,

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IRVINE, CALIFORNIA 92612-4414

1 by whom TAKE A DIVE (DANCE VERSION) SR was performed or distributed,
2 and to whom it was distributed.

3 **INTERROGATORY No. 25:**

4 If other adaptations exist beyond TAKE A DIVE (DANCE VERSION) of the
5 MUSICAL COMPOSITION entitled TAKE A DIVE that YOU claim were created
6 prior to 2009 and YOU claim are relevant to this lawsuit, please list all such
7 adaptations.

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Dated: March 14, 2011

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By: 

Jonathan Pink

Attorneys for Defendants

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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, LLC; JEEPNEY MUSIC,
INC.; EMI APRIL MUSIC, INC.

**PROOF OF SERVICE
CCP 1013A(3) REVISED 5/1/88**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is: 3161 Michelson Drive, Suite 1500, Irvine, CA 92612-4414.

On March 14, 2011, I served the foregoing document(s) described as:

**DEFENDANT STACY FERGUSON'S FIRST SET OF INTERROGATORIES TO
PLAINTIFF BRYAN PRINGLE**

on all interested parties in this action by placing a true copy the original thereof enclosed in sealed envelopes addressed as follows:

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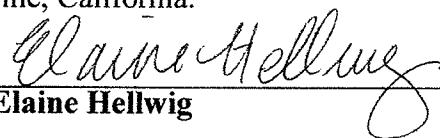
BY CM/ECF NOTICE OF ELECTRONIC FILING: I caused said document(s) to be served by means of this Court's electronic transmission of the Notice of Electronic filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF Users set forth in the service list obtained from this Court.

BY MAIL - As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY EMAIL - I caused a true copy of the foregoing document(s) to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address shown above. Each transmission was reported as complete and without error.

FEDERAL - I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on March 14, 2011, at Irvine, California.



Elaine Hellwig

Exhibit 6

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17 Attorneys for Plaintiff
BRYAN PRINGLE

18
19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA
21 SOUTHERN DIVISION

22 BRYAN PRINGLE, an individual,

23 Plaintiff,

24 v.

25 WILLIAM ADAMS, JR.; STACY
26 FERGUSON; ALLAN PINEDA; and
27 JAIME GOMEZ, all individually and
collectively as the music group The Black
Eyed Peas, *et al.*,

28 Defendants.

) Case No. SACV 10-1656 JST(RZx)

) **PLAINTIFF'S RESPONSE TO
DEFENDANT STACY
FERGUSON'S FIRST SET OF
INTERROGATORIES**

) **Complaint Filed: October 28, 2010
Trial Date: January 24, 2012**

1 PROPOUNDING PARTY: Defendant STACY FERGUSON
2 RESPONDING PARTY: Plaintiff BRYAN PRINGLE
3 SET NO.: One
4

5 Plaintiff Bryan Pringle submits this Answer to Defendant, Stacy Ferguson's
6 ("Ferguson"), First Set of Interrogatories (the "Interrogatories").

7
8 **GENERAL OBJECTIONS**

9 1. Plaintiff objects to each interrogatory insofar as it is vague, overly
10 broad, not limited in time and scope, oppressive, harassing or vexatious, imposes
11 burden or expense that outweighs the likely benefit, seeks legal conclusions, and/or
12 seeks information not relevant to the lawsuit nor reasonably calculated to lead to the
13 discovery of admissible evidence.

14 2. Plaintiff objects to the extent that these interrogatories seek information
15 protected by the attorney/client or the work product privilege. Plaintiff will not
16 provide any such privileged information.

17 3. The following answers are given based upon the information and
18 documents of which Plaintiff's counsel is currently aware. Plaintiff's investigation
19 continues and Plaintiff specifically reserves the right to supplement the following
20 answers as this litigation proceeds. The following answers are given herein without
21 prejudice to Plaintiff's right to supplement or change its answers or objections and to
22 produce evidence of additional facts.

23 4. Plaintiff's answers are not an admission that any such information is
24 relevant or admissible.

25 5. Plaintiff objects to each interrogatory, instruction or definition that
26 purports to impose any obligation greater than or different from those required under
27 the Federal Rules of Civil Procedure and Local Orders of the Court.

28 6. Plaintiff specifically reserves the right to assert additional objections.

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DEFINITIONS AND INSTRUCTIONS

Plaintiff objects to each and every definition and instruction as set forth in Defendant's Interrogatories because each purports to impose an obligation greater than or different from those required under the Federal Rules of Civil Procedure and Local Orders of the Court.

INTERROGATORIES

INTERROGATORY NO. 1: State with specificity, using standard music notation and concrete musical examples (as opposed to merely listing generalized musical elements and descriptions) each and every difference between the MUSICAL COMPOSITIONS embodied in TAKE A DIVE and TAKE A DIVE (DANCE VERSION).

ANSWER: Objection. Plaintiff objects to Interrogatory No. 1 because it is overbroad, unduly burdensome and calls for the disclosure of attorney work product and attorney client privileged information. Without waiving said objection, Plaintiff directs Defendant to Plaintiff's declaration in support of his Motion for Preliminary Injunction and to the allegations contained within his First Amended complaint, including Paragraphs 27 - 30. Investigation continues.

INTERROGATORY NO. 2: State *in seriatim* and with specificity all things YOU used to create the MUSICAL COMPOSITION embodied in TAKE A DIVE (DANCE VERSION), including all hardware, software, instruments (including human voice), or otherwise.

ANSWER: Plaintiff objects to Interrogatory No. 2 because it is vague, overly broad and unduly burdensome. Without waiving his objection, Plaintiff states that he used an Ensoniq ASR-10, 16 track midi sequencer, sampler and workstation, with a built in effects processor,

1 floppy drive, with an expandable 16 mb ram and optional SCSI port for
2 storage to compatible hard drives. Plaintiff had the optional digital I/O
3 port, the fully expanded (16) mb ram, the SCSI port, with multiple
4 compatible hard drives, and other compatible cd-rom drives, as well as a
5 Sony multi-cd player with a digital I/O port (for sampling
6 instrumentation and effects from licensed sources such as instrumental
7 construction disks from third party vendors). Instruments would either
8 be loaded into the ASR-10 via floppy drive, cd-rom and hard drive, or
9 sampled into the ASR-10, via the digital I/O port or sampled from an
10 external audio source such as one of the many different midi keyboards
11 that he used, including but not limited to, Akai, Korg, Yamaha, Roland,
12 Kurzweil, Emu, and Ensoniq, or custom instruments would be created
13 and then individual wavesamples would be loaded into the custom
14 created instruments via cd-rom, hard drive, or floppy drive. Plaintiff
15 also used an Audio Technica microphone, rackmount compressor, and
16 rackmount Digitech effects processor, as well as other unknown
17 equipment. Investigation continues.

18 **INTERROGATORY NO. 3:** State *in seriatim* and with specificity all things YOU
19 used to create TAKE A DIVE (DANCE VERSION) SR, including all hardware,
20 software, instruments (including human voice), or otherwise.
21

22 **ANSWER:** See answer and objections to Interrogatory No. 2.

23 **INTERROGATORY NO. 4:** State with specificity the date or dates during which
24 YOU claim to have authored the MUSICAL COMPOSITION, TAKE A DIVE
25 (DANCE VERSION).
26

27 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 4 because
28 it is vague. Without waiving his objection, Plaintiff directs Defendant

1 to the allegations contained within the First Amended Complaint, to his
2 declaration in support of Plaintiff's Motion for Preliminary Injunction
3 and states that he authored TAKE A DIVE (DANCE VERSION) during
4 1998 to 1999. Investigation continues.

5 **INTERROGATORY NO. 5:** State with specificity the date or dates during which
6 YOU claim to have authored the TAKE A DIVE (DANCE VERSION) SR.
7

8 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 5 because
9 it is vague. Without waiving his objection, Plaintiff directs defendant to
10 the allegations in his First Amended Complaint, to his declaration in
11 support of Plaintiff's Motion for Preliminary Injunction and states that
12 he authored TAKE A DIVE (DANCE VERSION) SR during 1998 to
13 1999. Investigation continues.

14 **INTERROGATORY NO. 6:** IDENTIFY all other PERSONS besides YOU who
15 assisted with, participated in, have knowledge concerning, or are in any way
16 connected with, the creation of the MUSICAL COMPOSITION, TAKE A DIVE
17 (DANCE VERSION).
18

19 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 6 because it
20 is overly broad, unduly burdensome and not likely to lead to the
21 discovery of relevant evidence. Without waiving said objections, none.
22 Investigation continues.

23 **INTERROGATORY NO. 7:** IDENTIFY all other PERSONS besides YOU who
24 assisted with, participated in, have knowledge concerning, or are in any way
25 connected with the creation of TAKE A DIVE (DANCE VERSION) SR, including
26 as a result of having rendered a performance of the MUSICAL COMPOSITION
27 embodied therein.
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ANSWER: Objection. Plaintiff objects to Interrogatory No. 7 because it is vague, overly broad, unduly burdensome and not likely to lead to the discovery of relevant evidence. Without waiving said objections, none. Investigation continues.

INTERROGATORY NO. 8: State all FACTS that YOU contend demonstrate that any of the DEFENDANTS had ACCESS to the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), prior to 2009. The term "ACCESS" as used herein means to have actually heard, or had a reasonable opportunity or possibility to hear the MUSICAL COMPOSITION at issue.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 8 because it is overly broad, unduly burdensome and not likely to lead to the discovery of relevant evidence. Without waiving said objections, Plaintiff directs Defendant to his declaration in support of Plaintiff's Motion for Preliminary Injunction and to Paragraphs 31 to 39 of the First Amended Complaint. Plaintiff further refers Defendant to the musicologist expert report attached to Plaintiff's Motion for Preliminary Injunction. Investigation continues.

INTERROGATORY NO. 9: State with specificity each element of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), that YOU contend to be ORIGINAL to YOU. The term "ORIGINAL" as used herein means those elements of the MUSICAL COMPOSITION that were actually created by YOU as opposed to copied from, or merely reference, other sources, and that exhibit some minimal level of creativity.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 9 because it is vague and requiring disclosure of attorney work product and attorney client privileged information. Without waiving said objection,

1 Plaintiff states that the entire musical composition of TAKE A DIVE
2 (DANCE VERSION) is original to Plaintiff. Investigation continues.

3 **INTERROGATORY NO. 10:** State *in seriatim*, and in full and explicit terms,
4 each element of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE
5 VERSION), that YOU contend is protectable according to established copyright law
6 irrespective of whether YOU view the work to be copyrightable subject matter under
7 either 17 U.S.C. § 102(a)(2), 17 U.S.C. § 103, or both.

8
9 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 10 as
10 requiring disclosure of attorney work product and attorney-client
11 privileged information and to the extent it asks for a legal conclusion.
12 Subject to and without waiving his objections, Plaintiff states that the
13 entire musical composition TAKE A DIVE (DANCE VERSION) is
14 protectable according to established U.S. copyright law. Investigation
15 continues.

16 **INTERROGATORY NO. 11:** State *in seriatim*, and with specificity, all
17 DOCUMENTS, copyright principles and authority, music-related texts, expert
18 reports, or other sources of authority that YOU actually used in determining YOUR
19 response to Interrogatory No. 10, above.

20
21 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 11 to the
22 extent it asks for information that is work product or attorney client
23 privileged. Plaintiff further objects to Interrogatory No. 11 to the extent
24 that it requires a legal conclusion. Subject to and without waiving his
25 objections, Plaintiff refers Defendant to U.S. Copyright Law and case
26 law, including *Feist Publications Inc. v. Rural Telephone Service Co.,*
27 *Inc.*, 499 U.S. 340 (1991), *Metcalf v. Bochco*, 294 F.3d 1069 (9th Cir.
28 2002) and *Three Boys Music Corp. v. Michael Bolton*, 212 F.3d 477

1 (9th Cir. 2000). Plaintiff also relied on the professional opinions and
2 reports of his experts. Investigation continues.

3 **INTERROGATORY NO. 12:** State *in seriatim*, explicitly and with specificity, all
4 protectable elements YOU set forth in response to Interrogatory No. 10 above, that
5 YOU contend appear in, or are shared by, the MUSICAL COMPOSITION, Gotta
6 Feeling."

7
8 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 12 because
9 it is overly broad, unduly burdensome and asks for information that is
10 work product or attorney client privileged. Without waiving said
11 objection, Plaintiff directs Defendant to Plaintiff's declaration in support
12 of Plaintiff's Motion for Preliminary Injunction, to the musicologist
13 report attached to his Motion for Preliminary Injunction, and to the First
14 Amended Complaint, including paragraphs 40 through 43. Investigation
15 continues.

16 **INTERROGATORY NO. 13:** For each element set forth in YOUR response to
17 Interrogatory No. 12, above, state all FACTS supporting YOUR contention that each
18 shared element resulted from, and only from, copying the MUSICAL
19 COMPOSITION, "TAKE A DIVE (DANCE VERSION)."

20
21 **ANSWER:** See answer and objections to Interrogatory No. 12. Plaintiff
22 further directs Defendant to Plaintiff's declaration in support of
23 Plaintiff's Motion for Preliminary Injunction, and to paragraphs 31
24 through 39 of the First Amended Complaint. Investigation continues.

25 **INTERROGATORY NO. 14:** List *in seriatim* and in full and explicit terms, each
26 similarity YOU perceive to exist between the MUSICAL COMPOSITIONS "TAKE
27 A DIVE (DANCE VERSION)" and "I Gotta Feeling."
28

1 **ANSWER:** See answer and objections to Interrogatory No. 12.
2 Investigation continues.

3
4 **INTERROGATORY NO. 15:** State all FACTS that evidence that any of the
5 DEFENDANTS actually copied the MUSICAL COMPOSITION, TAKE A DIVE
6 (DANCE VERSION), when creating the MUSICAL COMPOSITION entitled "I
7 Gotta Feeling."

8 **ANSWER:** See answer and objections to Interrogatory No. 13.
9 Investigation continues.

10 **INTERROGATORY NO. 16:** State all FACTS that YOU contend demonstrate
11 that any of the DEFENDANTS had ACCESS to TAKE A DIVE (DANCE
12 VERSION) SR prior to 2009. The term "ACCESS" as used herein means to have
13 actually heard, or had a reasonable opportunity or possibility to hear, the SOUND
14 RECORDING at issue.

