

EXHIBIT 1

Deposition of David T. Gallant - December 20, 2011

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE CENTRAL DISTRICT OF CALIFORNIA
3 SOUTHERN DIVISION
4 BRYAN PRINGLE, an individual,))
5 Plaintiff,))
6))
7 VS.) NO. SACV10-1656 JST (RZX)
8))
9 WILLIAM ADAMS, JR.; STACY))
10 FERGUSON; ALLAN PINEDA; and))
11 JAIME GOMEZ, all individually))
12 and collectively as the music))
13 group The Black Eyed Peas;))
14 DAVID GUETTA; FREDERICK))
15 RIESTERER; UMG RECORDINGS,))
16 INC.; HEADPHONE JUNKIE))
17 PUBLISHING, LLC; WILL.I.AM.))
18 MUSIC, LLC, JEEPNEY MUSIC,))
19 INC.; TAB MAGNETIC))
20 PUBLISHING; CHERRY RIVER))
21 MUSIC CO.; SQUARE RIVOLI))
22 PUBLISHING, RISTER EDITIONS;))
23 and SHAPIRO, BERNSTEIN & CO.,))
24 Defendants.))

Deposition of David T. Gallant - December 20, 2011

1 -----
2 ORAL AND VIDEOTAPED DEPOSITION OF
3 DAVID T. GALLANT
4 DECEMBER 20, 2011
5 -----

6 ORAL AND VIDEOTAPED DEPOSITION of DAVID T. GALLANT,
7 produced as a witness at the instance of the Defendants,
8 WILLIAM ADAMS, JR.; STACY FERGUSON; ALLAN PINEDA and
9 JAIME GOMEZ, all individually and collectively as the
10 music group The Black Eyed Peas; WILL.I.AM. MUSIC, LLC,
11 TAB MAGNETIC PUBLISHING; CHERRY RIVER MUSIC CO.;
12 HEADPHONE JUNKIE PUBLISHING, LLC; JEEPNEY MUSIC, INC.
13 and EMI APRIL MUSIC, INC., duly sworn, was taken in the
14 above-styled and numbered cause on the 20th day of
15 December, 2011, from 9:58 a.m. to 5:40 p.m., before Jean
16 Thomas Fraunhofer, CSR in and for the State of Texas,
17 reported by machine shorthand, at REGUS, 1777 NE Loop
18 410, suite 600, San Antonio, Texas 78217, pursuant to
19 the Federal Rules of Civil Procedure and the provisions
20 stated on the record or attached hereto.

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1 A P P E A R A N C E S

2 FOR THE PLAINTIFF:

3 DEAN A. DICKIE
4 MILLER CANFIELD PADDOCK & STONE, PLC
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8 Email: Dickie@millercanfield.com

9

10 FOR THE DEFENDANTS: WILLIAM ADAMS, JR.; STACY FERGUSON;
11 ALLAN PINEDA and JAIME GOMEZ, all individually and
12 collectively as the music group The Black Eyed Peas;
13 WILL.I.AM. MUSIC, LLC, TAB MAGNETIC PUBLISHING; CHERRY
14 RIVER MUSIC CO.; HEADPHONE JUNKIE PUBLISHING, LLC;
15 JEEPNEY MUSIC, INC. and EMI APRIL MUSIC, INC.

16

17 KARA E. F. CENAR
18 BRYAN CAVE, LLP
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20 Chicago, Illinois 60601
21 Tel: (312) 602-5019
22 Email: kara.cenar@bryancave.com

23

24 The Videographer: Arthur Brewer

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1 MR. DICKIE: He was answering your
2 question. Go ahead and answer the question, Mr.
3 Gallant.

11:00:32 4 A. Yes. And that's what I was doing by
5 collecting -- and not relying solely on the forensic
6 analysis of one CD, but by looking at the history of the
7 theft of the equipment, the age of the CD-ROMs that were
8 used and all the other information that I was able to
11:00:52 9 glean.

10 Q. All right. Maybe I misheard you. You were or
11 were not asked to determine whether plaintiff could have
12 created the files after defendants' song was released in
13 the summer of 2009?

11:01:07 14 A. Not specifically stated in that way, no. I was
15 asked to date those files --

16 Q. All right.

17 A. -- with what I had available to me.

18 Q. If you were asked to determine whether
11:01:18 19 plaintiff could have created the files after defendants'
20 song was released in the summer of 2009, what things
21 would you as a computer expert need to look at?

