

**DECLARATION OF RICHARD S. BUSCH IN OPPOSITION TO MOTION FOR
SUMMARY JUDGMENT OF DEFENDANTS APPLE COMPUTER, INC. AND
AFTERMATH RECORDS d/b/a/ AFTERMATH ENTERTAINMENT**

EXHIBIT 1

DEPOSITION OF PETER PATERNO

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

F.B.T. PRODUCTIONS, LLC;)
AND EM2M, LLC,)

PLAINTIFFS,)

VS.)

CASE NO. CV 07-3314 PSG (MANX)

AFTERMATH RECORDS DOING)
BUSINESS AS AFTERMATH)
ENTERTAINMENT; INTERSCOPE)
RECORDS; UMG RECORDINGS,)
INC.; AND ARY, INC.,)

DEFENDANTS.)

DEPOSITION OF PETER PATERNO, TAKEN
ON BEHALF OF THE DEFENDANTS, AT
10250 CONSTELLATION BOULEVARD,
19TH FLOOR, CALIFORNIA, COMMENCING
AT 2:15 P.M., WEDNESDAY, APRIL
30, 2008, BEFORE ALEJANDRIA BAKER,
CSR NUMBER 11897.

DEPOSITION OF PETER PATERNO

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I N D E X

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PETER PATERNO MR. BUSCH 9

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DEPOSITION OF PETER PATERNO

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DEPOSITION OF PETER PATERNO

14:43:47 1 IT AND GOT IT DONE.

14:43:48 2 Q. WHAT DO YOU MEAN BY YOU "RAN WITH IT"
14:43:50 3 AND KIND OF GOT IT DONE?

14:43:51 4 A. DRE WANTED EMINEM SIGNED QUICKLY, AND
14:43:55 5 DRE WASN'T TOO MUCH OF A BELIEVER IN THE FORMALITIES OF
14:43:59 6 THE 80-PAGE CONTRACTS THAT CAME OUT OF THE UNIVERSAL
14:44:02 7 MUSIC GROUP, SO HE SAID, "JUST GET IT DONE," AND WE JUST
14:44:06 8 GOT IT DONE.

14:44:06 9 Q. WAS THERE GIVE-AND-TAKE? WAS THERE
14:44:08 10 SUGGESTED CHANGES BEING MADE BACK AND FORTH?

14:44:11 11 A. I'M SURE THERE WERE. BUT, AGAIN, IT
14:44:12 12 WENT PRETTY QUICKLY.

14:44:14 13 Q. WHAT DO YOU CONSIDER TO BE "PRETTY
14:44:15 14 QUICKLY"?

14:44:16 15 A. IT WAS LIKE FOUR OR FIVE DAYS, WHICH IS
14:44:22 16 ABOUT TEN TIMES FASTER THAN MOST CONTRACTS GET DONE IN
14:44:25 17 THE RECORD BUSINESS.

14:44:26 18 Q. SO YOU'RE -- SO YOU'RE SAYING THAT
14:44:27 19 INTERSCOPE WASN'T INVOLVED AT ALL IN REVIEWING THE
14:44:30 20 DOCUMENT AND APPROVING IT OR ANYTHING OF THAT NATURE?

14:44:34 21 A. I DON'T REMEMBER. BUT IF THEY WERE, IT
14:44:37 22 WAS ONLY TANGENTIALLY. I DON'T REMEMBER THEM BEING VERY
14:44:40 23 INVOLVED IN THAT ONE.

14:44:43 24 Q. NOW, IF RAND HOFFMAN WAS THERE AND WAS
14:44:46 25 HEAD OF BUSINESS AFFAIRS AT THAT TIME, WOULD HE HAVE --

DEPOSITION OF PETER PATERNO

14:44:47 1 WAS IT HIS PRACTICE TO BE INVOLVED IN THESE THINGS?

14:44:51 2 A. WELL, IT'S CERTAINLY HIS PRACTICE NOW.
14:44:53 3 THEN, HE WAS PROBABLY NEWER AND LESS SO. I DON'T EVEN
14:44:57 4 REMEMBER IF HE WAS THERE. BUT THIS IS ONE DRE WANTED
14:45:00 5 DONE AND HE WANTED IT DONE QUICKLY.