15 **ANSWER:** See answer and objections to Interrogatory No. 8.
16 Investigation continues.

17
18 **INTERROGATORY NO. 17:** List *in seriatim* and in full and explicit terms, each
19 similarity YOU perceive to exist between TAKE A DIVE (DANCE VERSION) SR
20 and "I Gotta Feeling."

21 **ANSWER:** See answer and objections to Interrogatory No. 13.
22 Investigation continues.

23
24 **INTERROGATORY NO. 18:** State all FACTS that any of the DEFENDANTS
25 physically appropriated any portion of TAKE A DIVE (DANCE VERSION) SR
26 when creating "I Gotta Feeling."

27 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 18
28 because it is overly broad, unduly burdensome and requires the

1 disclosure of attorney work product and attorney client privileged
2 information. Without waiving said objections, Plaintiff refers
3 Defendant to the report of expert Mark Rubel attached to Plaintiff's
4 Motion for Preliminary Injunction. Investigation continues.

5
6 **INTERROGATORY NO. 19:** State with specificity, and according to YOUR
7 personal knowledge, each and every PUBLIC PERFORMANCE, throughout the
8 world, of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION),
9 including FACTS concerning when, where, by what means, and by whom the work
10 was performed.

11 **ANSWER:** Objection. Plaintiff objects to interrogatory No. 19 because
12 it is unduly burdensome. Without waiving his objection, TAKE A DIVE
13 (DANCE VERSION) was played throughout North America and
14 Western Europe on the internet and the radio. Investigation continues.

15 **INTERROGATORY NO. 20:** State with specificity, and according to YOUR
16 personal knowledge, each and every DISTRIBUTION, throughout the world, of the
17 MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), including
18 FACTS concerning when, where, by what means, by whom, and to whom the work
19 was distributed.

20
21 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 20 because
22 it is vague, overly broad and unduly burdensome. Without waiving his
23 objection, from around 1999 through 2006, Plaintiff submitted hundreds
24 of demo cd's and tapes, all of which included "Take a Dive (Dance
25 Version)," to various music publishers, record companies, talent
26 managers, songwriters, booking agents and radio stations, including but
27 not limited to: Universal (UMG), EMI, Interscope/Geffen, EMI Music
28 Publishing (Jody Gerson, Big Jon Platt, Benjamin Groff, Andy

1 Furhman, Rebecca Wright), TVT Records, Reprise, Atlantic Records
2 (WEA), Columbia (Sony), Electra (WEA), Hollywood Records, Epic
3 Records, Electra Entertainment, Sony (ATV) Publishing (Bill Brown,
4 Eric Beall), Interscope/UMG, Lava (WEA), Island Def-Jam Music
5 Group, RCA, Maverick (WEA), Lava (WEA), Jennifer Havey, Sal
6 Guastella, Matt Marshall, Ashley Newton, Brian Leach, Scott Austin,
7 Debbie Southwood, Karen Kwak, Duff Marlowe, Ken Komisar, Mark
8 Gormley, Wendy Higgs, Kaz Utsunomia, Mike Caren, John Pikus,
9 Virgin Records, Warner Bros. Records, Craig Aaronson, A&M Records,
10 Arista Records, Virgin Records, Sire, Rykodisc, Jen Bailey, ATN
11 Management, Azoff Music Mangement, Caliente Entertainment, East
12 End Management, Lindsay Scott, Mosaic Media Group, T. Skorman,
13 McGhee Entertainment, Network Management and Rebel Waltz
14 Management. This list includes various individuals and entities in
15 Australia, America, Canada, Japan, France, Germany, Holland, Sweden,
16 Switzerland, Great Britain and Ireland. Investigation continues.

17 **INTERROGATORY NO. 21:** State with specificity, and according to YOUR
18 personal knowledge, each and every PUBLIC PERFORMANCE, throughout the
19 world, of TAKE A DIVE (DANCE VERSION) SR, including FACTS concerning
20 when, where, by what means, and by whom the work was performed.
21

22 **ANSWER:** See answer and objections to Interrogatory No. 19.
23 Investigation continues.

24 **INTERROGATORY NO. 22:** State with specificity, and according to YOUR
25 personal knowledge, each and every DISTRIBUTION, throughout the world, of
26 TAKE A DIVE (DANCE VERSION) SR, including FACTS concerning when,
27 where, by what means, by whom, and to whom the work was distributed.
28

1 **ANSWER:** See answer and objections to Interrogatory Nos. 19 and 20.
2 Investigation continues.

3 **INTERROGATORY NO. 23:** To the extent not covered by Interrogatories Nos.
4 19 and 20 above, state with specificity all non-public or limited exploitations,
5 throughout the world, of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE
6 VERSION), including all such performances and dispositions of COPIES thereof, as
7 well as the activities YOU reference in Paragraphs 31 and 32 of YOUR
8 COMPLAINT. In connection with such non-public or limited exploitations, YOU are
9 to state all FACTS concerning when, where, by what means, by whom TAKE A
10 DIVE (DANCE VERSION) was performed or distributed, and to whom it was
11 distributed.

12 **ANSWER:** See answer and objections to Interrogatory Nos. 19 and 20.
13 Investigation continues.

14 **INTERROGATORY NO. 24:** To the extent not covered by Interrogatories Nos.
15 21 and 22 above, state with specificity all non-public or limited exploitations,
16 throughout the world, of TAKE A DIVE (DANCE VERSION) SR, including all
17 such performances and dispositions of PHONORECORDS thereof, as well as the
18 activities YOU reference in Paragraphs 31 and 32 of YOUR COMPLAINT. In
19 connection with such non-public or limited exploitations, YOU are to state all
20 FACTS concerning when, where, by what means, by whom TAKE A DIVE
21 (DANCE VERSION) SR was performed or distributed, and to whom it was
22 distributed.

23 **ANSWER:** See answer and objections to Interrogatory No. 21 and 22.
24 Investigation continues.

25 **INTERROGATORY NO. 25:** If other adaptations exist beyond TAKE A DIVE
26 (DANCE VERSION) of the MUSICAL COMPOSITION entitled TAKE A DIVE
27 28

1 that YOU claim were created prior to 2009 and YOU claim are relevant to this
2 lawsuit, please list all such adaptations.

3 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 25 because
4 it is vague and overly broad. Without waiving his objection, Plaintiff
5 states that there were multiple derivative versions of "Take a Dive" that
6 were included on Plaintiffs' demo cds and tapes, including several
7 where the guitar twang sequence was soloed out as the introduction of
8 the song. Plaintiff also states that the MUSICAL COMPOSITION is
9 based at least in part, on Plaintiff's song copyrighted songs "Faith" and
10 "Faith Re-mix". Investigation continues.

11
12 Dated: April 13, 2011

Dean A. Dickie (appearing Pro Hac Vice)
Kathleen E. Koppenhoefer (appearing Pro Hac Vice)
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19
20 By: 
Attorneys for Plaintiff Bryan Pringle

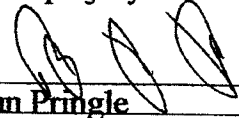
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VERIFICATION

I, Bryan Pringle, state that I have knowledge of the foregoing events, and that the answers made to Defendant Ferguson's First Set of Interrogatories are true and correct, to the best of my knowledge.

I declare the foregoing to be true under penalty of perjury.



Bryan Pringle

April 12, 2011.

HAMPTONHOLLEY LLP
2101 East Coast Highway, Suite 260
Corona del Mar, California 92626

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PROOF OF SERVICE

I am employed in the County of Cook, State of Illinois. I am over the age of 18 and not a party to the within action. My business address is 225 West Washington Street, Suite 2600, Chicago, Illinois 60606.

On this date, I served the foregoing document and disc on all interested parties in this action listed on the attached Service List as follows:

(BY MAIL) - I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Chicago, Illinois in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing on affidavit.

(BY FACSIMILE) - By transmitting a true copy thereof by facsimile from facsimile number 312.460-4201 to the facsimile number(s) shown on the attached Service List, for which electronic confirmation was received from the facsimile machine that said document was successfully transmitted without error.

(BY OVERNIGHT DELIVERY) - By depositing the above document(s) in a box or other facility regularly maintained by FedEx in an envelope or package designated by FedEx with delivery fees paid.

(BY EMAIL) - By causing a true copy of the document(s) to be served by electronic mail transmission at the time shown on each transmission, to each interested party at the email address shown on the attached Service List. Each transmission was reported as complete and without error.

(State) I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

(Federal) I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on April 13, 2011, at Chicago, Illinois.



Irina V. Frye

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Service List
Bryan Pringle v. William Adams, Jr. et al.
Case Number: 8:10-cv-01656-JST -RZ

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Exhibit 7

Deposition of Bryan Pringle - August 24, 2011

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

BRYAN PRINGLE, an)
individual,)
)
Plaintiff,)
)
v.)
)
WILLIAM ADAMS, JR.;)
STACY FERGUSON; ALLAN)
PINEDA; and JAIME)
GOMEZ, all)
individually and)
collectively as the)
music group the Black)
Eyed Peas; DAVID)
GUETTA; FREDERICK)
RIESTERER; UMG)
RECORDINGS, INC.;)
INTERSCOPE RECORDS;)
EMI APRIL MUSIC,)
INC.; HEADPHONE)
JUNKIE PUBLISHING,)
LLC; WILL.I.AM MUSIC,)
LLC; JEEPNEY MUSIC,)
INC.; TAB MAGNETIC)
PUBLISHING; CHERRY)
RIVER MUSIC CO.;)
SQUARE RIVOLI)
PUBLISHING;)
RISTER EDITIONS;)
and SHAPIRO,)
BERNSTEIN & CO.,)
)
Defendants.)

**CERTIFIED
TRANSCRIPT**

Case No.
8:10-cv-01656-JST-RZ

VIDEOTAPED DEPOSITION OF
BRYAN PRINGLE

Wednesday, August 24, 2011

Deposition of Bryan Pringle - August 24, 2011

1 at this time it was roughly around that time.

2 Q. So the hard drive that you used
3 in 2010, where is that hard drive?

4 A. Landfill? I don't know.

5 Q. What did you do with that hard
6 drive, sir, the one that you used in your
7 computer in 2010?

8 A. From -- I honestly don't
9 recall. I do recall that in 2010, as in
10 previous years, if there's a warranty
11 available through the manufacturer, I will
12 normally send it back and get another hard
13 drive.

14 However, I can only speculate.
15 I can say that it's been my pattern and
16 practice, because of the obsolescence of
17 technology, most likely that hard drive was
18 thrown away because of the speed was a slower
19 speed, it also had a slower -- lower cache,
20 and also I've slowly been moving from IDE
21 drives, which were previously SCSI drives, to
22 SATA, because I found that they're more
23 reliable.

24 So the answer to your question,

Deposition of Bryan Pringle - August 24, 2011

1 short and simple, it's most likely in a
2 landfill but I can't say for sure.

3 Q. So the hard drive that you used
4 in 2010 is most likely in a landfill. Can
5 you tell me when you removed it from your
6 computer?

7 A. I couldn't tell you, but it
8 was -- I can speculate.

9 Q. Could you tell me when you
10 believe you removed it from your computer?

11 A. It would have been sometime
12 around 2011, the first part of it, when I
13 replaced the drive.

14 Q. Can you give me an approximate
15 time frame?

16 A. I believe that I just did, but
17 I'll give it to you again. I believe around
18 January '11, 2011, I'm sorry.

19 Q. So around January 11, 2011, you
20 removed your hard drive that you used during
21 the 2010 time period?

22 A. Not January -- let me correct
23 my previous statement. What I meant to say
24 was January 2011. I accidentally said 11

Deposition of Bryan Pringle - August 24, 2011

1 before 2011 and I apologize.

2 Q. That's quite all right. So
3 sometime in January of 2011, you removed the
4 hard drive for your computer that you had
5 used in 2010. Is that correct?

6 A. I believe so, around that time
7 frame. I don't know if it was specifically
8 January 2011 or it was late December 2010 or
9 the first of February 2011. But in that
10 general time frame, from what I recall at
11 this time.

12 Q. And how long had you been using
13 that hard drive that you removed and
14 discarded in late December 2010 or early
15 January 2011?

16 A. You're talking about the hard
17 drive from 2010?

18 Q. Correct.

19 A. I don't recall.

20 Q. A year, two years?

21 A. I don't recall. And I can add
22 to that, just because I replace a hard drive
23 doesn't necessarily mean that I throw it out.
24 I have in the past kept hard drives in case

Deposition of Bryan Pringle - August 24, 2011

1 one drive fails and maybe I can transfer
2 information there temporarily, or maybe I
3 would give it to somebody or something like
4 that.

5 Q. But this one you said is in a
6 landfill, most likely. Correct?

7 A. Yes. I mean, I can only
8 speculate. And my recollection doesn't go
9 back that far, but --

10 Q. We're talking January of 2011.
11 That's this year. Your recollection doesn't
12 go back that far?

13 A. No, it doesn't.

14 Q. Okay. So the hard drive --

15 A. Well, let me -- let me add to
16 that. My recollection for this specific
17 instance, if you're talking about my hard
18 drive, I don't have a recollection. There
19 are much more important issues for me.
20 That's not really an important issue for me
21 as far as when the specific date was that I
22 may have discarded a hard drive, just for
23 clarification.

24 Q. You may have discarded or did

Deposition of Bryan Pringle - August 24, 2011

1 you discard the hard drive that you used in
2 2010?

3 A. Ma'am, I believe I've told you
4 several times that I don't recall what
5 exactly I did with it. It may have been
6 discarded, it may not have been discarded. I
7 may have given it to someone. It may be in a
8 landfill, it may not. But I don't recall
9 specifically.

10 Q. But you can agree with me that
11 you no longer possess the hard drive that you
12 used in 2010. Is that fair?

13 A. Yes.

14 Q. And is that the same hard drive
15 that you would have used in 2009?

16 MR. DICKIE: Objection, calls
17 for speculation.

18 A. I don't recall. It's too long
19 ago. My memory doesn't -- you're asking me
20 about hard drives. It's not something like I
21 have a list on my wall, "Okay," [clapping
22 hands], "I replaced this one in 2009 in
23 August." It's not really something that I
24 recall specifically.