22 A. I --

23 MR. DICKIE: Objection. Assumes facts
24 that he looked at anything.

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1 A. I would like to look at the hard drives from
2 1999.

3 Q. Anything else?

11:01:43 4 A. Anything else that was made -- would be made
5 available to me, I'd be willing to look at to prove or
6 disprove that aspect.

7 Q. Would looking at Mr. Pringle's computers used
8 in 2009 be something you would want to look at?

11:02:01 9 A. 2009? If they were available, yes.

10 Q. And the hard drives that Mr. Pringle used in
11 2009, would that be something that you'd want to look
12 at?

13 A. If they were available, yes.

11:02:11 14 Q. And in 2010, would you want to look at those
15 hard drives?

16 A. As I understand the sequence of events, those
17 hard drives wouldn't hold any information that -- that
18 the defendants have put forth as being their theory.

11:02:26 19 Q. I'm not asking about defendants' theory. I'm
20 asking about you as a computer expert, if you were
21 retained to determine whether plaintiff could have
22 created the files after defendants' song was released in
23 the summer of 2009, would you or would you not want to
24 look at Mr. Pringle's hard drives from 2010?

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1 MR. DICKIE: Objection. Asked and
2 answered.

3 A. If it was available, I would look at anything
11:02:52 4 that was available.

5 Q. And why would you look at those hard drives to
6 determine whether plaintiff could have created the files
7 after defendants' song was released in the summer of
8 2009?

11:03:05 9 MR. DICKIE: Objection. Misstates his
10 answer to your question. You are now misleading the
11 witness. That isn't what he said.

12 A. Can you repeat the previous question and my
13 answer?

11:03:14 14 MS. CENAR: Yes, and then my question.
15 (Requested portion was read.)

16 MR. DICKIE: Same objection.

17 A. The presence or absence of any forensic
18 evidence would support or refute my conclusions or
11:04:13 19 support or change my conclusions. So the more -- In a
20 general statement, not just in this specific -- this
21 matter specifically, in any investigation, the more
22 information that I have to compare, the more likely I am
23 to be able to support or refute the -- the allegations.

24 Q. And it would be fair to say that you did not do

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1 been who received your email?

2 A. No, I don't. Not all of them.

3 Q. So in this page of Exhibit No. 59 -- Can we

02:48:38 4 mark that as 59A, please, for --

5 MR. DICKIE: wouldn't it make sense to
6 mark each page with a separate number within that large
7 exhibit as opposed to sticking an A on it?

8 MS. CENAR: No, we're going to mark it
02:48:49 9 Exhibit 59A.

10 MR. DICKIE: How foolish.

11 Q. We've marked this one page as Exhibit 59 -- as
12 Exhibit No. 59A. would you describe for the record what
13 Exhibit 59A is, please?

02:49:12 14 A. 59A is an email that I sent to a forensic
15 instructor mailing list having a question concerning the
16 analysis of this CD.

17 Q. And could you tell the court on or about what
18 date you sent this email out?

02:49:38 19 A. It looks to have been on the first of -- I'm
20 sorry, January 3rd, 2011.

21 Q. And what is the date of the receipt or response
22 from Mr. John Zeke Thackray?

23 A. The same date, January 3rd, 2011.

24 Q. Now, there's a -- midway on this Page 59A,

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5 BRYAN PRINGLE, an individual,)
6 Plaintiff,)
7)
8 VS.) NO. SACV10-1656 JST (RZX)
9 WILLIAM ADAMS, JR., et al.)
10 Defendants.)

11
12 I, DAVID GALLANT, have read the foregoing
13 deposition transcript and hereby affix my signature
14 that same is true and correct, except as noted on the
15 errata sheets attached hereto.

16
17 PLEASE CHECK ONE: No changes made.
18 Number of errata sheets enclosed.
19
20

21
22 _____
23 DAVID T. GALLANT, Witness
24

Deposition of David T. Gallant - December 20, 2011

1 THE STATE OF _____)

2 COUNTY OF _____)

3

4 Before me, _____, on this day
5 personally appeared DAVID T. GALLANT, known to me (or
6 proved to me under oath or through _____)
7 (description of identity card or other document) to be
8 the person whose name is subscribed to the foregoing
9 instrument and acknowledged to me that they executed the
10 same for the purposes and consideration therein
11 expressed.