14:45:02 6 Q. WHY DID HE WANT IT DONE AND WHY DID HE
14:45:05 7 WANT IT DONE QUICKLY?

14:45:06 8 A. BECAUSE HE BELIEVED IN EMINEM THOUGHT HE
14:45:08 9 WAS A TALENTED GUY AND DIDN'T WANT SOMEBODY ELSE TO SIGN
14:45:11 10 HIM.

14:45:12 11 Q. IS EMINEM THE BIGGEST STAR
14:45:14 12 THAT AFTERMATH HAS EVER SIGNED?

14:45:15 13 A. THAT'S A MATTER OF CONJECTURE. I MEAN,
14:45:16 14 YOU KNOW --

14:45:17 15 Q. IS THAT YOUR VIEW?

14:45:18 16 A. HE'S CERTAINLY, YOU KNOW -- HE'S
14:45:19 17 CERTAINLY A BIG STAR. I WOULD ARGUE DR. DRE IS A PRETTY
14:45:23 18 BIG STAR, TOO. AND 50 CENT HAS DONE REALLY WELL. BUT,
14:45:26 19 YOU KNOW, IN TERMS OF SELLING RECORDS, HE'S PROBABLY
14:45:29 20 SOLD MORE THAN THE OTHER TWO.

14:45:33 21 Q. IF IT WASN'T FOR HAVING EMINEM ON
14:45:36 22 AFTERMATH'S RECORD, WOULD -- DID AFTERMATH HAVE A CHANCE
14:45:39 23 OF BEING BANKRUPT?

14:45:40 24 A. I DON'T THINK SO.

14:45:41 25 Q. THERE WAS NO FINANCIAL PROBLEMS BUT FOR

DEPOSITION OF PETER PATERNO

14:56:51 1 THIS CASE WOULD AFFECT YOUR OTHER ARTIST CLIENTS?

14:56:52 2 A. I'M SURE MY OTHER ARTIST CLIENTS WOULD
14:56:55 3 THEN WANT TO MAKE SIMILAR CLAIMS.

14:57:12 4 Q. IN 1998, WAS THERE DOWNLOADING OF MUSIC?

14:57:23 5 A. CERTAINLY NOT AS WE KNOW IT NOW. THERE
14:57:26 6 CERTAINLY WASN'T ANY FILE SHARING THEN.

14:57:28 7 Q. THERE WASN'T FILE SHARING IN 1998?

14:57:31 8 A. NO.

14:57:32 9 Q. WAS THERE ILLEGAL DOWNLOADING BY MP3'S
14:57:37 10 IN 1998?

14:57:38 11 A. I REALLY -- LOOK, YOU CAN GO LOOK AT THE
14:57:41 12 LITERATURE. I DON'T THINK THERE WAS. AND IF THERE WAS,
14:57:43 13 IT WAS JUST REALLY DE MINIMUS AND SLOW.

14:57:47 14 Q. THE CONCEPT OF DIGITAL EXPLOITATION OF
14:57:49 15 MUSIC, HOWEVER, WAS SOMETHING THAT WAS BEING DEVELOPED
14:57:53 16 IN 1998. WOULD YOU AGREE WITH THAT?

14:57:56 17 A. YES.

14:58:06 18 Q. DO YOU KNOW WHETHER IN 1998 RECORD
14:58:09 19 COMPANIES DID, ON OCCASION, PUT LANGUAGE IN THEIR
14:58:12 20 AGREEMENTS CONCERNING DIGITAL EXPLOITATION OF MUSIC AND
14:58:15 21 HOW THOSE ROYALTIES WOULD BE SHARED?

14:58:17 22 A. YES.

14:58:22 23 Q. THE ANSWER IS, YES, ON OCCASION THEY
14:58:24 24 DID?

14:58:24 25 A. THERE -- PROBABLY IN THE EARLY '90S,

DEPOSITION OF PETER PATERNO

15:48:22 1 MR. POMERANTZ: OBJECTION. VAGUE.

15:48:24 2 THE DEPONENT: IT'S A RECORDING

15:48:25 3 AGREEMENT.