Deposition of Bryan Pringle - August 24, 2011

1 It's not a high priority on my
2 life list to recall -- and I'm not making fun
3 of you. I'm not trying to make light of it.
4 I just -- I don't really recall. It's not a
5 high priority for me to recall exactly when I
6 replace hard drives. Maybe for you, but not
7 for me.

8 BY MS. CENAR:

9 Q. Well, I would like an answer to
10 my question. How long did you have the hard
11 drive that you used in 2010 before you
12 discarded it?

13 A. Ma'am, I believe I've already
14 answered that question. I told you that I
15 don't recall.

16 Q. Could it have been more than a
17 year, sir?

18 A. Ma'am, I've already answered
19 that question. I don't recall. I mean, you
20 can ask me 50 times but the answer is gonna
21 be the same.

22 Q. Do you recall having a hard
23 drive prior to the hard drive that you used
24 in 2010?

Deposition of Bryan Pringle - August 24, 2011

1 A. I had multiple hard drives, to
2 clarify, yes. Well, I'm sorry. Let me
3 clarify. Do I recall specifically that
4 specific drive prior to 2010?

5 Q. Yes.

6 A. I don't understand the
7 question, I guess.

8 Q. Did you have other hard drives
9 prior to the hard drive that you used in
10 2010?

11 A. Yes.

12 Q. And do you recall how many
13 you've had hard-drive-wise between 1998 and
14 2010?

15 A. No.

16 Q. Would it be more than 10?

17 A. Ma'am, I believe I've answered
18 that. I don't recall. But I can give you a
19 rough estimate, and I would say yes, it's
20 more than 10.

21 Q. Do you change hard drives every
22 year, sir?

23 A. Not necessarily. I declare to
24 add to that, it seems that -- that seems

Deposition of Bryan Pringle - August 24, 2011

1 about right. It seems about every -- every
2 year or so, six months to a year, it seems
3 like I'm changing hard drives or upgrading
4 them.

5 Q. And do you always throw them
6 out?

7 A. No, not necessarily. Like I
8 answered before, sometimes I will give them
9 to somebody; sometimes I will save them to
10 transfer information to in case my other hard
11 drive fails. Sometimes I will give them to
12 people, sometimes I throw them out.

13 Q. The -- which hard drive were
14 you using when you were doing your
15 investigation of the claims of infringement?

16 A. Have we catalogued the hard
17 drives? I don't understand what you're
18 saying. Which --

19 Q. Well, over what time period,
20 sir, were you investigating your claims of
21 infringement?

22 A. Like I previously answered,
23 after late 2- -- February of 2010, roughly
24 the year -- calendar year 2010, after

Deposition of Bryan Pringle - August 24, 2011

1 February, late February 2010; and I
2 believe -- if you're talking about the hard
3 drive, are you talking about the one that I
4 said I may have discarded in late 2010, early
5 2011?

6 Q. Yes.

7 A. Well, that particular drive I
8 don't recall exactly how long I had it, how
9 long I used it. All I can say is that -- and
10 it's because I actually looked at the receipt
11 a few days ago -- is that -- I don't know.
12 Could have been a year, could have been two
13 years, may have been another drive that was
14 transferred. I don't know.

15 Q. Do you have any of your
16 preexisting hard drives at your house?

17 A. Preexisting to what?

18 Q. To the one that you discarded
19 in December of 2010, January of 2011.

20 A. Not that I'm aware of.

21 Q. Do you currently have any of
22 your prior hard drives in your possession or
23 control at your home?

24 A. Not that I'm aware of, but I

Deposition of Bryan Pringle - August 24, 2011

1 will -- I will say that I do have a lot of
2 the files.

3 Q. I'm talking about the physical
4 hard drives, though, sir.

5 A. Yeah, I understand. I believe
6 I just answered your question. I said no and
7 then I added to that and explained to you
8 that I do have a lot of files, just for your
9 clarification.

10 Q. And could you tell the Court
11 what -- how you have the files off of the
12 hard drive?

13 A. Which hard drive?

14 Q. The 2010 hard drive?

15 A. Could we clarify this hard
16 drive, maybe? Can we call it a certain
17 something particular, because --

18 Q. The hard drive that you
19 discarded in December of 2010, January
20 of 2011.

21 A. I'm sorry. Ask me the question
22 again before that.

23 Q. What files do you have from
24 that hard drive, sir?

Deposition of Bryan Pringle - August 24, 2011

1 A. I don't recall. It's a lot. I
2 believe I turned it over to the defense on a
3 disc.

4 Q. Other than what you turned over
5 on the disc, what other files do you have,
6 sir?

7 A. I do have some files that are
8 attorney-client privileged files from 2010.

9 Q. Other than those, what files do
10 you have from the hard drive that you
11 discarded?

12 MR. DICKIE: Objection, assumes
13 facts.

14 A. Wait, hold on a second. I'm
15 getting confused with these dates. Let me go
16 back to the previous statement. You're
17 asking me what files that I have from the
18 drive that was used calendar year 2010.

19 BY MS. CENAR:

20 Q. From the drive that you
21 discarded in December of 2010 or January
22 of 2011, what files do you have from that
23 hard drive?

24 A. Attorney-client privileged

Deposition of Bryan Pringle - August 24, 2011

1 files and attorney-client work product. And
2 there may be the other files that I gave to
3 you previously in discovery.

4 Q. And other than those, what
5 other files do you have from that hard drive?

6 MR. DICKIE: Objection, assumes
7 facts.

8 A. I don't --

9 THE WITNESS: You want me to
10 answer that?

11 MR. DICKIE: Yeah.

12 A. I'm not aware of any other
13 files that exist.

14 BY MS. CENAR:

15 Q. Do you regularly back up your
16 computers?

17 A. Well, I only have one computer,
18 so...

19 Hmm, no. But to clarify it, if
20 I see a drive that seems to be going bad
21 or -- no, I wouldn't say I regularly back up
22 the computer.

23 Q. Do you have any disks at home
24 that are backup files of any computer that

Deposition of Bryan Pringle - August 24, 2011

1 you've used from 1998 to 2011?

2 A. Backup files... just so I --
3 just so I understand. I'm getting confused
4 here. Do I have -- just so -- I have any
5 backup files from computers I used from 1998
6 till 2010 at my house on any other media? Is
7 that what you're saying?

8 Q. Yes.

9 A. Yes.

10 Q. What backup files do you have?

11 A. That I couldn't say. I believe
12 it's the files that were turned over in
13 discovery and attorney-client work product
14 and privileged, privileged files.

15 Q. And other than those, do you
16 have any other computer backup files?

17 MR. DICKIE: For the same time
18 frame?

19 MS. CENAR: Yes, sir.

20 A. I may -- I may have some -- I
21 may have files that are music-related of --
22 I'd have to go searching for them. I may
23 have some -- I hope I have -- I hope I still
24 have those tracks. I would imagine that -- I

Deposition of Bryan Pringle - August 24, 2011

1 think that I have copies somewhere of music
2 that I created for my personal music.

3 BY MS. CENAR:

4 Q. Prior to discarding -- well,
5 first of all, where are those backup files?

6 A. For the music, songs that I
7 created? I'd have to search for them. I
8 will search for them. I will investigate
9 that because I --

10 Q. But you haven't done that to
11 date yet in this litigation?

12 A. Well, yes. I mean, I searched
13 for everything -- without disclosing,
14 forfeiting attorney-client privilege, my
15 understanding was there was a certain request
16 made upon me for specific files, and I've
17 made a due diligence effort to search for
18 files that I understood should have been
19 provided.

20 As far as the songs, I believe
21 that I have turned over those songs to my
22 attorney, but I couldn't -- without
23 forfeiting attorney-client privilege, I
24 couldn't tell you. That's something you'd

Deposition of Bryan Pringle - August 24, 2011

1 have to ask my attorneys.

2 But as far as the backup disks,
3 I don't recall, but I will investigate that.

4 Q. When you say "privileged"
5 material, what are you talking about?

6 A. Well, it's privileged.

7 THE WITNESS: You want me to
8 answer that, Dean?

9 MR. DICKIE: No. You can give
10 her the character or the nature of the
11 privileged material.

12 A. There's a lot of requested work
13 product such, i.e., side-by-side comparisons
14 of parts of my song -- plural, songs plural,
15 that were -- how do I word that -- played
16 alongside parts of Dave Guetta's songs,
17 Frederick Riesterer's songs, will.i.am's
18 songs, the Black Eyed Peas' songs, that were
19 requested to be performed so that my
20 attorneys could understand, I guess, the
21 dynamics of what specifically I'm saying,
22 well, this part is and that part is
23 substantially similar.

24 BY MS. CENAR:

Deposition of Bryan Pringle - August 24, 2011

1 Q. Prior to throwing away your
2 hard drive that you used in 2010, did you
3 back it up?

4 A. Well, let me correct you,
5 because -- again, and I've said this many
6 times, I didn't say that I threw it away. I
7 said it was most likely discarded.

8 But prior to discarding or
9 relinquishing any hard drive from my personal
10 computer to a new hard drive, I always -- I
11 always will transfer what I think are
12 relevant files or files that are non-program
13 files or files that are not temporary data or
14 program-related files that are my personal
15 files, normally I will take those files and,
16 like I said previously, I may have drives on
17 occasion that were older drives that I use to
18 transfer that information there and then
19 bounce it back to the new drive before
20 discarding that drive.

21 Q. Could you answer my question,
22 though?

23 THE WITNESS: Could you repeat
24 the question? I'm sorry.

Deposition of Bryan Pringle - August 24, 2011

1 MS. CENAR: Please read the
2 question back for the witness.

3 (The reporter read back the
4 following portion of the preceding
5 record.)

6 "QUESTION: Prior to throwing
7 away your hard drive that you used in
8 2010, did you back it up?"

9 (End of readback.)

10 A. I think I've answered that
11 question, but I'll answer it again to be more
12 specific. I don't understand what you say
13 when you say "back it up," but I do back up
14 certain files, as I explained in detail.

15 BY MS. CENAR:

16 Q. All right. You transferred
17 certain files that you deemed important. My
18 question was whether you have a backup copy
19 of the entire hard drive.

20 A. No.

21 Q. And you didn't do that before
22 you discarded that hard drive?

23 A. You're talking about the hard
24 drive from 2010?

Deposition of Bryan Pringle - August 24, 2011

1 Q. Correct.

2 A. No, I did not make a full and
3 complete copy of the entire hard drive from
4 2010.

5 Q. Before you discarded it?

6 A. Well, as I've said multiple
7 times, I don't know if I discarded it. Like
8 I said, it's most likely in a landfill, but,
9 you know, I did not make a complete and
10 entire copy of that hard drive. But I
11 believe it probably is in a landfill.

12 Q. Do you have any full and
13 complete backup copies of any hard drive that
14 you used prior to 2010?

15 A. Yes.

16 Q. And where are those complete
17 backups?

18 A. I have -- I believe my attorney
19 has copies. I believe that the defense has
20 copies. Dave Gallant has copies.

21 Q. And when was that full and
22 complete backup made that your Mr. Gallant
23 has copies of?

24 A. Well, to clarify, he's got more

Deposition of Bryan Pringle - August 24, 2011

1 THE WITNESS: I'm confused.

2 MR. DICKIE: Which hard drive
3 are you talking about?

4 BY MS. CENAR:

5 Q. Could you answer my question,
6 sir?

7 MR. DICKIE: If you understand
8 it, you can answer it.

9 A. I don't understand the
10 question. Could you repeat it? Let me --

11 BY MS. CENAR:

12 Q. Well, let me try a new question
13 so that perhaps you can help us. You were
14 telling me about files that you turned over
15 to Mr. Gallant, and you mentioned two disks
16 that had multiple NRG files and then you were
17 referring to files that you gave him also
18 in -- as backup files from your hard drive
19 that was installed in late December 2010 --

20 A. Yes.

21 Q. -- 2011.

22 A. Yes.

23 Q. Were those the files that you
24 chose to copy off of the hard drive before

Deposition of Bryan Pringle - August 24, 2011

1 you discarded it?

2 A. Yes.

3 Q. All right. It wasn't a full
4 backup of that hard drive.

5 MR. DICKIE: Objection, asked
6 and answered.

7 BY MS. CENAR:

8 Q. Is that correct?

9 THE WITNESS: Do you want me to
10 answer that?

11 MR. DICKIE: Yes.

12 A. Objection, asked and answered.
13 Yes, and like I said before.

14 BY MS. CENAR:

15 Q. What other computer -- well,
16 first of all, when did you turn over those
17 files to Mr. Gallant?

18 A. As I said previously, the --
19 the specific date was roughly around -- it
20 was before -- I believe it was before
21 August 8, 2011, but it was around that time.

22 Q. So in between the time frame of
23 August 8, 2011, and the time that the hard
24 drive was discarded in December -- I'm sorry,

Deposition of Bryan Pringle - August 24, 2011

1 on privilege grounds because they haven't
2 been provided to us. So you tell me.

3 What --

4 A. You'd have to talk with my
5 attorney. I mean, I don't --

6 Q. What portions of Black Eyed Pea
7 music that you obtained have you deleted from
8 your computer?

9 A. I didn't necessarily say I
10 deleted it. I said there was a portion of
11 the hard drive that was corrupted.

12 Q. And that's part of this hard
13 drive that was discarded?

14 MR. DICKIE: Objection.

15 A. I didn't say it was discarded.
16 I said -- I don't even know which hard drive
17 you're talking about. Which one are you
18 talking about?

19 BY MS. CENAR:

20 Q. I'm talking about the one that
21 would contain the music samples that you used
22 for your comparisons.

23 THE WITNESS: Do you want to
24 respond to that, Dean, or do you want

Deposition of Bryan Pringle - August 24, 2011

1 me to?

2 MR. DICKIE: You can answer

3 that.

4 A. Can you repeat the question,
5 please? I'm sorry.

6 (Clarification requested by the
7 reporter.)

8 (The reporter read back the
9 following portion of the preceding
10 record.)