12 Given under my hand and seal of office this _____
13 day of _____, _____.

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Notary Public in and for the State
of _____.

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REPORTER'S CERTIFICATE
ORAL DEPOSITION OF DAVID T. GALLANT
DECEMBER 20, 2011

I, JEAN THOMAS FRAUNHOFER, the undersigned Certified Shorthand Reporter in and for the State of Texas, certify that the facts stated in the foregoing pages are true and correct.

I further certify that I am neither attorney or counsel for, related to, nor employed by any parties to the action in which this testimony is taken and, further, that I am not a relative or employee of any counsel employed by the parties hereto or financially interested in the action.

SUBSCRIBED AND SWORN TO under my hand and seal of office on this the 22nd day of December, 2011.

JEAN THOMAS FRAUNHOFER
Texas CSR 7990
Expiration Date: 12/31/12

EXHIBIT 2

From: John Zeke Thackray <0tzeke@googlemail.com>
Subject: Re: CD-ROM
Date: January 3, 2011 5:47:40 PM CST
To: David@GallantCIS.com
Reply-To: 0tzeke@googlemail.com

Hi David,

As always the obvious is to consider what was the date and time stamp of the system creating the CD-ROM but you will have no doubted considered that? Link files and Meta data entries on the system originally creating the CD are also obvious choices to consider. If you just have the CD-ROM and no supporting systems in view of the time frame then any files within the CD-ROM may provide evidence of creation dates, meta-data, content of documents etc?

Just a though my friend and a happy new year to you too

Zeke

On 3/01/2011, at 8:18 PM, David Gallant wrote:

I hope everyone had a nice holiday season....today it's back to the grind for me!

I have a CD-ROM with two sessions burned. The volume name of the CD is 990909_0118. Nero InfoTool reports the CD was burned on Sep 9, 1999. So, it seems logical to conclude the first session was created on 9-9-1999. Is there any FORENSIC way to prove this?

My evidence is located in the second session. I can see the file creation dates, but I want to establish WHEN the second session was created. Any thoughts? The issue concerns being able to prove specific files on this CD was actually created during the 1999 timeframe, not later and then manipulated to appear they were created earlier.

Any thoughts are greatly appreciated.

Happy New Year!

DTG

David T. Gallant, CISSP
President



EXHIBIT 3

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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 AMENDED**
25 WILLIAM ADAMS, JR.; STACY) **ANSWERS TO DEFENDANT**
26 FERGUSON; ALLAN PINEDA; and) **HEADPHONE JUNKIE**
27 JAIME GOMEZ, all individually and) **PUBLISHING, LLC'S FIRST SET**
of collectively as the music group The Black) **OF INTERROGATORIES**
28 Eyed Peas, *et al.*,)
Defendants.

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

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

9 **GENERAL OBJECTIONS**

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 exactly what songs were specifically purchased and exactly where they

1 were purchased. Investigation continues. Although Interrogatory No. 2
2 asks only where the recordings were obtained and not whether they are
3 in Mr. Gallant's possession, in Defendant's Meet and Confer letter,
4 Defendants accuses Plaintiff of failing to respond to Interrogatory No. 2
5 because Plaintiff did not provide this previously unrequested
6 information. Plaintiff therefore amends the response to include the
7 following previously unrequested information: Mr. Gallant has
8 possession of all computer information as it relates to the creation and
9 storage of "Take A Dive" and "Take A Dive (Dance Version)". The
10 alleged purchases you reference were not made until over 10 years after
11 Plaintiff wrote "Take A Dive" and "Take A Dive (Dance Version)" –
12 thus, are not in Mr. Gallant's possession.

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

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

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

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

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.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 5 because it is overly broad, unduly burdensome and not likely to lead to the discovery of relevant evidence. Without waiving said objections, Plaintiff states that, to the best of his recollection regarding events that took place five years ago, he submitted his demo CD's to Defendant Adams; and through Interscope Records, Cherrytree Records, UMG, and Martin Kierszenbaum via mail, in or around 2006. Plaintiff also provided "Take A Dive" to Polo Molina in or about June 2006. He also provided the song to Defendant Adams in or about June 2006. See PL Ex. 12, 13, 71, 72. Investigation continues.

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.

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, to the best of his recollection and knowledge, Plaintiff never had direct communication with Defendant Allan Pineda. Investigation continues.

