

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

1 Dean A. Dickie (appearing *Pro Hac Vice*)
Dickie@MillerCanfield.com
2 Kathleen E. Koppenhoefer (appearing *Pro Hac Vice*)
Koppenhoefer@MillerCanfield.com
3 MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.
225 West Washington Street, Suite 2600
4 Chicago, IL 60606
Telephone: 312.460.4200
5 Facsimile: 312.460.4288

6 George L. Hampton IV (State Bar No. 144433)
ghampton@hamptonholley.com
7 Colin C. Holley (State Bar No. 191999)
cholley@hamptonholley.com
8 HAMPTONHOLLEY LLP
2101 East Coast Highway, Suite 260
9 Corona del Mar, California 92625
Telephone: 949.718.4550
10 Facsimile: 949.718.4580

11 Attorneys for Plaintiff
BRYAN PRINGLE

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 BRYAN PRINGLE, an individual,) Case No. SACV 10-1656 JST(RZx)
17 Plaintiff,) **STIPULATION REQUESTING**
18 v.) **COURT TO CONTINUE TRIAL**
19 WILLIAM ADAMS, JR.; STACY) **AND CASE MANAGEMENT**
20 FERGUSON; ALLAN PINEDA; and) **DATES**
21 JAIME GOMEZ, all individually and)
collectively as the music group The Black)
Eyed Peas, *et al.*,)
22 Defendants.)

23
24 This Stipulation requesting the Court to continue the trial and certain
25 remaining case management dates is respectfully submitted by plaintiff Bryan
26 Pringle (“Plaintiff”) and defendants William Adams, Stacy Ferguson, Allan Pineda,
27 Jaime Gomez, individually and collectively p/k/a The Black Eyed Peas, Tab
28 Magnetic Publishing, Headphone Junkie Publishing, LLC, will.i.am. music, llc,

1 Jeepney Music, Inc., Cherry River Music Co., EMI April Music, Inc., UMG
2 Recordings, Inc., Interscope Records, Shapiro, Bernstein & Co., Inc., Frederic
3 Riesterer, and David Guetta (jointly “Defendants”) (Plaintiff and Defendants are
4 hereafter collectively referred to as the “parties”), and is made with reference to the
5 following facts:

6 1. WHEREAS, on February 24, 2011 the Court entered an Order Vacating
7 Scheduling Conference and Setting Case Management Dates. Pursuant to the terms
8 of that Order, the Federal Rules of Civil Procedure and the Local Rules of this Court,
9 the following dates were scheduled in connection with the instant litigation:

- 10 a. November 11, 2011: Last Day to Meet and Confer on Non-
11 Discovery Motions
- 12 b. November 14, 2011: Close of Fact and Expert Discovery
- 13 c. November 21, 2011: Last Day to File Motions (Other Than
14 Motions *In Limine*)
- 15 d. November 23, 2011: Last Day to File Motions Regarding the
16 Sufficiency of Fact Discovery
- 17 e. November 28, 2011: Last Day to Conduct Settlement
18 Proceedings
- 19 f. November 30, 2011: Last Day for Affirmative Rule 26(a)(2)(D)
20 Expert Disclosures to be Made
- 21 g. December 19, 2011: Last Day for Law And Motion Hearings
- 22 h. December 30, 2011: Last Day for Rebuttal Rule 26(a)(2)(D)
23 Expert Disclosures
- 24 i. January 4, 2012: Last Day for Local Rule 16-2 Meeting
- 25 j. February 13, 2011: Final Pre-Trial Conference
- 26 k. February 24, 2011: Exhibit Conference
- 27 l. February 28, 2011: Jury Trial
- 28

1 2. WHEREAS, following the Court’s February 24, 2011 Scheduling
2 Order, the parties worked diligently to complete discovery within the time frame set
3 by the Court. That work included, among other things, depositions of at least nine
4 fact witnesses, responses to dozens of document requests and interrogatories, and
5 production of numerous audio files and more than 25,000 pages of documents, some
6 of which were produced as recently as November 14, 2011. The parties are in the
7 process of meeting and conferring regarding certain document production and
8 discovery issues.