11 "QUESTION: I'm talking about
12 the one that would contain the music
13 samples that you used for your
14 comparisons."

15 (End of readback.)

16 A. Well, that might be one --
17 well, let's see here. Might be two hard
18 drives. It might be the one that I sent back
19 for warranty repair or replacement. It might
20 also have been one of the ones that was
21 discarded because I don't recall exactly when
22 I got those samples. So you're asking which
23 ones were deleted, I don't know.

24 BY MS. CENAR:

Deposition of Bryan Pringle - August 24, 2011

1 known to me (or proved to me under oath or
 2 through _____) (description of
 3 identity card or other document) to be the
 4 person whose name is subscribed to the
 5 foregoing instrument and acknowledged to me
 6 that they executed same for the purposes and
 7 consideration therein expressed.

8 Given under my hand and seal of office
 9 on this ____ day of _____,
 10 _____.

11

12

13

14

 NOTARY PUBLIC IN AND FOR

15

THE STATE OF _____

16

My Commission Expires: _____

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Deposition of Bryan Pringle - August 24, 2011

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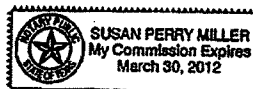
REPORTER'S CERTIFICATION

I, SUSAN PERRY MILLER, CSR-TX, CCR-LA, CLR, CRR, RDR, Notary Public in and for the State of Texas, hereby certify that the witness was duly sworn and that this transcript is a true record of the testimony given by the witness;

That pursuant to Rule 30 of the Federal Rules of Civil Procedure, signature of the witness was requested by the witness or other party before the conclusion of the deposition;

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken. Further, I am not a relative or employee of any attorney of record in this cause, nor am I financially or otherwise interested in the outcome of the action.

Subscribed and sworn to by me this day, the 26th day of August, 2011.



Susan Perry Miller, CSR-TX, CCR-LA
Certified Realtime Reporter
Registered Diplomate Reporter
NCRA Realtime Systems Administrator
Certified LiveNote™ Reporter
Notary Public, State of Texas
My Commission Expires 03/30/2012

Exhibit 8

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

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10 Attorneys for Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN
11 PINEDA; and JAIME GOMEZ, all individually and collectively as the music
group THE BLACK EYED PEAS; will.i.am music, llc; TAB MAGNETIC
12 PUBLISHING; CHERRY RIVER MUSIC CO.; HEADPHONE JUNKIE
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
17 Plaintiff,

18 v.

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

27 Defendants.
28

Case No. SACV10-1656 JST (RZx)

Hon. Josephine Staton Tucker
Courtroom 10A

**DEFENDANT HEADPHONE
JUNKIE'S FIRST SET OF
INTERROGATORIES TO
PLAINTIFF BRYAN PRINGLE**

Complaint Filed: October 28, 2010
Trial Date: Not Assigned

1 PROPOUNDING PARTY: Defendant Headphone Junkie Publishing, LLC

2 RESPONDING PARTY: Plaintiff Bryan Pringle

3 SET NO.: One

4 Pursuant to Federal Rules of Civil Procedure 26 and 33, defendant
5 Headphone Junkie Publishing, LLC (“Headphone Junkie”) submits this First Set of
6 Interrogatories (the “Interrogatories”) to plaintiff Bryan Pringle (“Pringle”). Pringle
7 must respond to these Interrogatories in writing and submit such responses to the
8 offices of Bryan Cave, LLP, 3161 Michelson Drive, Suite 1500, Irvine, California,
9 92612, within thirty (30) days of receipt hereof.

10 **DEFINITIONS AND INSTRUCTIONS**

11 For the purposes of the following Interrogatories:

12 1. The terms “DOCUMENT” or “DOCUMENTS” are used herein in their
13 customary broad sense, and include any tangible things that come within the
14 meaning of “document” or “tangible thing” contained in Rule 34 of the Federal
15 Rules of Civil Procedure, or within the meaning of “writing” as contained in Rule
16 1001 of the Federal Rules of Evidence.

17 2. “COMMUNICATION” or “COMMUNICATIONS” shall mean and
18 include all oral, written, electronic, or other forms of communication, including
19 conversations, meetings, conferences, telephone calls, and means of communication
20 through any document, including e-mail.

21 3. “PERSON” or “PERSONS” shall mean and refer to any natural person
22 in any capacity whatsoever, and any entity or organization, including without
23 limitation, a corporation, partnership, joint venture, firm, business trust, estate, trust,
24 group, association, municipal corporation, government, governmental subdivision,
25 agency, commission, bureau, department, or any other type of business or legal
26 entity.

27 4. “YOU” or “YOUR” refers to plaintiff Bryan Pringle, which may be
28 expressed in terms of proper name, any nicknames, any professional or other alias

1 names, any screen names, including DJ Spanky, Altared State, Dead Beat Club,
2 DRDR313, or any other identifier used by you, in all social media, the Internet, and
3 other forms of COMMUNICATION, as well as each of your agents, attorneys,
4 representatives, employees, and PERSONS acting or purporting to act on your
5 behalf.

6 5. "DEFENDANTS" refers to William Adams; Stacy Ferguson; Allan
7 Pineda; and Jaime Gomez, all individually and collectively as the music group The
8 Black Eyed Peas; will.i.am music, llc; Tab Magnetic Publishing; Cherry River
9 Music Co.; Headphone Junkie Publishing, LLC; Jeepney Music, Inc., EMI April
10 Music, Inc.

11 6. "COMPLAINT" refers to the Complaint for damages filed by YOU
12 and on or about October 28, 2010, in the United States District Court for the Central
13 District of California, Case No. SACV10-1656 JST (RZx), and any amendments
14 thereto.

15 7. "RELATING TO" OR "REFERRING TO" includes, but is not limited
16 to, the following meanings: bearing upon, concerning, addressing, respecting,
17 regarding, discussing, mentioning, describing, reflecting, responding to, identifying,
18 constituting, pertaining to, having to do with, or being in any way pertinent to the
19 given subject.

20 8. "FACTS" shall mean all DIRECT EVIDENCE and non-speculative
21 information (whose truth may be proven) about circumstances or events known to
22 have occurred (as opposed to those based on conjuncture or inference). "DIRECT
23 EVIDENCE" means evidence that immediately proves a proposition without
24 inference or presumption and which, when in the form of testimony, comes from a
25 witness who actually saw the acts done or heard the words spoken that constitute the
26 precise information to be proven, and when in the form of a DOCUMENT shows
27 the *factum probandum* without intervention from other proof.

28 9. "IDENTIFY" when relating to a PERSON means to state the

1 PERSON's full name; present or last known business address; present or last known
2 residential address (for natural persons); present or last known business telephone
3 number; and present or last known residential telephone numbers (for natural
4 persons). "IDENTIFY" when relating to a COMMUNICATION(S) means to
5 provide the entire substance of the COMMUNICATION(S); the date of the
6 COMMUNICATION(S); the PERSON or PERSON making the
7 COMMUNICATION(S); all PERSONS who received the COMMUNICATION(S);
8 whether the COMMUNICATION(S) was written, oral, or electronic; and if the
9 COMMUNICATION(S) was memorialized in writing or mechanical or other
10 means of recording, state the date on which such memorialization occurred and the
11 present location of said writing or mechanical recording.

12 10. "MUSICAL COMPOSITION" and "MUSICAL COMPOSITIONS" as
13 used herein shall have the same meaning as contemplated in 17 U.S.C. § 102(a)(2).

14 11. "SOUND RECORDING" as used herein shall have the same meaning
15 as that term is expressly defined in 17 U.S.C. § 101.

16 12. "TAKE A DIVE" as used herein shall mean the MUSICAL
17 COMPOSITION of the same name YOU claim to have authored in 1998, as
18 expressed in Paragraph 27 of YOUR COMPLAINT, and further, YOU claim is
19 subject to Copyright Registration No. SRu000387433, as expressed in Paragraph 28
20 of YOUR COMPLAINT.

21 13. "TAKE A DIVE SR" as used herein shall mean the SOUND
22 RECORDING embodying the MUSICAL COMPOSITION "TAKE A DIVE,"
23 which YOU claim to have created in 1998 as expressed in Paragraph 27 of YOUR
24 COMPLAINT, and further, YOU claim is subject to Copyright Registration No.
25 SRu000387433, as expressed in Paragraph 28 of YOUR COMPLAINT.

26 14. "TAKE A DIVE (DANCE VERSION)" as used herein shall mean the
27 MUSICAL COMPOSITION of the same name that YOU claim to have authored in
28 1999 as an adaptation of "TAKE A DIVE," as expressed in Paragraph 29 of YOUR

1 COMPLAINT, and further, an application to register a claim to copyright in which
2 was rejected by the United States Copyright Office in or about November 2010.

3 15. "TAKE A DIVE (DANCE VERSION) SR" as used herein shall mean
4 the SOUND RECORDING embodying the MUSICAL COMPOSITION "TAKE A
5 DIVE (DANCE VERSION)," which YOU claim to have created in 1999 as
6 expressed in Paragraph 29 of YOUR COMPLAINT, and further, YOU claim is
7 subject to Copyright Registration No. SR0000659360.

8 16. "GUITAR TWANG SEQUENCE" as used herein adopts the meaning
9 YOU applied to that term as expressed in Paragraph 29 of YOUR COMPLAINT.

10 17. "PUBLIC PERFORMANCE" as used herein incorporates and is
11 coextensive with the definitions of "perform" and "publicly" as contained in 17
12 U.S.C. § 101.

13 18. "DISTRIBUTION" as used herein shall have the same meaning as the
14 term "publication" as it is defined in 17 U.S.C. § 101. *See, Bagdadi v. Nazar*, 84
15 F.3d 1194, 1198 (9th Cir. 1996) (equating "distribution" with the definition of
16 "publication" contained in 17 U.S.C. § 101; *In re Napster, Inc. Copyright Litigation*,
17 377 F. Supp. 2d 796, 803 (N.D. Cal. 2005) (observing "that the legislative history of
18 the 1976 Act equates the term [distribution] with the right of 'publication'");
19 MELVILLE B. NIMMER & DAVID NIMMER, NIMMER ON COPYRIGHT § 8.11[A] (2011).

20 19. "COPIES" as used herein shall have the same meaning as that term is
21 expressly defined in 17 U.S.C. § 101.

22 20. "PHONORECORDS" as used herein shall have the same meaning as
23 that term is expressly defined in 17 U.S.C. § 101.

24 21. "COMPUTER" includes but is not limited to NETWORK servers,
25 desktops, laptops, notebook computers, musical devices, music recording devices,
26 personal digital assistants (PDA), digital smart phones, cell phones and pagers.

27 22. "DATA" means any and all information stored on media that may be
28 accessed by a COMPUTER.

1 23. “HARD DRIVE” means the primary hardware that a COMPUTER uses
2 to store information, typically magnetized media on rotating disks.

3 24. “IMAGED COPY” means a “mirror image” bit-by-bit copy of a hard
4 drive (i.e., a complete replication of the physical drive).

5 25. “INPUT DEVICE” means object that allows a user to communicate
6 with a COMPUTER by entering information or issuing commands (e.g., keyboard,
7 mouse or joystick).

8 26. “MAGNETIC OR OPTICAL STORAGE MEDIA” includes but are not
9 limited to hard drives (also known as “hard disks”), backup tapes, CD-ROMs,
10 DVD-ROMs, JAZ and Zip drives, and floppy disks.

11 27. “NETWORK” means a group of connected COMPUTERS that allow
12 people to share information and equipment (e.g., local area network [LAN], wide
13 area network [WAN], metropolitan area network [MAN], storage area network
14 [SAN], peer-to-peer network, client-server network).

15 28. “OPERATING SYSTEM” means SOFTWARE that directs the overall
16 activity of a COMPUTER (e.g., MS-DOS, MAC OS, Windows, Linux).

17 29. “NETWORK OPERATING SYSTEM” means SOFTWARE that
18 directs the overall activity of networked COMPUTERS.

19 30. “SOFTWARE” means any set of instructions stored on COMPUTER-
20 readable media that tells a COMPUTER what to do. Includes operating systems and
21 applications.

22 31. “STORAGE DEVICES” means any device that a COMPUTER uses to
23 store information.

24 32. “STORAGE MEDIA” means storage media are any removable devices
25 that store data.

26 33. The connectives “and” and “or” shall be construed either disjunctively
27 or conjunctively, as necessary, to bring within the scope of the discovery request all
28 responses that might otherwise be construed to be outside of its scope.

1 34. The singular shall include the plural and vice versa, as necessary, to
2 bring within the scope of the discovery request all responses that might otherwise be
3 construed to be outside its scope.

4 35. The past tense shall include the present tense and vice versa, as
5 necessary, to bring within the scope of the discovery request all responses that might
6 otherwise be construed to be outside its scope.

7 36. Where knowledge or information in YOUR possession is requested, the
8 request extends to knowledge or information in the possession of YOUR
9 predecessors and/or successors, as well as to information in the possession of
10 YOUR agents, employees, servants, representatives, and, unless privileged,
11 attorneys. Whenever an answer to these Interrogatories contains information that is
12 not based upon YOUR personal knowledge, state the source and the nature of such
13 information.

14 37. If any information called for by any Interrogatory herein is withheld
15 because YOU claim that such information is privileged in whole or in part, state all
16 facts supporting such privilege, and IDENTIFY each PERSON having knowledge
17 of the factual basis on which the privilege is asserted.

18 38. These Interrogatories are deemed to be continuing, and YOU are
19 required to supplement YOUR answers in a timely manner in accordance with the
20 requirements of Rule 26 of the Federal Rules of Civil Procedure.

21 39. If YOU contend that it would be unreasonably burdensome to obtain
22 and provided all information responsive to any one of these Interrogatories, then in
23 response the appropriate request, please (1) set forth all information that can be
24 produced by YOU without undertaking what YOU contend to be an unreasonable
25 burden; and (2) state with particularity the grounds upon which YOU contend that it
26 would be unreasonably burdensome to produce further responsive information.

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28

INTERROGATORIES

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INTERROGATORY NO. 1:

Identify each and every song of The Black Eyed Peas Plaintiff Bryan Pringle has sampled and state with particularity where Plaintiff obtained the sound recording to sample.