INTERROGATORY NO. 7: State with particularity each and every communication Plaintiff Bryan Pringle has had with Defendant Jaime Gomez,

1 including where, when, the type of communication, and how such communication
2 occurred.

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

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

12 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 8 because
13 it is overly broad, unduly burdensome and not likely to lead to the
14 discovery of relevant evidence. Without waiving said objections, to the
15 best of his recollection and knowledge, Plaintiff never had direct
16 communication with Defendant Stacy Ferguson. Investigation
17 continues.

18 **INTERROGATORY NO. 9:** State with particularity each and every
19 communication Plaintiff Bryan Pringle has had with Defendant David Guetta,
20 including where, when, the type of communication, and how such communication
21 occurred.

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

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

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

INTERROGATORY NO. 11: If you contend that any of the individually named defendants Adams, Pineda, Gomez, Ferguson, Guetta, and/or Reisterer, have had indirect communications with Plaintiff Bryan Pringle, or regarding any music of Plaintiff Bryan Pringle, state with particularity each and every such communication including where, when, the type of communication, and how such communication occurred.

ANSWER: Objection. Plaintiff objects to Interrogatory No. 11 because it is overly broad, unduly burdensome and to the extent it seeks a legal conclusion. Without waiving said objections, Plaintiff states that he submitted his demo CD's via mail to Defendant Adams; through Polo Molina, and numerous individuals throughout the music industry, including but not limited to, various individuals at Interscope Records, Cherrytree Records, UMG, and Martin Kierszenbaum via mail, from around 1995 to around 2008. Plaintiff further states that he submitted

1 his demo CD's to Dave Guetta via mail and also hand delivered several
2 demo CD's to various night clubs and Dj's in Paris around 1999.
3 Investigation continues.

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

10 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 12 because
11 it is overly broad, vague and to the extent it calls for a legal conclusion.
12 Without waiving said objections, Plaintiff refers to the Answers and
13 Objections to Interrogatories No. 5-11, above. Additionally, Plaintiff
14 had multiple websites on the internet which contained downloadable
15 versions of "Take A Dive", the sale of "Take A Dive" through
16 Dekonstruktion Records. From around 1999 through 2008, in addition
17 to all of the companies and individuals listed in the Answers to
18 Interrogatories (Plaintiff's Response to Defendant Stacy Ferguson's
19 First Set of Interrogatories, Plaintiff's Response to Defendant Allen
20 Pineda's First Set of Interrogatories, Plaintiff's Response to Defendant
21 William Adams' First Set of Interrogatories, Plaintiff's Response to
22 Defendant Headphone Junkie Publishing, LLC's First Set of
23 Interrogatories) and documents previously produced to the Defendants
24 to the best of the Plaintiff's recollection at this time, he submitted
25 thousands of demo cd's, mp3's, wave files and tapes, all of which
26 included "Take a Dive (Dance Version)," to various music publishers,
27 record companies, talent managers, songwriters, booking agents and
28 radio stations, including but not limited to: Universal (UMG), EMI,

1 Interscope/ Geffen, EMI Music Publishing, Jody Gerson, Big Jon Platt,
2 Benjamin Groff, Andy Fuhman, Rebecca Wright, TVT Records,
3 Reprise, Atlantic Records (WEA), Columbia (Sony), Electra (WEA),
4 Hollywood Records, Jesse McCartney, Epic Records, Electra
5 Entertainment, Sony (ATV) Publishing (Bill Brown, Eric Beall),
6 Interscope/ UMG, Lava (WEA), Island Def-Jam Music Group, RCA,
7 Maverick (WEA), Lava (WEA), Jennifer Havey, Sal Guastella, Matt
8 Marshall, Ashley Newton, Brian Leach, Scott Austin, Debbie
9 Southwood, Martin Kierszenbaum, Grassroots Productions, Will.i.am,
10 Joachim Garraud, Polo Molina, Karen Kwak, Duff Marlowe, Ryan
11 Tedder, Troy Tomlinson, Big Machine Records, Ken Komisar, Mark
12 Gormley, Wendy Higgs, Kaz Utsunomia, Mike Caren, John Pikus,
13 Virgin Records, Taylor Swift, Jimmy Iovine, Warner Bros. Records,
14 Craig Aaronson, A&M Records, Arista Records, Virgin Records, Sire,
15 Rykodisc, Jen Bailey, ATN Management, Max Martin, Espen Lind,
16 Azoff Music Mangement, Caliente Entertainment, East End
17 Management, Lindsay Scott, Mosaic Media Group, T. Skorman, Bruno
18 Mars, McGhee Entertainment, Netzwerk Management, Rebel Waltz
19 Management, and Stefani Germanotta. This list includes various
20 individuals and entities on every continent, including Australia,
21 America, Canada, Japan, France, Germany, Holland, Sweden,
22 Switzerland and Great Britain (including Ireland). Investigation
23 continues. This list of recipients of Plaintiffs' music is specifically
24 provided pursuant to Defendant that Plaintiff identify each person to
25 whom he submitted the song at issue.