9 3. WHEREAS, upon stipulation of the parties and this Court’s Order
10 Continuing Expert Discovery Cutoff Dates Pursuant to Stipulation dated October 26,
11 2011 (ECF Doc. #154), the February 24, 2011 Scheduling Order was modified to
12 shorten the time period for expert disclosures, such that initial disclosures would be
13 made by November 23, 2011, rebuttal expert disclosures would be made by
14 December 16, 2011 and expert discovery would be completed by January 16, 2012.

15 4. WHEREAS, fact discovery closed in this case on November 14, 2011.
16 WHEREAS, on November 17, 2011, Defendants Shapiro, Bernstein & Co., Inc.,
17 David Guetta, and Frederic Riesterer filed a motion for summary judgment (ECF
18 Doc. #159) (hereafter “Defendants’ MSJ”). This Motion seeks Judgment in favor of
19 Defendants, and against Plaintiff on the following issues: (1) whether Plaintiff owns
20 a valid copyright in “Take a Dive” (Dance Version), (2) whether Plaintiff can prove
21 that any Defendant had access to, and copied from, “Take a Dive” (Dance Version),
22 (3) whether Plaintiff can prove that Defendants had access to “Take a Dive” and that
23 “Take a Dive” is substantially similar to “I Gotta Feeling,” and (4) whether
24 Plaintiff’s claim should be dismissed for spoliation of evidence.

25 5. WHEREAS Defendants’ MSJ was set for hearing, in accordance with
26 the Court’s current scheduling order, on December 19, 2011. Based upon the issues
27 raised, a favorable defense ruling on Defendants’ MSJ would effectively terminate
28

1 the proceedings with respect to all Defendants, and eliminate the necessity for
2 proceeding into the costly damages, pre-trial, and trial phases of the litigation.

3 6. WHEREAS by operation of the Local Rules, Plaintiff's opposition to
4 Defendants' MSJ is currently due on November 28, 2011. Furthermore, the current
5 December 19, 2011 date for the hearing on Defendants' MSJ is just three calendar
6 days after the deadline for disclosure of rebuttal expert reports. Plaintiff's counsel
7 states Plaintiff intends to depose Defendants' experts that have submitted
8 declarations in support of the Motion for Summary Judgment and to submit expert
9 declarations in opposition to Defendants' MSJ. Plaintiff's counsel states Plaintiff
10 needs time to depose Defendants' experts and to have his experts prepare their
11 declarations prior to submitting the opposition to Defendants' MSJ.

12 7. WHEREAS Plaintiff's counsel further states that a continuance of the
13 MSJ hearing and briefing schedule is warranted because the current schedule allows
14 Plaintiff just 11 calendar days—over two weekends including the Thanksgiving
15 holiday weekend—to oppose a motion for summary judgment that is supported by 12
16 declarations (including witnesses offering expert opinions and witnesses who reside
17 outside of the United States), 111 statements of fact, and a 25-page memorandum.
18 Plaintiff's counsel therefore states that Plaintiff needs additional time beyond the 11
19 days to prepare his opposition.

20 8. WHEREAS Plaintiff's counsel contacted Defendants' counsel seeking a
21 stipulated continuance of the briefing schedule and hearing on Defendants' MSJ.
22 Defendants and their counsel are willing to accommodate Plaintiff's desire for
23 additional time to prepare his response. However, the parties agree that it is in their
24 interest, and interest of judicial economy, for the Court to resolve Defendants' MSJ
25 before the parties incur significant additional fees and costs on non-liability issues,
26 such as damages and apportionment, and to prepare the various pre-trial materials
27 and for trial, all of which would be unnecessary should Defendants' MSJ be granted.
28

1 9. WHEREAS the parties have met and conferred on Plaintiff's request for
2 additional time to prepare a response to Defendants' MSJ and the parties are in the
3 process of discussing the availability of their respective expert witnesses for
4 depositions following the disclosure of initial expert reports and rebuttal reports.
5 Finding dates that work for all parties and the witnesses is challenging given the
6 number of parties and the upcoming end-of-the-year holidays and travel obligations
7 of the witnesses and counsel, but the parties will continue to confer in good faith to
8 identify potential deposition dates that will work provided the MSJ hearing and
9 briefing schedule is modified as set forth below.