INTERROGATORY NO. 2:

Identify each and every song of The Black Eyed Peas Plaintiff Bryan Pringle has downloaded and state with particularity where Plaintiff obtained the sound recording to download.

INTERROGATORY NO. 3:

Identify with specificity where Plaintiff Bryan Pringle obtained a copy of The Black Eyed Peas' a capella for the song I Gotta Feeling and when it was obtained.

INTERROGATORY NO. 4:

Identify with specificity where Plaintiff Bryan Pringle obtained a copy of the guitar twang sequence present in The Black Eyed Peas' song I Gotta Feeling and when it was obtained.

INTERROGATORY NO. 5:

State with particularity each and every communication Plaintiff Bryan Pringle has had with Defendant William Adams, including where, when, the type of communication, and how such communication occurred.

INTERROGATORY NO. 6:

State with particularity each and every communication Plaintiff Bryan Pringle has had with Defendant Allen Pineda, including where, when, the type of communication, and how such communication occurred.

INTERROGATORY NO. 7:

State with particularity each and every communication Plaintiff Bryan Pringle has had with Defendant Jaime Gomez, including where, when, the type of communication, and how such communication occurred.

1 **INTERROGATORY NO. 8:**

2 State with particularity each and every communication Plaintiff Bryan Pringle
3 has had with Defendant Stacy Ferguson, including where, when, the type of
4 communication, and how such communication occurred.

5 **INTERROGATORY NO. 9:**

6 State with particularity each and every communication Plaintiff Bryan Pringle
7 has had with Defendant David Guetta, including where, when, the type of
8 communication, and how such communication occurred.

9 **INTERROGATORY NO. 10:**

10 State with particularity each and every communication Plaintiff Bryan Pringle
11 has had with Defendant Fred Reisterer, including where, when, the type of
12 communication, and how such communication occurred.

13 **INTERROGATORY NO. 11:**

14 If you contend that any of the individually named defendants Adams, Pineda,
15 Gomez, Ferguson, Guetta, and/or Reisterer, have had indirect communications with
16 Plaintiff Bryan Pringle, or regarding any music of Plaintiff Bryan Pringle, state with
17 particularity each and every such communication including where, when, the type of
18 communication, and how such communication occurred.

19 **INTERROGATORY NO. 12:**

20 Does Plaintiff contend that any of the individually named defendants Adams,
21 Pineda, Gomez, Ferguson, Guetta, and/or Reisterer had access to the original Take
22 A Dive copyrighted in 1998? If so, provide a full and complete factual basis for
23 such contention, including the identification of individuals with knowledge and an
24 identification of any documents that refer or relate to this contention.

25 **INTERROGATORY NO. 13:**

26 Does Plaintiff contend in this litigation that access to the original Take A
27 Dive copyrighted in 1998 is shown by “striking similarity”? If so, provide a full and
28 complete factual basis for such contention, including the identification of any

1 portion of the accused work that is “strikingly similar” to the original Take A Dive
2 copyrighted in 1998.

3 **INTERROGATORY NO. 14:**

4 Does Plaintiff contend that any of the individually named defendants Adams,
5 Pineda, Gomez, Ferguson, Guetta, and/or Reisterer had access to the derivative
6 version of Take A Dive (with the guitar twang sequence) on a basis other than an
7 argument of striking similarity”? If so, provide a full and complete factual basis for
8 such contention, including the identification of individuals with knowledge and an
9 identification of any documents that refer or relate to this contention.

10 **INTERROGATORY NO. 15:**

11 If Plaintiff Bryan Pringle has knowledge of any information that refers of
12 relates to his contention that any Defendant had access to his work, provide a full
13 and complete identification of such information and identify all other individuals
14 with knowledge and any documents relating to the information.

15 **INTERROGATORY NO. 16:**

16 Identify the date, time and reason for discarding any documents relevant to
17 any allegation of the complaint.

18 **INTERROGATORY NO. 17:**

19 State with particularity what files exist on the incorrect NRG file produced in
20 this case, and describe how the files were created, dated and imaged on the incorrect
21 NRG file.

22 **INTERROGATORY NO. 18:**

23 State with particularity how the deposit copy for the copyright application for
24 the Take A Dive (Dance Version) sound recording was made, including the
25 individual that made the deposit copy, the date the deposit copy was made, and
26 equipment used to make the deposit copy, and the settings made on the equipment.

27 **INTERROGATORY NO. 18:**

28 Provide each and every creation date, access date and modified date for the

1 “correct” NRG file.

2 **INTERROGATORY NO. 19:**

3 Provide each and every time Bryan Pringle accessed the correct NRG file in
4 2009, and state the date, time, purpose and use of such file each time it was
5 accessed, and the individuals involved or present during such acts.

6 **INTERROGATORY NO. 20:**

7 Provide each and every time Bryan Pringle accessed the correct NRG file in
8 2010, and state the date, time, purpose and use of such file each time it was
9 accessed, and the individuals involved or present during such acts.

10 **INTERROGATORY NO. 21:**

11 Provide each and every time Bryan Pringle accessed the correct NRG file in
12 2011, and state the date, time, purpose and use of such file each time it was accessed
13 and the individuals involved or present during such acts.

14 **INTERROGATORY NO. 21:**

15 Describe with particularity every communication Bryan Pringle has had with
16 David Gallant, including but not limited to dates, times and locations of providing
17 computer disks, NRG files, or access to Mr. Pringle’s computer hard drive, and the
18 nature, purpose and acts undertaken by David Gallant with respect to such computer
19 disks, NRG files, or access to Mr. Pringle’s computer hard drive.

20 **INTERROGATORY NO. 22.**

21 Provide the date when Mr. Pringle allegedly placed his musical equipment in
22 the storage unit reflected in his police report produced in this case.

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

1 **INTERROGATORY NO. 23.**

2 If you contend that any Defendant has infringed any copyright of Plaintiff
3 Bryan Pringle other than Take A Dive or Take A Dive (Dance Version), provide a
4 complete factual basis for contending that they Defendant had access and that the
5 accused work is substantially similar.

6

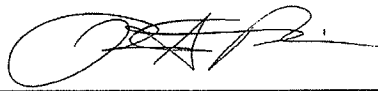
7 Dated: August 30, 2011

BRYAN CAVE LLP
Kara E.F. Cenar
Jonathan Pink

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10

By: 

11

Jonathan Pink

12

Attorneys for Defendants

13

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, LLC; JEEPNEY MUSIC,
INC.; EMI APRIL MUSIC, INC.

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**PROOF OF SERVICE
CCP 1013A(3) REVISED 5/1/88**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is: 3161 Michelson Drive, Suite 1500, Irvine, CA 92612-4414.

On August 30, 2011, I served the foregoing document(s) described as:

**DEFENDANT HEADPHONE JUNKIE'S FIRST SET OF
INTERROGATORIES TO PLAINTIFF BRYAN PRINGLE**

on all interested parties in this action by placing a true copy the original thereof enclosed in sealed envelopes addressed as follows:

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BY CM/ECF NOTICE OF ELECTRONIC FILING: I caused said document(s) to be served by means of this Court's electronic transmission of the Notice of Electronic filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF Users set forth in the service list obtained from this Court.

BY MAIL - As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY OVERNIGHT DELIVERY - Depositing the above document(s) in a box or other facility regularly maintained by FedEx in an envelope or package designated by FedEx with delivery fees paid or provided for.

BY PERSONAL DELIVERY - I caused such envelope to be hand delivered to the offices of the addressee.

BY EMAIL - I caused a true copy of the foregoing document(s) to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address shown above. Each transmission was reported as complete and without error.

FEDERAL - I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on August 30, 2011, at Irvine, California.

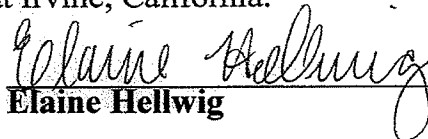

Elaine Hellwig

Exhibit 9

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17 Attorneys for Plaintiff
BRYAN PRINGLE

18

19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA
21 SOUTHERN DIVISION

22 BRYAN PRINGLE, an individual,) Case No. SACV 10-1656 JST(RZx)
23 Plaintiff,)
24 v.) **PLAINTIFF'S RESPONSE TO**
25 WILLIAM ADAMS, JR.; STACY) **DEFENDANT HEADPHONE**
26 FERGUSON; ALLAN PINEDA; and) **JUNKIE PUBLISHING, LLC'S**
27 JAIME GOMEZ, all individually and) **FIRST SET OF**
Eyed Peas, *et al.*,) **INTERROGATORIES**
28 Defendants.)

1 PROPOUNDING Defendant HEADPHONE JUNKIE PUBLISHING,
2 PARTY: LLC
3 RESPONDING PARTY: Plaintiff BRYAN PRINGLE
4 SET NO.: One

5 Plaintiff Bryan Pringle (“Pringle” or “Plaintiff”) submits this Answer to
6 Defendant Headphone Junkie Publishing, LLC’s (“Headphone Junkie” or
7 “Defendant”) First Set of Interrogatories (the “Interrogatories”):

8 **GENERAL OBJECTIONS**

9
10 1. Pringle objects to each interrogatory insofar as it is vague, overly broad,
11 not limited in time and scope, oppressive, harassing or vexatious, imposes burden or
12 expense that outweighs the likely benefit, seeks legal conclusions, and/or seeks
13 information not relevant to the lawsuit nor reasonably calculated to lead to the
14 discovery of admissible evidence.

15 2. Pringle objects to the extent that these interrogatories seek information
16 protected by the attorney/client or the work product privilege. Pringle will not
17 provide any such privileged information.

18 3. The following answers are given based upon the information and
19 documents of which Pringle’s counsel is currently aware. Pringle’s investigation
20 continues and Pringle specifically reserves the right to supplement the following
21 answers as this litigation proceeds. The following answers are given herein without
22 prejudice to Pringle’s right to supplement or change his answers or objections and to
23 produce evidence of additional facts.

24 4. Pringle’s answers are not an admission that any such information is
25 relevant or admissible.

26 5. Pringle objects to each interrogatory, instruction or definition that
27 purports to impose any obligation greater than or different from those required under
28 the Federal Rules of Civil Procedure and Local Orders of the Court.

1 6. Pringle specifically reserves the right to assert additional objections.

2 **DEFINITIONS AND INSTRUCTIONS**

3 Pringle objects to each and every definition and instruction as set forth in
4 Headphone Junkie's Interrogatories because each purports to impose an obligation
5 greater than or different from those required under the Federal Rules of Civil
6 Procedure and Local Orders of the Court.

7 **INTERROGATORIES**

8
9 **INTERROGATORY NO. 1:** Identify each and every song of The Black Eyed
10 Peas Plaintiff Bryan Pringle has sampled and state with particularity where Plaintiff
11 obtained the sound recording to sample.

12 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 1 because
13 it is overly broad, unduly burdensome and not likely to lead to the
14 discovery of relevant evidence. Without waiving said objections, in so
15 far as, the Plaintiff understands the question, none. Investigation
16 continues.

17 **INTERROGATORY NO. 2:** Identify each and every song of The Black Eyed
18 Peas Plaintiff Bryan Pringle has downloaded and state with particularity where
19 Plaintiff obtained the sound recording to download.

20 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 2 because
21 it is overly broad, unduly burdensome and not likely to lead to the
22 discovery of relevant evidence. Without waiving said objections, to the
23 best of his recollection, Plaintiff states that he purchased "The E.N.D."
24 album, "The Beginning" album, multiple versions of "I Gotta Feeling";
25 and "Don't Phunk With My Heart." Plaintiff further states that, to the
26 best of his recollection, these and other songs were either purchased on
27 www.amazon.com or elsewhere, but he doesn't specifically recall
28

1 exactly what songs were specifically purchased and exactly where they
2 were purchased. Investigation continues.

3 **INTERROGATORY NO. 3:** Identify with specificity where Plaintiff Bryan
4 Pringle obtained a copy of The Black Eyed Peas' a capella for the song I Gotta
5 Feeling and when it was obtained.

6 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 3 because
7 it is overly broad, unduly burdensome and not likely to lead to the
8 discovery of relevant evidence. Without waiving said objections,
9 Plaintiff states that to the best of his recollection at this time, he used a
10 remixed version of "I Gotta Feeling" with less instrumentation and
11 "EQ'ed" the instrumentation out of the song, to the best of his ability, to
12 make the vocals more easily heard.

13 **INTERROGATORY NO. 4:** Identify with specificity where Plaintiff Bryan
14 Pringle obtained a copy of the guitar twang sequence present in The Black Eyed
15 Peas' song I Gotta Feeling and when it was obtained.

16 **ANSWER:** Objection. Plaintiff created the guitar twang sequence
17 present in his song "Take a Dive," in or around 1999; Plaintiff did not
18 obtain a copy of the guitar twang sequence in the BEPs' song "I Gotta
19 Feeling."

20 **INTERROGATORY NO. 5:** State with particularity each and every
21 communication Plaintiff Bryan Pringle has had with Defendant William Adams,
22 including where, when, the type of communication, and how such communication
23 occurred.

24 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 5 because
25 it is overly broad, unduly burdensome and not likely to lead to the
26 discovery of relevant evidence. Without waiving said objections,
27 Plaintiff states that he submitted his demo CD's to Defendant Adams;
28

1 and through Interscope Records, Cherrytree Records, UMG, and Martin
2 Kierszenbaum via mail, in or around 2006. Investigation continues.

3 **INTERROGATORY NO. 6:** State with particularity each and every
4 communication Plaintiff Bryan Pringle has had with Defendant Allen Pineda,
5 including where, when, the type of communication, and how such communication
6 occurred.

7 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 6 because
8 it is overly broad, unduly burdensome and not likely to lead to the
9 discovery of relevant evidence. Without waiving said objections, to the
10 best of his recollection and knowledge, Plaintiff never had direct
11 communication with Defendant Allan Pineda. Investigation continues.

12 **INTERROGATORY NO. 7:** State with particularity each and every
13 communication Plaintiff Bryan Pringle has had with Defendant Jaime Gomez,
14 including where, when, the type of communication, and how such communication
15 occurred.