26
27 **INTERROGATORY NO. 13:** Does Plaintiff contend in this litigation that
28 access to the original Take A Dive copyrighted in 1998 is shown by "striking

1 similarity”? If so, provide a full and complete factual basis for such contention,
2 including the identification of any portion of the accused work that is “strikingly
3 similar” to the original Take A Dive copyrighted in 1998.

4 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 13 because
5 it is overly broad, vague and to the extent it calls for a legal conclusion.
6 Plaintiff states that the songs are substantially, if not strikingly, similar
7 and the facts supporting the similarity can be adduced by listening to the
8 two works.

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

16 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 14 because
17 it is overly broad, unduly burdensome and to the extent it calls for a
18 legal conclusion. Without waiving said objections, Plaintiff states, to
19 the best of his recollection, that Defendant songwriters Guetta and
20 Riesterer directly and through their historical association with Joachim
21 Guerrard had a reasonable opportunity to access the derivative version
22 of “Take a Dive” through Plaintiff’s submission of the song on his
23 demo CD to Gum Productions, sometime around 2001 to 2003. Gum
24 Productions is a French company that was owned and created by Guetta
25 and Joachim Garraud, both of whom qualify as intermediaries to
26 Riesterer. Plaintiff also refers to the Answers and Objections to
27 Interrogatories No. 5-12, above. Investigation continues.
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1 **INTERROGATORY NO. 15:** If Plaintiff Bryan Pringle has knowledge of any
2 information that refers or relates to his contention that any Defendant had access to
3 his work, provide a full and complete identification of such information and identify
4 all other individuals with knowledge and any documents relating to the information.

5 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 15 because
6 it is overly broad, unduly burdensome and to the extent it calls for a
7 legal conclusion. Without waiving said objections, Plaintiff states, to the
8 best of his recollection, that he received a written communication from
9 Joachim Garraud and Dave Guetta, via Gum Productions, in or around
10 2001 to 2003, acknowledging receipt of Plaintiff's music submissions,
11 including "Take a Dive" – the Dance Version. Please also refer to
12 Answers to Interrogatories No 5-12, above. Investigation continues.

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

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

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

25 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 17 because
26 it is overly broad, unduly burdensome and vague. Without waiving said
27 objections, Plaintiff states that what he understands is being referenced
28

1 as the “incorrect NRG file,” to the best of his recollection, was created,
2 dated and imaged sometime around 1999 with Ensoniq Disk Manager,
3 on a Windows 98 based computer, with a cd-rom burner. The actual
4 files contained inside of what he understands is being referenced as the
5 “incorrect NRG file” were actually created on an Ensoniq ASR-10
6 Keyboard through the various manipulation functionality of the Ensoniq
7 ASR-10. The following files are what is actually contained to the best
8 of his knowledge, in the aforementioned and referenced “incorrect NRG
9 file”:

- 10 **DIR 1**
11 **“1952” - SONG - (NAMED AS “STRANDED”) - FILE 19**
12 SONG BANK - “STRNDED BK” - FILE 10
13 BANK EFFECT - VOICE REVERB - FILE 9
14 Track 1 - S DRUMS - FILE 12
15 Track 2 - EMPTY - NO INSTRUMENT
16 Track 3 - VOX SMPL GTR - FILE 3
17 Track 4 - S-MAGIC GTR - FILE 4
18 Track 5 - STRING INST - FILE 5
19 Track 6 - GOOBER SMPL - FILE 6
20 Track 7 - SIRENS SMPL - FILE 7
21 Track 8 - NIRVANA INST - FILE 8
22 **DIR 2 - Empty - NO INSTRUMENTS OR SONGS**
23 **DIR 3 - Empty - NO INSTRUMENTS OR SONGS**
24 **DIR 4 - Empty - NO INSTRUMENTS OR SONGS**
25 **DIR 5**
26 **“UNTIL THE END OF TIME” - SONG - (NAMED AS “TIME”) - FILE 10**
27 SONG BANK - “TIME BANK” - FILE 4 * (WILL NOT LOAD BANK)
28 BANK EFFECT - VOICE REVERB - FILE 13
29 Track 1 - T DRUMS - FILE 12
30 Track 2 - EMPTY - NO INSTRUMENT
31 Track 3 - SIRENS INST - FILE 18
32 Track 4 - AHHS* - FILE 22
33 Track 5 - SLAPBASS - FILE 5
34 Track 6 - GTR FX* INST - FILE 19
35 Track 7 - STRING SMPL - FILE 6
36 Track 8 - NRVNA SMPL - FILE 17
37 **DIR 6 - Empty - NO INSTRUMENTS OR SONGS**

