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

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

15 BRYAN PRINGLE, an individual,
16 Plaintiff,
17 v.

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

Case No. SACV10-1656 JST (RZx)

Hon. Josephine Staton Tucker
Courtroom 10A

**DECLARATION OF JONATHAN S.
PINK IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Hearing

Date: January 31, 2011
Time: 10:00 a.m.
Courtroom: 10A

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

28

DECLARATION OF JONATHAN S. PINK

I, Jonathan S. Pink, declare:

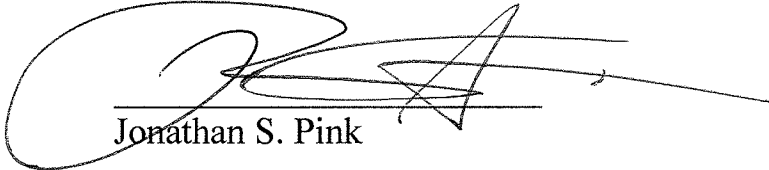
1. I am an attorney duly licensed to practice law before the courts of the State of California and all federal courts in the State of California. I am an attorney with the law firm of Bryan Cave LLP, counsel of record for Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN PINEDA; and JAIME GOMEZ, all individually and collectively as the music group THE BLACK EYED PEAS; will.i.am music, llc; TAB MAGNETIC PUBLISHING; CHERRY RIVER MUSIC CO.; HEADPHONE JUNKIE PUBLISHING, LCC; JEEPNEY MUSIC, INC.; and EMI APRIL MUSIC, INC. ("Defendants"). I have personal knowledge of the matters set forth in this Declaration and, if called upon to testify regarding such matters, I could and would competently do so.

2. Attached hereto as Exhibit "1" is a true and correct copy of an Order issued by this Court on November 24, 2010.

3. Attached hereto as Exhibit "2" is a true and correct copy of a printout I made of the web page www.broadjam.com/artists/home.php?artistID=1340.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Executed this 10th day of January, 2011, at Irvine, California.


Jonathan S. Pink

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Exhibit “1”

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

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

Date: November 24, 2010

Title: Bryan Pringle v. William Adams, Jr., et al.

Present: **Honorable JOSEPHINE STATON TUCKER, UNITED STATES DISTRICT JUDGE**

Nancy Boehme for
Ellen Matheson
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:
Not Present

ATTORNEYS PRESENT FOR DEFENDANT:
Not Present

PROCEEDINGS: (IN CHAMBERS) ORDER DENYING EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION (Doc. 15)

On November 22, 2010, Plaintiff filed an Ex Parte Application for a Temporary Restraining Order and an Order to Show Cause for Preliminary Injunction. (Doc. 15.) Defendants filed their Opposition the following day. (Doc. 22.) The Court DENIES the Ex Parte Application because Plaintiff has failed to show good cause as to why he requires ex parte relief.

Ex parte applications are solely for extraordinary relief where “the moving party’s cause will be irreparably prejudiced if the underlying motion is heard according to regular noticed procedures.” *Mission Power Eng’g Co. v. Cont’l Casualty Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995). In this case, as Plaintiff admits, the allegedly infringing song in question was released in 2009, and has been widely performed, sold, and marketed since. (Mem. of P. & A. in Supp. of Pl.’s Ex Parte Appl. at 6, Doc. 15-1.) Plaintiff has not shown why he would suffer irreparable harm if a motion for injunctive relief were heard according to a regularly-noticed motion.

For the foregoing reason, the Court DENIES Plaintiff’s Ex Parte Application for Temporary Restraining Order and Order to Show Cause for Preliminary Injunction.

Initials of Preparer: nkb

Exhibit “2”

INDIE MUSIC TV CONTESTS MUSIC LICENSING HOSTING BLOGS REVIEWS SERVICES CLASSIFIEDS

Profile Comments Bio Songs Albums Photos Connections Events Playlists Videos Top Videos Merch



Last Login: 11/10/2010
Total Song Plays: 223



"The demos that Kim Copeland did for me, got me my publishing deal! No doubt!"
- M. Cline, Ray Stevens Music

News

I have filed a copyright infringement lawsuit against the Black Eyed Peas for stealing parts of my song "Take A Dive" into their song "I Gotta Feeling". They also used numerous other songs of mine to construct multiple songs on their "E.N.D." album, Will.i.am's "Songs About Girls" album and Dave Guetta's "Pop Life" and "One Love" albums; this thievery includes stealing the hook line for their hit song "Meet Me Halfway" from one of my songs.

Info

Genre: Rock - Alternative
City: San Antonio
State: Texas
Country: UNITED STATES



Dj Spanky (aka Altared State) - back to profile

artist website / tell a friend

Looking to leave a comment? Click here...

The song "Take A Dive vs I Gotta Feeling" is not for sale and is only posted as a "news reporting" and "comment and criticism" comparison, which is based upon the Black Eyed Peas willful and intentional infringement on Bryan Pringle's copyrighted song "Take A Dive" (copyrighted in 1998); This type of posting is protected under the USC Federal Copyright "Fair Use" Title 17, U. S. Code Sec. 107 Exception. All copyrights are properties of their respective copyright holders, including any music, sound recording or lyrical copyrights of "I Gotta Feeling".

broadjam URL: <http://www.broadjam.com/altaredstate>

Songs

- » Take A Dive vs I Gotta Feeling
- » Salty Kiss
- » China Doll

[all 30 songs](#)

BUY ALL PLAY ALL

Buttons for song actions: + PLAY, FREE! + PLAY, + PLAY

Photos



Bios

- » Similar Artists
- » Influences
- » Bio

[all 3 bios](#)

[view all comments](#)

Connections



The BMB

Dj Spanky (aka Altared State) Recommends:

the 3rd and Final Chapter of the SongCrafter Trilogy is available for Free Download just CLICK Here

Happy Holidays from EarthHeart Legacy • Ian Kenny • PGO

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