16 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 7 because
17 it is overly broad, unduly burdensome and not likely to lead to the
18 discovery of relevant evidence. Without waiving said objections, to the
19 best of his recollection and knowledge, Plaintiff never had direct
20 communication with Defendant Jaime Gomez. Investigation continues.

21 **INTERROGATORY NO. 8:** State with particularity each and every
22 communication Plaintiff Bryan Pringle has had with Defendant Stacy Ferguson,
23 including where, when, the type of communication, and how such communication
24 occurred.

25 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 8 because
26 it is overly broad, unduly burdensome and not likely to lead to the
27 discovery of relevant evidence. Without waiving said objections, to the
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1 best of his recollection and knowledge, Plaintiff never had direct
2 communication with Defendant Stacy Ferguson. Investigation
3 continues.

4 **INTERROGATORY NO. 9:** State with particularity each and every
5 communication Plaintiff Bryan Pringle has had with Defendant David Guetta,
6 including where, when, the type of communication, and how such communication
7 occurred.

8 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 9 because
9 it is overly broad, unduly burdensome and not likely to lead to the
10 discovery of relevant evidence. Without waiving said objections,
11 Plaintiff states that he received a letter from Gum Productions,
12 sometime around 2001 to 2003, acknowledging receipt of his demo
13 submission. Plaintiff also hand delivered several demo CD's to various
14 night clubs and Dj's in Paris around 1999. Investigation continues.

15 **INTERROGATORY NO. 10:** State with particularity each and every
16 communication Plaintiff Bryan Pringle has had with Defendant Fred Reisterer,
17 including where, when, the type of communication, and how such communication
18 occurred.

19 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 10 because
20 it is overly broad, unduly burdensome and not likely to lead to the
21 discovery of relevant evidence. Without waiving said objections,
22 Plaintiff states that he received a letter from Gum Production, sometime
23 around 2001 to 2003, acknowledging receipt of his demo submission.
24 Plaintiff also hand delivered several demo CD's to various night clubs
25 and Dj's in Paris around 1999. Investigation continues.

26
27 **INTERROGATORY NO. 11:** If you contend that any of the individually
28 named defendants Adams, Pineda, Gomez, Ferguson, Guetta, and/or Reisterer, have

1 had indirect communications with Plaintiff Bryan Pringle, or regarding any music of
2 Plaintiff Bryan Pringle, state with particularity each and every such communication
3 including where, when, the type of communication, and how such communication
4 occurred.

5 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 11 because
6 it is overly broad, unduly burdensome and to the extent it seeks a legal
7 conclusion. Without waiving said objections, Plaintiff states that he
8 submitted his demo CD's via mail to Defendant Adams; through Polo
9 Molina, and numerous individuals throughout the music industry,
10 including but not limited to, various individuals at Interscope Records,
11 Cherrytree Records, UMG, and Martin Kierszenbaum via mail, from
12 around 1995 to around 2008. Plaintiff further states that he submitted
13 his demo CD's to Dave Guetta via mail and also hand delivered several
14 demo CD's to various night clubs and Dj's in Paris around 1999.
15 Investigation continues.

16 **INTERROGATORY NO. 12:** Does Plaintiff contend that any of the
17 individually named defendants Adams, Pineda, Gomez, Ferguson, Guetta, and/or
18 Reisterer had access to the original Take A Dive copyrighted in 1998? If so, provide
19 a full and complete factual basis for such contention, including the identification of
20 individuals with knowledge and an identification of any documents that refer or
21 relate to this contention.

22 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 12 because
23 it is overly broad, vague and to the extent it calls for a legal conclusion.
24 Without waiving said objections, Plaintiff refers to the Answers and
25 Objections to Interrogatories No. 5-11, above. Additionally, Plaintiff
26 had multiple websites on the internet which contained downloadable
27 versions of "Take A Dive", the sale of "Take A Dive" through
28 Dekonstruktion Records, as well as sending out via mail thousands of

1 demo CD's containing "Take A Dive" from around 1995 to 2008 to
2 Interscope Records, UMG, publishing companies, record labels, famous
3 songwriters, music contest submissions, Gum Productions, Dave Guetta,
4 William Adams, and Martin Kierszenbaum, just to name a few.
5 Investigation continues.

6 **INTERROGATORY NO. 13:** Does Plaintiff contend in this litigation that
7 access to the original Take A Dive copyrighted in 1998 is shown by "striking
8 similarity"? If so, provide a full and complete factual basis for such contention,
9 including the identification of any portion of the accused work that is "strikingly
10 similar" to the original Take A Dive copyrighted in 1998.

11 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 13 because
12 it is overly broad, vague and to the extent it calls for a legal conclusion.
13 To the extent an answer is required, Plaintiff states that "Take a Dive" is
14 substantially similar to "I Gotta Feeling."

15 **INTERROGATORY NO. 14:** Does Plaintiff contend that any of the
16 individually named defendants Adams, Pineda, Gomez, Ferguson, Guetta, and/or
17 Reisterer had access to the derivative version of Take A Dive (with the guitar twang
18 sequence) on a basis other than an argument of striking similarity"? If so, provide a
19 full and complete factual basis for such contention, including the identification of
20 individuals with knowledge and an identification of any documents that refer or
21 relate to this contention.

22 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 14 because
23 it is overly broad, unduly burdensome and to the extent it calls for a
24 legal conclusion. Without waiving said objections, Plaintiff states that
25 Defendant songwriters Guetta and Riesterer directly and through their
26 historical association with Joachim Guerrard had a reasonable
27 opportunity to access the derivative version of "Take a Dive" through
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Plaintiff's submission of the song on his demo CD to Gum Productions, sometime around 2001 to 2003. Gum Productions is a French company that was owned and created by Guetta and Joachim Garraud, both of whom qualify as intermediaries to Riesterer. Plaintiff also refers to the Answers and Objections to Interrogatories No. 5-12, above. Investigation continues.

INTERROGATORY NO. 15: If Plaintiff Bryan Pringle has knowledge of any information that refers or relates to his contention that any Defendant had access to his work, provide a full and complete identification of such information and identify all other individuals with knowledge and any documents relating to the information.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 15 because it is overly broad, unduly burdensome and to the extent it calls for a legal conclusion. Without waiving said objections, Plaintiff states that he received a written communication from Joachim Garraud and Dave Guetta, via Gum Productions, in or around 2001 to 2003, acknowledging receipt of Plaintiff's music submissions, including "Take a Dive" – the Dance Version. Please also refer to Answers to Interrogatories No 5-12, above. Investigation continues.

INTERROGATORY NO. 16: Identify the date, time and reason for discarding any documents relevant to any allegation of the complaint.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 16 because it is overly broad, unduly burdensome and vague. Without waiving said objection, Plaintiff states that the written communication from Gum Productions in or around 2001 to 2003, acknowledging receipt of his music, was discarded prior to the release of "I Gotta Feeling," as several years had passed since its receipt and Plaintiff believed he no longer needed it.

1 **INTERROGATORY NO. 17:** State with particularity what files exist on the
2 incorrect NRG file produced in this case, and describe how the files were created,
3 dated and imaged on the incorrect NRG file.

4 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 17 because
5 it is overly broad, unduly burdensome and vague. Without waiving said
6 objections, Plaintiff states that what he understands is being referenced
7 as the “incorrect NRG file,” to the best of his recollection, was created,
8 dated and imaged sometime around 1999 with Ensoniq Disk Manager,
9 on a Windows 98 based computer, with a cd-rom burner. The actual
10 files contained inside of what he understands is being referenced as the
11 “incorrect NRG file” were actually created on an Ensoniq ASR-10
12 Keyboard through the various manipulation functionality of the Ensoniq
13 ASR-10. The following files are what is actually contained to the best
14 of his knowledge, in the aforementioned and referenced “incorrect NRG
15 file”:

- 16 **DIR 1**
17 ***“1952” - SONG - (NAMED AS “STRANDED”) - FILE 19***
18 **SONG BANK - “STRNDED BK” - FILE 10**
19 **BANK EFFECT - VOICE REVERB - FILE 9**
20 **Track 1 - S DRUMS - FILE 12**
21 **Track 2 - EMPTY - NO INSTRUMENT**
22 **Track 3 - VOX SMPL GTR - FILE 3**
23 **Track 4 - S-MAGIC GTR - FILE 4**
24 **Track 5 - STRING INST - FILE 5**
25 **Track 6 - GOOBER SMPL - FILE 6**
26 **Track 7 - SIRENS SMPL - FILE 7**
27 **Track 8 - NIRVANA INST - FILE 8**
28 **DIR 2 - Empty - NO INSTRUMENTS OR SONGS**
DIR 3 - Empty - NO INSTRUMENTS OR SONGS
DIR 4 - Empty - NO INSTRUMENTS OR SONGS
DIR 5
“UNTIL THE END OF TIME” - SONG - (NAMED AS “TIME”) - FILE 10
SONG BANK - “TIME BANK” - FILE 4 * (WILL NOT LOAD BANK)
BANK EFFECT - VOICE REVERB - FILE 13

- 1 Track 1 - T DRUMS - FILE 12
- 2 Track 2 - EMPTY - NO INSTRUMENT
- 3 Track 3 - SIRENS INST - FILE 18
- 4 Track 4 - AHHS* - FILE 22
- 5 Track 5 - SLAPBASS - FILE 5
- 6 Track 6 - GTR FX* INST - FILE 19
- 7 Track 7 - STRING SMPL - FILE 6
- 8 Track 8 - NRVNA SMPL - FILE 17
- 9 **DIR 6 - Empty - NO INSTRUMENTS OR SONGS**
- 10 **DIR 7**
- 11 ***"TAKE A DIVE"- SONG - (NAMED AS "DIVE") - FILE 18***
- 12 SONG BANK - "D BANK" - FILE 16 * (WILL NOT LOAD BANK)
- 13 BANK EFFECT - (THIS BANK EFFECT MUST BE SET TO "FX-ROM-04 -
- 14 DUAL
- 15 DELAYS"- USE "FX SELECT" BUTTON & SCROLL TO "DUAL DELAYS" -
- 16 "VAR 1" -
- 17 "STEREO BOUNCE")
- 18 Track 1 - D DRUMS - FILE 19
- 19 Track 2 - OOHS - FILE 17
- 20 Track 3 - KICK BASS - FILE 3
- 21 Track 4 - SIRENS INST - FILE 4
- 22 Track 5 - COSMO SYNTH - FILE 5
- 23 Track 6 - DELAY SMPL - FILE 6
- 24 Track 7 - SFX INST - FILE 7
- 25 Track 8 - DEMO SYNTH - FILE 8
- 26 **DIR 8**
- 27 ***"BROKEN WING" - SONG (NAMED AS "BRKN WING") - FILE 16***
- 28 SONG BANK - "BRKN WG BNK" - FILE 1
- 29 BANK EFFECT - (THIS BANK EFFECT MUST BE SET TO "FX-ROM-01 -
- 30 HALL
- 31 REVERB"- - "VAR 4" - "LONG REVERB") THIS EFFECT WILL LOAD WITH
- 32 THE "BRKN
- 33 WG BNK".
- 34 Track 1 - N DRUMS - FILE 2
- 35 Track 2 - DEEP BASS - FILE 3
- 36 Track 3 - DIGISMPL - FILE 4
- 37 Track 4 - SIRENS INST - FILE 5
- 38 Track 5 - PAN BASS - FILE 6
- 39 Track 6 - FLUTE SMPL - FILE 7
- 40 Track 7 - SUPER HITS - FILE 8
- 41 Track 8 - HI BASS SMPL - FILE 9

1 **DIR 9**
2 ***“7 SECONDS TO HEARTBREAK” - SONG (NAMED AS “HEARTBREAK”) -***
3 ***FILE 15***

4 SONG BANK - “H BANK” - FILE 16 * (WILL NOT LOAD BANK)
5 BANK EFFECT - VOICE REVERB - FILE 10
6 Track 1 - DRUMS - FILE 1
7 Track 2 - VOICE INST - FILE 3
8 Track 3 - FX BASS SMPL - FILE 20
9 Track 4 - SYNTHSTRINGS - FILE 4
10 Track 5 - CLEANGTR SMP - FILE 21
11 Track 6 - RICH PADS - FILE 6
12 Track 7 - ACST STRING1 - FILE 2
13 Track 8 - GTR LINE SMP - FILE 9

14 **DIR 10**
15 ***“TOO YOUNG TO DROWN” - SONG (NAMED AS “YOUNG”) - FILE 8***

16 SONG BANK - “YNG BANK” - FILE 10 * (WILL NOT LOAD BANK)
17 BANK EFFECT - VOICE REVERB - FILE 9
18 Track 1 - DRUMS - FILE 1
19 Track 2 - FLNGED BASS - FILE 2
20 Track 3 - FX* INST - FILE 3
21 Track 4 - EMPTY - NO INSTRUMENT
22 Track 5 - WIRE JUPITER - FILE 4
23 Track 6 - HRSH GTR - FILE 6
24 Track 7 - ALIEN SYNTH - FILE 6
25 Track 8 - VOCO SMPL* - FILE 7

26 **INTERROGATORY NO. 18:** State with particularity how the deposit copy
27 for the copyright application for the Take A Dive (Dance Version) sound recording
28 was made, including the individual that made the deposit copy, the date the deposit
copy was made, and equipment used to make the deposit copy, and the settings made
on the equipment.

29 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 18 because
30 it is overly broad, unduly burdensome and vague. Without waiving said
31 objections, Plaintiff states that he believes an mp3 copy was uploaded
32 through the U.S. Copyright Office website on or around November of

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2010. Plaintiff further states that the mp3 that was uploaded was either created from his having accessed the “correct NRG file” and uploaded its contents onto an ASR-10 keyboard and recorded the tracks into his Windows based computer, using a program called Cubase SX, and subsequently converted the track to mp3 for submission to the Copyright Office; alternatively, an older copy of “Take A Dive” in mp3 or wave format was simply converted the mp3 to a different bit rate for upload.

INTERROGATORY NO. 19: Provide each and every creation date, access date and modified date for the “correct” NRG file.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 19 because it is overly broad, unduly burdensome, and to the extent it seeks a legal conclusion. Without waiving said objection, Plaintiff states that, pursuant to the forensic analysis conducted by David Gallant, the creation date for the file named “DISK05.NRG,” which contains “Take a Dive (Dance Version),” is August 22, 1999, with a last modified time of 12:54 p.m.