- 1 **DIR 7**
- 2 ***"TAKE A DIVE"- SONG - (NAMED AS "DIVE") - FILE 18***
- 3 SONG BANK - "D BANK" - FILE 16 * (WILL NOT LOAD BANK)
- 4 BANK EFFECT - (THIS BANK EFFECT MUST BE SET TO "FX-ROM-04 -
- 5 DUAL
- 6 DELAYS"- USE "FX SELECT" BUTTON & SCROLL TO "DUAL DELAYS" -
- 7 "VAR 1" -
- 8 "STEREO BOUNCE")
- 9 Track 1 - D DRUMS - FILE 19
- 10 Track 2 - OOHS - FILE 17
- 11 Track 3 - KICK BASS - FILE 3
- 12 Track 4 - SIRENS INST - FILE 4
- 13 Track 5 - COSMO SYNTH - FILE 5
- 14 Track 6 - DELAY SMPL - FILE 6
- 15 Track 7 - SFX INST - FILE 7
- 16 Track 8 - DEMO SYNTH - FILE 8
- 17 **DIR 8**
- 18 ***"BROKEN WING" - SONG (NAMED AS "BRKN WING") - FILE 16***
- 19 SONG BANK - "BRKN WG BNK" - FILE 1
- 20 BANK EFFECT - (THIS BANK EFFECT MUST BE SET TO "FX-ROM-01 -
- 21 HALL
- 22 REVERB"- - "VAR 4" - "LONG REVERB") THIS EFFECT WILL LOAD WITH
- 23 THE "BRKN
- 24 WG BNK".
- 25 Track 1 - N DRUMS - FILE 2
- 26 Track 2 - DEEP BASS - FILE 3
- 27 Track 3 - DIGISMPL - FILE 4
- 28 Track 4 - SIRENS INST - FILE 5
- 29 Track 5 - PAN BASS - FILE 6
- 30 Track 6 - FLUTE SMPL - FILE 7
- 31 Track 7 - SUPER HITS - FILE 8
- 32 Track 8 - HI BASS SMPL - FILE 9
- 33 **DIR 9**
- 34 ***"7 SECONDS TO HEARTBREAK" - SONG (NAMED AS "HEARTBREAK") -***
- 35 ***FILE 15***
- 36 SONG BANK - "H BANK" - FILE 16 * (WILL NOT LOAD BANK)
- 37 BANK EFFECT - VOICE REVERB - FILE 10
- 38 Track 1 - DRUMS - FILE 1
- 39 Track 2 - VOICE INST - FILE 3
- 40 Track 3 - FX BASS SMPL - FILE 20
- 41 Track 4 - SYNTHSTRINGS - FILE 4

- 1 Track 5 - CLEANGTR SMP - FILE 21
2 Track 6 - RICH PADS - FILE 6
3 Track 7 - ACST STRING1 - FILE 2
4 Track 8 - GTR LINE SMP - FILE 9
5 **DIR 10**
6 ***"TOO YOUNG TO DROWN" - SONG (NAMED AS "YOUNG") - FILE 8***
7 SONG BANK - "YNG BANK" - FILE 10 * (WILL NOT LOAD BANK)
8 BANK EFFECT - VOICE REVERB - FILE 9
9 Track 1 - DRUMS - FILE 1
10 Track 2 - FLNGED BASS - FILE 2
11 Track 3 - FX* INST - FILE 3
12 Track 4 - EMPTY - NO INSTRUMENT
13 Track 5 - WIRE JUPITER - FILE 4
14 Track 6 - HRSH GTR - FILE 6
15 Track 7 - ALIEN SYNTH - FILE 6
16 Track 8 - VOCO SMPL* - FILE 7