10 10. WHEREAS, in addition to extension of the MSJ briefing and pretrial
11 dates, the parties wish to re-open fact discovery solely for the purpose of taking the
12 Rule 30(b)(6) depositions of witness for Defendants UMG/Interscope on damages
13 issues, which depositions could not be completed prior to the fact discovery cutoff
14 because of the unavailability of the witnesses.

15 11. WHEREAS the needed modification of the MSJ hearing and briefing
16 schedule will require a short continuance of the trial (of less than 90 days) and
17 rescheduling of the remaining pretrial deadlines. The parties have met and conferred
18 in good faith and have reached agreement on a proposed schedule that will allow for
19 the completion of expert discovery in advance of the remaining briefing of
20 Defendants' MSJ, will defer expert discovery regarding damages and trial
21 preparation until after Defendants' MSJ is heard, and will allow the parties adequate
22 time to prepare the case for trial should the MSJ be denied.

23 12. WHEREAS, this is the parties' first request for a continuance of the trial
24 date, and the parties respectfully submit that it is warranted in the interests of judicial
25 economy and avoiding any prejudice to any of the parties.

26 13. BASED UPON THE FOREGOING FACTS, IT IS HEREBY
27 STIPULATED AND REQUESTED by and between the Parties, through their
28 respective counsel, subject to the Court's approval, that the Court's February 24,

1 2011 and October 26, 2011 Scheduling Orders be modified as set forth in the below
 2 chart:

3	Event	Current Date	Proposed Date
4	Last Day to file Motions	November 23, 2011	December 5, 2011
5	Regarding the Sufficiency of Fact Discovery		
6	Affirmative Expert	November 23, 2011	November 30, 2011
7	Disclosures on Liability		
8	ADR Completion	November 28, 2011	[No Change]
9	Rebuttal Expert	December 16, 2011	December 23, 2011
10	Disclosures on Liability		
11	Liability Expert	January 16, 2011	January 5, 2012
12	Discovery Closed		
13	Plaintiff's Opposition to Defendants' Motion for Summary Judgment	Nov 28, 2011	January 11, 2012
14	Defendant's Reply in Further Support of Motion for Summary Judgment	December 5, 2011	February 1, 2012
15	Hearing on Motion for Summary Judgment	December 19, 2011	February 20, 2012
16	Last Day to Depose UMG/Interscope Rule 30(b)(6) witness on the issue of damages only.	November 14, 2011	February 1, 2012
17	Plaintiff's Affirmative Expert Report(s) on Damages	November 23, 2011	February 27, 2012
18	Defendants' Rebuttal Expert Report(s) on Damages (including reports on costs, net profits attributable to alleged infringement and apportionment of such profits)	December 16, 2011	March 12, 2012
19	Close of Expert Damages Discovery	January 6, 2012	March 19, 2012
20			
21			
22			
23			
24			
25			
26			
27			
28			

1	Motions in Limine	January 16, 2012	April 2, 2012
2	Oppositions to Motions in Limine	January 23, 2012	April 9, 2012
3	Replies on Motions in Limine	January 30, 2012	April 16, 2012
4	Pre Trial Order	February 3, 2012	April 20, 2012
5	Proposed Jury Instructions, Voir Dire	February 6, 2012	April 23, 2012
6	Final pretrial conference	February 13, 2012	April 30, 2012
7	Exhibits Conference	February 24, 2012	May 11, 2012
8	Trial to Commence	February 28, 2012	May 15, 2012

9
10 Dated: November 21, 2011 Dean A. Dickie
11 Kathleen E. Koppenhoefer
MILLER, CANFIELD, PADDOCK AND STONE,
P.L.C.