INTERROGATORY NO. 20: Provide each and every time Bryan Pringle accessed the “correct NRG file” in 2009, and state the date, time, purpose and use of such file each time it was accessed, and the individuals involved or present during such acts.

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ANSWER: Objection. Plaintiff objects to Interrogatory No. 20 because it is overly broad, unduly burdensome, vague and not likely to lead to the discovery of relevant evidence. Without waiving said objection, Plaintiff states that he did not access the “correct NRG file” in 2009.

INTERROGATORY NO. 21: Provide each and every time Bryan Pringle accessed the correct NRG file in 2010, and state the date, time, purpose and use of such file each time it was accessed, and the individuals involved or present during such acts.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 21 because it is overly broad, unduly burdensome, vague and not likely to lead to the discovery of relevant evidence. Without waiving said objection, to the best of his recollection, the Plaintiff may have accessed the “correct NRG file” once in or around April or May of 2010, after the first time he heard “I Gotta Feeling,” to create an mp3 of “Take a Dive (Dance Version)” to send to his attorneys. Plaintiff further states that he accessed the file in or around December 2010, upon his delivery of the NRG file to his computer expert David Gallant, in order to play its contents for Mr. Gallant.

INTERROGATORY NO. 22: Provide each and every time Bryan Pringle accessed the correct NRG file in 2011, and state the date, time, purpose and use of such file each time it was accessed and the individuals involved or present during such acts.

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ANSWER: Objection. Plaintiff objects to Interrogatory No. 22 because it is overly broad, unduly burdensome, vague and not likely to lead to the discovery of relevant evidence. Without waiving said objection, Plaintiff states that he turned what he understands to be the referenced “correct NRG file” over to Dave Gallant, the computer forensics expert in and around December 2010. Plaintiff did not have the referenced original “correct NRG file” in his possession in 2011.

INTERROGATORY NO. 23: Describe with particularity every communication Bryan Pringle has had with David Gallant, including but not limited to dates, times and locations of providing computer disks, NRG files, or access to Mr. Pringle’s computer hard drive, and the nature, purpose and acts undertaken by David Gallant with respect to such computer disks, NRG files, or access to Mr. Pringle’s computer hard drive.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 23 because it is overly broad, unduly burdensome and not likely to lead to the discovery of relevant evidence. Without waiving said objection, Plaintiff states that he originally met David Gallant to provide him with the incorrect NRG file on or around May of 2010. Plaintiff later met with David Gallant in or around December of 2010 to deliver him the “correct NRG file.” Most recently, on or around August of 2011, Plaintiff was present in David Gallant’s office for Defendants’ computer expert, for the purpose of demonstrating how to use the ASR-10

1 keyboard. Plaintiff further states that he had telephonic and email
2 contact with Dave Gallant but does not recall the dates of such contact.

3
4 **INTERROGATORY NO. 24:** Provide the date when Mr. Pringle allegedly
5 placed his musical equipment in the storage unit reflected in his police report
6 produced in this case.

7 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 24 because
8 it is overly broad, unduly burdensome and not likely to lead to the
9 discovery of relevant evidence. Without waiving said objections,
10 Plaintiff states that his music equipment was placed in the storage unit
11 sometime during 2000 and prior to October 2000. Plaintiff does not
12 recall the specific date or dates on which his music equipment was
13 placed in storage.
14

15
16 **INTERROGATORY NO. 25:** If you contend that any Defendant has infringed
17 any copyright of Plaintiff Bryan Pringle other than Take A Dive or Take A Dive
18 (Dance Version), provide a complete factual basis for contending that they
19 Defendant had access and that the accused work is substantially similar.

20 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 25 because
21 it is overly broad, unduly burdensome and not likely to lead to the
22 discovery of relevant evidence. Without waiving said objections, at this
23 particular time, Plaintiff states that David Guetta's song "Love is Gone"
24 contains the guitar twang sequence of "Take a Dive" and as stated in his
25 deposition, the Defendants may have infringed "If We Ever," "One
26 Love," "Meet Me Halfway," "Someday," "Where Them Girls At,"
27 "Best One Yet," "One More Chance," "Invisible," and "Showdown."
28 Investigation continues.

HAMPTONHOLLEY LLP
2101 East Coast Highway, Suite 200
Corona del Mar, California 92625

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Dated: October 3, 2011

Dean A. Dickie (appearing Pro Hac Vice)
Kathleen E. Koppenhoefer (appearing Pro Hac
Vice)
Katharine N. Dunn (appearing Pro Hac Vice)
MILLER, CANFIELD, PADDOCK AND STONE,
P.L.C.

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HAMPTONHOLLEY LLP

By: 
Attorneys for Plaintiff Bryan Pringle

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VERIFICATION

I, Bryan Pringle, state that the answers made to Defendant Headphone Junkie Publishing, LLC's First Set of Interrogatories are true and correct to the best of my knowledge. I declare the foregoing to be true under penalty of perjury.



Bryan Pringle

October 3, 2011

HAMPTONHOLLEY LLP
2101 East Coast Highway, Suite 200
Corona del Mar, California 92626

HAMPTONHOLLEY LLP
2101 East Coast Highway, Suite 260
Corona del Mar, California 92625

1 **PROOF OF SERVICE**

2 I am employed in the County of Cook, State of Illinois. I am over the age of
3 18 and not a party to the within action. My business address is 225 West
Washington Street, Suite 2600, Chicago, Illinois 60606.

4 On this date, I served **PLAINTIFF'S RESPONSE TO DEFENDANT**
5 **HEADPHONE JUNKIE PUBLISHING, LLC FIRST SET OF**
6 **INTERROGATORIES** on all interested parties in this action listed on the attached
Service List as follows:

7 (BY MAIL) - I am "readily familiar" with the firm's practice of
8 collection and processing correspondence for mailing. Under that practice it would
9 be deposited with the U.S. Postal Service on the same day with postage thereon fully
prepaid at Chicago, Illinois in the ordinary course of business. I am aware that on
motion of the party served, service is presumed invalid if postal cancellation date or
postage meter date is more than one day after date of deposit for mailing on affidavit.

10 (BY FACSIMILE) - By transmitting a true copy thereof by facsimile
11 from facsimile number 312.460-4201 to the facsimile number(s) shown on the
attached Service List, for which electronic confirmation was received from the
12 facsimile machine that said document was successfully transmitted without error.

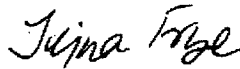
13 (BY OVERNIGHT DELIVERY) - By depositing the above
14 document(s) in a box or other facility regularly maintained by FedEx in an envelope
or package designated by FedEx with delivery fees paid.

15 (BY EMAIL) - By causing a true copy of the document(s) to be served
16 by electronic mail transmission at the time shown on each transmission, to each
interested party at the email address shown on the attached Service List. Each
transmission was reported as complete and without error.

17 (State) I declare under penalty of perjury under the laws of the state of
18 California that the foregoing is true and correct.

19 (Federal) I declare under penalty of perjury under the laws of the United
States that the foregoing is true and correct.

20 Executed on October 3, 2011 at Chicago, Illinois.

21 

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23 Irina V. Frye
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Service List
Bryan Pringle v. William Adams, Jr. et al.
Case Number: 8:10-cv-01656-JST -RZ

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19,453,613.4\146614-00001

Exhibit 10

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17 Attorneys for Plaintiff
BRYAN PRINGLE

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

22 BRYAN PRINGLE, an individual,

23 Plaintiff,

24 v.

25 WILLIAM ADAMS, JR.; STACY
26 FERGUSON; ALLAN PINEDA; and
27 JAIME GOMEZ, all individually and
collectively as the music group The Black
Eyed Peas, *et al.*,

28 Defendants.

) Case No. SACV 10-1656 JST(RZx)

) **PLAINTIFF'S AMENDED
RESPONSE TO DEFENDANT
STACY FERGUSON'S FIRST SET
OF INTERROGATORIES**

) **Complaint Filed: October 28, 2010
Trial Date: January 24, 2012**

1 PROPOUNDING PARTY: Defendant STACY FERGUSON
2 RESPONDING PARTY: Plaintiff BRYAN PRINGLE
3 SET NO.: One
4

5 Plaintiff Bryan Pringle submits this Amended Answer to Defendant, Stacy
6 Ferguson's ("Ferguson"), First Set of Interrogatories (the "Interrogatories").
7

8 **GENERAL OBJECTIONS**

9 1. Plaintiff objects to each interrogatory insofar as it is vague, overly
10 broad, not limited in time and scope, oppressive, harassing or vexatious, imposes
11 burden or expense that outweighs the likely benefit, seeks legal conclusions, and/or
12 seeks information not relevant to the lawsuit nor reasonably calculated to lead to the
13 discovery of admissible evidence.

14 2. Plaintiff objects to the extent that these interrogatories seek information
15 protected by the attorney/client or the work product privilege. Plaintiff will not
16 provide any such privileged information.

17 3. The following answers are given based upon the information and
18 documents of which Plaintiff's counsel is currently aware. Plaintiff's investigation
19 continues and Plaintiff specifically reserves the right to supplement the following
20 answers as this litigation proceeds. The following answers are given herein without
21 prejudice to Plaintiff's right to supplement or change its answers or objections and to
22 produce evidence of additional facts.

23 4. Plaintiff's answers are not an admission that any such information is
24 relevant or admissible.

25 5. Plaintiff objects to each interrogatory, instruction or definition that
26 purports to impose any obligation greater than or different from those required under
27 the Federal Rules of Civil Procedure and Local Orders of the Court.

28 6. Plaintiff specifically reserves the right to assert additional objections.

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DEFINITIONS AND INSTRUCTIONS

Plaintiff objects to each and every definition and instruction as set forth in Defendant's Interrogatories because each purports to impose an obligation greater than or different from those required under the Federal Rules of Civil Procedure and Local Orders of the Court.

INTERROGATORIES

INTERROGATORY NO. 1: State with specificity, using standard music notation and concrete musical examples (as opposed to merely listing generalized musical elements and descriptions) each and every difference between the MUSICAL COMPOSITIONS embodied in TAKE A DIVE and TAKE A DIVE (DANCE VERSION).

ANSWER: Objection. Plaintiff objects to Interrogatory No. 1 because it is overbroad, unduly burdensome and calls for the disclosure of attorney work product and attorney client privileged information. Without waiving said objection, Plaintiff directs Defendant to Plaintiff's declaration in support of his Motion for Preliminary Injunction and to the allegations contained within his First Amended complaint, including Paragraphs 27 - 30. Investigation continues.

INTERROGATORY NO. 2: State *in seriatim* and with specificity all things YOU used to create the MUSICAL COMPOSITION embodied in TAKE A DIVE (DANCE VERSION), including all hardware, software, instruments (including human voice), or otherwise.

ANSWER: Plaintiff objects to Interrogatory No. 2 because it is vague, overly broad and unduly burdensome. Without waiving his objection, Plaintiff states that he used an Ensoniq ASR-10, 16 track midi sequencer, sampler and workstation, with a built in effects processor,

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floppy drive, with an expandable 16 mb ram and optional SCSI port for storage to compatible hard drives. Plaintiff had the optional digital I/O port, the fully expanded (16) mb ram, the SCSI port, with multiple compatible hard drives, and other compatible cd-rom drives, as well as a Sony multi-cd player with a digital I/O port (for sampling instrumentation and effects from licensed sources such as instrumental construction disks from third party vendors). Instruments would either be loaded into the ASR-10 via floppy drive, cd-rom and hard drive, or sampled into the ASR-10, via the digital I/O port or sampled from an external audio source such as one of the many different midi keyboards that he used, including but not limited to, Akai, Korg, Yamaha, Roland, Kurzweil, Emu, and Ensoniq, or custom instruments would be created and then individual wavesamples would be loaded into the custom created instruments via cd-rom, hard drive, or floppy drive. Plaintiff also used an Audio Technica microphone, rackmount compressor, and rackmount Digitech effects processor, as well as other unknown equipment. Investigation continues.

INTERROGATORY NO. 3: State *in seriatim* and with specificity all things YOU used to create TAKE A DIVE (DANCE VERSION) SR, including all hardware, software, instruments (including human voice), or otherwise.

ANSWER: See answer and objections to Interrogatory No. 2.

INTERROGATORY NO. 4: State with specificity the date or dates during which YOU claim to have authored the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION).

ANSWER: Objection. Plaintiff objects to Interrogatory No. 4 because it is vague. Without waiving his objection, Plaintiff directs Defendant

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to the allegations contained within the First Amended Complaint, to his declaration in support of Plaintiff's Motion for Preliminary Injunction and states that he authored TAKE A DIVE (DANCE VERSION) during 1998 to 1999. Investigation continues.

INTERROGATORY NO. 5: State with specificity the date or dates during which YOU claim to have authored the TAKE A DIVE (DANCE VERSION) SR.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 5 because it is vague. Without waiving his objection, Plaintiff directs defendant to the allegations in his First Amended Complaint, to his declaration in support of Plaintiff's Motion for Preliminary Injunction and states that he authored TAKE A DIVE (DANCE VERSION) SR during 1998 to 1999. Investigation continues.

INTERROGATORY NO. 6: IDENTIFY all other PERSONS besides YOU who assisted with, participated in, have knowledge concerning, or are in any way connected with, the creation of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION).

ANSWER: Objection. Plaintiff objects to Interrogatory No. 6 because it is overly broad, unduly burdensome and not likely to lead to the discovery of relevant evidence. Without waiving said objections, none. Investigation continues.

INTERROGATORY NO. 7: IDENTIFY all other PERSONS besides YOU who assisted with, participated in, have knowledge concerning, or are in any way connected with the creation of TAKE A DIVE (DANCE VERSION) SR, including as a result of having rendered a performance of the MUSICAL COMPOSITION embodied therein.

1 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 7 because
2 it is vague, overly broad, unduly burdensome and not likely to lead to
3 the discovery of relevant evidence. Without waiving said objections,
4 none. Investigation continues.