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

22 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 18 because
23 it is overly broad, unduly burdensome and vague. Without waiving said
24 objections, Plaintiff states that he believes an mp3 copy was uploaded
25 through the U.S. Copyright Office website on or around November of
26 2010. Plaintiff further states that the mp3 that was uploaded was either
27 created from his having accessed the "correct NRG file" and uploaded
28 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

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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. Plaintiff used a copy of "Take A Dive" (Dance Version") that was obtained from the hard drive image retained by Dave Gallant. Because the file was created over 10 years ago, it was in a format that is not currently accepted by the Copyright Office. He thus used the Cubase SX described in his answer to the Interrogatory to convert the mp3 to an mp3 that had a smaller size and bitrate for uploading. This took place generally around the time the deposit copy was uploaded to the Copyright Office's website. It was done under the direction of certain of Mr. Pringle's counsel.

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

1 such file each time it was accessed, and the individuals involved or present during
2 such acts.

3 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 20 because
4 it is overly broad, unduly burdensome, vague and not likely to lead to
5 the discovery of relevant evidence. Without waiving said objection,
6 Plaintiff states that he did not access the “correct NRG file” in 2009.
7

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

12 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 21 because
13 it is overly broad, unduly burdensome, vague and not likely to lead to
14 the discovery of relevant evidence. Without waiving said objection, to
15 the best of his recollection, the Plaintiff may have accessed the “correct
16 NRG file” once in or around April or May of 2010, after the first time
17 he heard “I Gotta Feeling,” to create an mp3 of “Take a Dive (Dance
18 Version)” to send to his attorneys. Plaintiff further states that he
19 accessed the file in or around December 2010, upon his delivery of the
20 NRG file to his computer expert David Gallant, in order to play its
21 contents for Mr. Gallant.
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26 **INTERROGATORY NO. 22:** Provide each and every time Bryan Pringle
27 accessed the correct NRG file in 2011, and state the date, time, purpose and use of
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1 such file each time it was accessed and the individuals involved or present during
2 such acts.

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

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

18 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 23 because
19 it is overly broad, unduly burdensome and not likely to lead to the
20 discovery of relevant evidence. Without waiving said objection,
21 Plaintiff states that he originally met David Gallant to provide him with
22 the incorrect NRG file on or around May of 2010. Plaintiff later met
23 with David Gallant in or around December of 2010 to deliver him the
24 “correct NRG file.” Most recently, on or around August of 2011,
25 Plaintiff was present in David Gallant’s office for Defendants’ computer
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1 expert, for the purpose of demonstrating how to use the ASR-10
2 keyboard. Plaintiff further states that he had telephonic and email
3 contact with Dave Gallant but does not recall the dates of such contact.
4

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

8 **ANSWER:** Objection. Plaintiff objects to Interrogatory No. 24 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 his music equipment was placed in the storage unit
12 sometime during 2000 and prior to October 2000. Plaintiff does not
13 recall the specific date or dates on which his music equipment was
14 placed in storage.
15
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17 **INTERROGATORY NO. 25:** If you contend that any Defendant has infringed
18 any copyright of Plaintiff Bryan Pringle other than Take A Dive or Take A Dive
19 (Dance Version), provide a complete factual basis for contending that they
20 Defendant had access and that the accused work is substantially similar.
21

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

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“Best One Yet,” “One More Chance,” “Invisible,” and “Showdown.”
Investigation continues.

Dated: November 2, 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

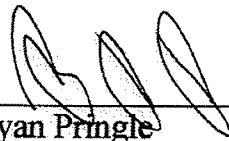
By: 
Attorneys for Plaintiff Bryan Pringle

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

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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

November 2, 2011

HAMPTONHOLLEY LLP
2101 East Coast Highway, Suite 280
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 AMENDED ANSWERS TO**
5 **DEFENDANT HEADPHONE JUNKIE PUBLISHING, LLC'S 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
collection and processing correspondence for mailing. Under that practice it would
8 be deposited with the U.S. Postal Service on the same day with postage thereon fully
9 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
document(s) in a box or other facility regularly maintained by FedEx in an envelope
14 or package designated by FedEx with delivery fees paid.

15 (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
16 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 November 2, 2011 at Chicago, Illinois.

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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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