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

14
15 By: /s/ Dean Dickie
16 Attorneys for Plaintiff BRYAN PRINGLE

17
18 Dated: November 21, 2011 Linda M. Burrow
19 Alison Mackenzie
CALDWELL LESLIE & PROCTOR, PC

20
21 By: /s/ Linda Burrow
22 Attorneys for Defendants UMG RECORDINGS,
INC., and INTERSCOPE RECORDS

23 Dated: November 21, 2011 Donald Miller
24 Barry Slotnick
25 Tal Dickstein
LOEB & LOEB LLP
26
27 By: /s/ Donald Miller
Attorneys for Defendants DAVID GUETTA,
28 FREDERIC RIESTERER and
SHAPIRO, BERNSTEIN AND CO., INC.

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

Dated: November 21, 2011

Kara E. F. Cenar
Jonathan Pink
Justin Righettini
Mariangela Seale
BRYAN CAVE LLP

By: /s/ Kara Cenar

Attorneys for Defendants WILLIAM ADAMS;
ALLAN PINEDA; JAIME GOMEZ, and STACY
FERGUSON p/k/a FERGIE all individually and
collectively as the music group THE BLACK
EYED PEAS; will.i.am music, llc; TAB
MAGNETIC PUBLISHING; HEADPHONE
JUNKIE PUBLISHING, LLC, CHERRY RIVER
MUSIC CO.; JEEPNEY MUSIC, INC., EMI
APRIL MUSIC

19,592,158.2\146614-00001
11/21/11 8:35 AM

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

CERTIFICATE OF SERVICE

1 On November 21, 2011, I electronically filed the foregoing STIPULATION
2 REQUESTING COURT TO CONTINUE TRIAL AND CASE MANAGEMENT
3 DATES using the CM/ECF system which will send notification of such filing to the
4 following registered CM/ECF Users:

5
6 Barry I. Slotnick bslotnick@loeb.com
7 Donald A. Miller dmiller@loeb.com, vmanssourian@loeb.com
8 Ira P. Gould gould@igouldlaw.com
9 Tal Efriam Dickstein tdickstein@loeb.com
10 Linda M. Burrow wilson@caldwell-leslie.com, burrow@caldwell-leslie.com,
11 popescu@caldwell-leslie.com, robinson@caldwell-leslie.com
12 Ryan Christopher Williams williamsr@millercanfield.com
13 Kara E. F. Cenar kara.cenar@bryancave.com
14 Ryan L. Greely rgreely@igouldlaw.com
15 Robert C. Levels levels@millercanfield.com
16 Kathleen E. Koppenhoefer koppenhoefer@millercanfield.com
17 Rachel Aleeza Rappaport rrappaport@loeb.com
18 Jonathan S. Pink jonathan.pink@bryancave.com, elaine.hellwig@bryancave.com
19 Dean A. Dickie dickie@millercanfield.com, frye@millercanfield.com,
20 deuel@millercanfield.com, smithkaa@millercanfield.com,
21 seaton@millercanfield.com, williamsr@millercanfield.com
22 Edwin F. McPherson emcpherson@mcphersonrane.com,
23 astephan@mcphersonrane.com
24 Joseph G. Vernon vernon@millercanfield.com
25 Justin Michael Righettini justin.righettini@bryancave.com
26 Tracy B. Rane trane@mcphersonrane.com

27 I am unaware of any attorneys of record in this action who are not registered
28 for the CM/ECF system or who did not consent to electronic service.

 I certify under penalty of perjury under the laws of the United States of
America that the foregoing statements are true and correct.

Dated: November 21, 2011 /s/Colin C. Holley

George L. Hampton IV (State Bar No. 144433)
Colin C. Holley (State Bar No. 191999)
HAMPTONHOLLEY LLP
2101 East Coast Highway, Suite 260
Corona del Mar, California 92625
Telephone: 949.718.4550
Facsimile: 949.718.4580