5 **INTERROGATORY NO. 8:** State all FACTS that YOU contend demonstrate that
6 any of the DEFENDANTS had ACCESS to the MUSICAL COMPOSITION, TAKE
7 A DIVE (DANCE VERSION), prior to 2009. The term "ACCESS" as used herein
8 means to have actually heard, or had a reasonable opportunity or possibility to hear
9 the MUSICAL COMPOSITION at issue.

10 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 8 because
11 it is overly broad, unduly burdensome and not likely to lead to the
12 discovery of relevant evidence. Without waiving said objections,
13 Plaintiff directs Defendant to his declaration in support of Plaintiff's
14 Motion for Preliminary Injunction and to Paragraphs 31 to 39 of the
15 First Amended Complaint. Plaintiff further refers Defendant to the
16 musicologist expert report attached to Plaintiff's Motion for Preliminary
17 Injunction. Investigation continues.

18 **INTERROGATORY NO. 9:** State with specificity each element of the MUSICAL
19 COMPOSITION, TAKE A DIVE (DANCE VERSION), that YOU contend to be
20 ORIGINAL to YOU. The term "ORIGINAL" as used herein means those elements
21 of the MUSICAL COMPOSITION that were actually created by YOU as opposed to
22 copied from, or merely reference, other sources, and that exhibit some minimal level
23 of creativity.

24 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 9 because
25 it is vague and requiring disclosure of attorney work product and
26 attorney client privileged information. Without waiving said objection,
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1 Plaintiff states that the entire musical composition of TAKE A DIVE
2 (DANCE VERSION) is original to Plaintiff. Investigation continues.

3 **INTERROGATORY NO. 10:** State *in seriatim*, and in full and explicit terms,
4 each element of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE
5 VERSION), that YOU contend is protectable according to established copyright law
6 irrespective of whether YOU view the work to be copyrightable subject matter under
7 either 17 U.S.C. § 102(a)(2), 17 U.S.C. § 103, or both.

8 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 10 as
9 requiring disclosure of attorney work product and attorney-client
10 privileged information and to the extent it asks for a legal conclusion.
11 Subject to and without waiving his objections, Plaintiff states that the
12 entire musical composition TAKE A DIVE (DANCE VERSION) is
13 protectable according to established U.S. copyright law. Investigation
14 continues.
15

16 **INTERROGATORY NO. 11:** State *in seriatim*, and with specificity, all
17 DOCUMENTS, copyright principles and authority, music-related texts, expert
18 reports, or other sources of authority that YOU actually used in determining YOUR
19 response to Interrogatory No. 10, above.

20 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 11 to the
21 extent it asks for information that is work product or attorney client
22 privileged. Plaintiff further objects to Interrogatory No. 11 to the extent
23 that it requires a legal conclusion. Subject to and without waiving his
24 objections, Plaintiff refers Defendant to U.S. Copyright Law and case
25 law, including *Feist Publications Inc. v. Rural Telephone Service Co.*,
26 Inc., 499 U.S. 340 (1991), *Metcalf v. Bochco*, 294 F.3d 1069 (9th Cir.
27 2002) and *Three Boys Music Corp. v. Michael Bolton*, 212 F.3d 477
28

1 (9th Cir. 2000). Plaintiff also relied on the professional opinions and
2 reports of his experts. Investigation continues.

3 **INTERROGATORY NO. 12:** State *in seriatim*, explicitly and with specificity, all
4 protectable elements YOU set forth in response to Interrogatory No. 10 above, that
5 YOU contend appear in, or are shared by, the MUSICAL COMPOSITION, Gotta
6 Feeling."

7
8 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 12 because
9 it is overly broad, unduly burdensome and asks for information that is
10 work product or attorney client privileged. Without waiving said
11 objection, Plaintiff directs Defendant to Plaintiff's declaration in support
12 of Plaintiff's Motion for Preliminary Injunction, to the musicologist
13 report attached to his Motion for Preliminary Injunction, and to the First
14 Amended Complaint, including paragraphs 40 through 43. Investigation
15 continues.

16 **INTERROGATORY NO. 13:** For each element set forth in YOUR response to
17 Interrogatory No. 12, above, state all FACTS supporting YOUR contention that each
18 shared element resulted from, and only from, copying the MUSICAL
19 COMPOSITION, "TAKE A DIVE (DANCE VERSION)."

20
21 **ANSWER:** See answer and objections to Interrogatory No. 12. Plaintiff
22 further directs Defendant to Plaintiff's declaration in support of
23 Plaintiff's Motion for Preliminary Injunction, and to paragraphs 31
24 through 39 of the First Amended Complaint. Investigation continues.

25 **INTERROGATORY NO. 14:** List *in seriatim* and in full and explicit terms, each
26 similarity YOU perceive to exist between the MUSICAL COMPOSITIONS "TAKE
27 A DIVE (DANCE VERSION)" and "I Gotta Feeling."
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1 **ANSWER:** See answer and objections to Interrogatory No. 12.
2 Investigation continues.

3 **INTERROGATORY NO. 15:** State all FACTS that evidence that any of the
4 DEFENDANTS actually copied the MUSICAL COMPOSITION, TAKE A DIVE
5 (DANCE VERSION), when creating the MUSICAL COMPOSITION entitled "I
6 Gotta Feeling."

7 **ANSWER:** See answer and objections to Interrogatory No. 13.
8 Investigation continues.

9 **INTERROGATORY NO. 16:** State all FACTS that YOU contend demonstrate
10 that any of the DEFENDANTS had ACCESS to TAKE A DIVE (DANCE
11 VERSION) SR prior to 2009. The term "ACCESS" as used herein means to have
12 actually heard, or had a reasonable opportunity or possibility to hear, the SOUND
13 RECORDING at issue.

14 **ANSWER:** See answer and objections to Interrogatory No. 8.
15 Investigation continues.

16 **INTERROGATORY NO. 17:** List *in seriatim* and in full and explicit terms, each
17 similarity YOU perceive to exist between TAKE A DIVE (DANCE VERSION) SR
18 and "I Gotta Feeling."

19 **ANSWER:** See answer and objections to Interrogatory No. 13.
20 Investigation continues.

21 **INTERROGATORY NO. 18:** State all FACTS that any of the DEFENDANTS
22 physically appropriated any portion of TAKE A DIVE (DANCE VERSION) SR
23 when creating "I Gotta Feeling."

24 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 18
25 because it is overly broad, unduly burdensome and requires the
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disclosure of attorney work product and attorney client privileged information. Without waiving said objections, Plaintiff is not seeking to recover for a physical appropriation of Take a Dive (Dance Version) at this time in light of the Defendants ongoing and willful refusal to disclose the evidence required to establish sampling. Plaintiff reserves the right to seek recovery for physical appropriation of Take a Dive should Defendants produce evidence of said appropriation; investigation continues.

INTERROGATORY NO. 19: State with specificity, and according to YOUR personal knowledge, each and every PUBLIC PERFORMANCE, throughout the world, of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), including FACTS concerning when, where, by what means, and by whom the work was performed.

ANSWER: Objection. Plaintiff objects to interrogatory No. 19 because it is unduly burdensome. Without waiving his objection, TAKE A DIVE (DANCE VERSION) was played throughout North America and Western Europe on the internet and the radio. Investigation continues.

INTERROGATORY NO. 20: State with specificity, and according to YOUR personal knowledge, each and every DISTRIBUTION, throughout the world, of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE VERSION), including FACTS concerning when, where, by what means, by whom, and to whom the work was distributed.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 20 because it is vague, overly broad and unduly burdensome. Without waiving his objection, from around 1999 through 2006, Plaintiff submitted hundreds of demo cd's and tapes, all of which included "Take a Dive (Dance

1 Version),” to various music publishers, record companies, talent
2 managers, songwriters, booking agents and radio stations, including but
3 not limited to: Universal (UMG), EMI, Interscope/Geffen, EMI Music
4 Publishing (Jody Gerson, Big Jon Platt, Benjamin Groff, Andy
5 Furhman, Rebecca Wright), TVT Records, Reprise, Atlantic Records
6 (WEA), Columbia (Sony), Electra (WEA), Hollywood Records, Epic
7 Records, Electra Entertainment, Sony (ATV) Publishing (Bill Brown,
8 Eric Beall), Interscope/UMG, Lava (WEA), Island Def-Jam Music
9 Group, RCA, Maverick (WEA), Lava (WEA), Jennifer Havey, Sal
10 Guastella, Matt Marshall, Ashley Newton, Brian Leach, Scott Austin,
11 Debbie Southwood, Karen Kwak, Duff Marlowe, Ken Komisar, Mark
12 Gormley, Wendy Higgs, Kaz Utsunomia, Mike Caren, John Pikus,
13 Virgin Records, Warner Bros. Records, Craig Aaronson, A&M Records,
14 Arista Records, Virgin Records, Sire, Rykodisc, Jen Bailey, ATN
15 Management, Azoff Music Mangement, Caliente Entertainment, East
16 End Management, Lindsay Scott, Mosaic Media Group, T. Skorman,
17 McGhee Entertainment, Network Management and Rebel Waltz
18 Management. This list includes various individuals and entities in
19 Australia, America, Canada, Japan, France, Germany, Holland, Sweden,
20 Switzerland, Great Britain and Ireland. Investigation continues.

21 **INTERROGATORY NO. 21:** State with specificity, and according to YOUR
22 personal knowledge, each and every PUBLIC PERFORMANCE, throughout the
23 world, of TAKE A DIVE (DANCE VERSION) SR, including FACTS concerning
24 when, where, by what means, and by whom the work was performed.
25

26 **ANSWER:** See answer and objections to Interrogatory No. 19.
27 Investigation continues.
28

1 **INTERROGATORY NO. 22:** State with specificity, and according to YOUR
2 personal knowledge, each and every DISTRIBUTION, throughout the world, of
3 TAKE A DIVE (DANCE VERSION) SR, including FACTS concerning when,
4 where, by what means, by whom, and to whom the work was distributed.

5 **ANSWER:** See answer and objections to Interrogatory Nos. 19 and 20.
6 Investigation continues.

7
8 **INTERROGATORY NO. 23:** To the extent not covered by Interrogatories Nos.
9 19 and 20 above, state with specificity all non-public or limited exploitations,
10 throughout the world, of the MUSICAL COMPOSITION, TAKE A DIVE (DANCE
11 VERSION), including all such performances and dispositions of COPIES thereof, as
12 well as the activities YOU reference in Paragraphs 31 and 32 of YOUR
13 COMPLAINT. In connection with such non-public or limited exploitations, YOU are
14 to state all FACTS concerning when, where, by what means, by whom TAKE A
15 DIVE (DANCE VERSION) was performed or distributed, and to whom it was
16 distributed.

17 **ANSWER:** See answer and objections to Interrogatory Nos. 19 and 20.
18 Investigation continues.

19
20 **INTERROGATORY NO. 24:** To the extent not covered by Interrogatories Nos.
21 21 and 22 above, state with specificity all non-public or limited exploitations,
22 throughout the world, of TAKE A DIVE (DANCE VERSION) SR, including all
23 such performances and dispositions of PHONORECORDS thereof, as well as the
24 activities YOU reference in Paragraphs 31 and 32 of YOUR COMPLAINT. In
25 connection with such non-public or limited exploitations, YOU are to state all
26 FACTS concerning when, where, by what means, by whom TAKE A DIVE
27 (DANCE VERSION) SR was performed or distributed, and to whom it was
28 distributed.

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ANSWER: See answer and objections to Interrogatory No. 21 and 22.
Investigation continues.

INTERROGATORY NO. 25: If other adaptations exist beyond TAKE A DIVE (DANCE VERSION) of the MUSICAL COMPOSITION entitled TAKE A DIVE that YOU claim were created prior to 2009 and YOU claim are relevant to this lawsuit, please list all such adaptations.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 25 because it is vague and overly broad. Without waiving his objection, Plaintiff states that there were multiple derivative versions of "Take a Dive" that were included on Plaintiffs' demo cds and tapes, including several where the guitar twang sequence was soloed out as the introduction of the song. Plaintiff also states that the MUSICAL COMPOSITION is based at least in part, on Plaintiff's song copyrighted songs "Faith" and "Faith Re-mix." Investigation continues.

Dated: November 7, 2011

Dean A. Dickie (appearing Pro Hac Vice)
Kathleen E. Koppenhoefer (appearing Pro Hac Vice)
Katharine N. Dunn (appearing Pro Hac Vice)
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By: 
Attorneys for Plaintiff Bryan Pringle

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VERIFICATION

I, Bryan Pringle, state that I have knowledge of the foregoing events, and that the answers made to Defendant Ferguson's First Set of Interrogatories are true and correct.

I declare the foregoing to be true under penalty of perjury.

Bryan Pringle



November 4, 2011.

HAMPTONHOLLEY LLP
2167 East Coast Highway, Suite 260
Corona del Mar, California 92626

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PROOF OF SERVICE

I am employed in the County of Cook, State of Illinois. I am over the age of 18 and not a party to the within action. My business address is 225 West Washington Street, Suite 2600, Chicago, Illinois 60606.

On this date, I served the foregoing **PLAINTIFF'S AMENDED RESPONSE TO DEFENDANT STACY FERGUSON'S FIRST SET OF INTERROGATORIES** on all interested parties in this action listed on the attached Service List as follows:

(BY MAIL) - I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepaid at Chicago, Illinois in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing on affidavit.

(BY FACSIMILE) - By transmitting a true copy thereof by facsimile from facsimile number 312.460-4201 to the facsimile number(s) shown on the attached Service List, for which electronic confirmation was received from the facsimile machine that said document was successfully transmitted without error.


(BY OVERNIGHT DELIVERY) - By depositing the above document(s) in a box or other facility regularly maintained by FedEx in an envelope or package designated by FedEx with delivery fees paid.

(BY EMAIL) - By causing a true copy of the document(s) to be served by electronic mail transmission at the time shown on each transmission, to each interested party at the email address shown on the attached Service List. Each transmission was reported as complete and without error.

(State) I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

(Federal) I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on November 7, 2011, at Chicago, Illinois.



Irina V. Frye

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Service List
Bryan Pringle v. William Adams, Jr. et al.
Case Number: 8:10-cv-01656-JST -RZ

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