15:48:26 4 BY MR. BUSCH:

15:48:27 5 Q. OKAY. IN IT, F.B.T. AGREED TO FURNISH
15:48:37 6 TO AFTERMATH THE EXCLUSIVE RECORDING SERVICES OF EMINEM;
15:48:39 7 IS THAT RIGHT?

15:48:39 8 A. THAT'S WHAT IT SAYS, YES.

15:48:40 9 Q. OKAY. AND YOU REPRESENTED AFTERMATH IN
15:48:40 10 THE NEGOTIATION AND PREPARATION OF THIS DOCUMENT?

15:48:42 11 A. IN THE NEGOTIATION. I DON'T THINK I HAD
15:48:44 12 MUCH TO DO WITH THE PREPARATION.

15:48:46 13 Q. WHAT DO YOU MEAN BY THAT?

15:48:48 14 A. I DON'T THINK I WROTE THIS.

15:48:49 15 Q. WHO WROTE IT? DID SOMEONE WRITE IT AT
15:48:52 16 YOUR DIRECTION?

15:48:52 17 A. YES. IT WOULD BE -- LET'S CALL IT MARNI
15:48:57 18 NIEVES.

15:48:59 19 Q. THE SECOND CHAIR?

15:49:00 20 A. YES.

15:49:00 21 Q. BUT YOU, AS THE FIRST CHAIR, AS THE HEAD
15:49:02 22 OF THE TEAM, YOU WOULD HAVE REVIEWED IT TO MAKE SURE
15:49:05 23 THAT IT WAS CONSISTENT WITH WHAT YOU UNDERSTOOD THE DEAL
15:49:07 24 TO BE; RIGHT?

15:49:08 25 A. I MIGHT HAVE.

DEPOSITION OF PETER PATERNO

15:49:10 1 Q. OKAY. WELL, THIS WAS A VERY IMPORTANT
15:49:11 2 DEAL, AS YOU SAID EARLIER. DR. DRE WANTED EMINEM SIGNED
15:49:15 3 AND HE WANTED HIM SIGNED QUICK; RIGHT?

15:49:18 4 A. YES.

15:49:18 5 Q. HE THOUGHT THAT EMINEM -- HE BELIEVE IN
15:49:19 6 EMINEM AND THOUGHT HE WAS GOING TO BE A BIG STAR AND
15:49:21 7 DIDN'T WANT ANYBODY ELSE TO COME AND UNDERCUT OR STEAL
15:49:24 8 HIM AWAY; RIGHT?

15:49:26 9 MR. POMERANTZ: OBJECTION TO THE FORM.
15:49:26 10 BY MR. BUSCH:

15:49:27 11 Q. GO AHEAD.

15:49:28 12 A. THAT'S RIGHT.

15:49:28 13 Q. OKAY. SO THIS WAS AN IMPORTANT MATTER
15:49:29 14 TO -- TO DR. DRE, YOUR CLIENT; RIGHT?

15:49:32 15 A. YES.

15:49:32 16 Q. OKAY. AND DR. DRE WAS PROBABLY YOUR
15:49:35 17 BIGGEST CLIENT AT THE TIME?

15:49:37 18 A. NO. BUT HE WAS ONE OF THE BIGGEST.

15:49:40 19 Q. OKAY. DID YOU GIVE -- HOW LONG HAD
15:49:47 20 MARNI NIEVES BEEN WITH YOU IN 1998?

15:49:52 21 A. WELL, I DON'T REMEMBER. AND I'M NOT
15:49:54 22 EVEN SURE IT WAS MARNI NIEVES, BUT I DON'T -- I DON'T
15:49:57 23 REMEMBER.

15:49:58 24 Q. OKAY. WELL, WHAT KIND OF GUIDANCE DO
15:50:00 25 YOU GIVE THE PEOPLE ON YOUR TEAM IN CONNECTION WITH

DEPOSITION OF PETER PATERNO

15:50:02 1 DRAFTING DOCUMENTS LIKE THIS?

15:50:04 2 MR. POMERANTZ: OBJECTION. VAGUE.
15:50:04 3 COMPOUND.

15:50:07 4 THE DEPONENT: I TELL THEM WHAT THE DEAL
15:50:08 5 POINTS ARE AND SAY THAT DR. DRE WANTS TO GET THIS DONE
15:50:11 6 RIGHT AWAY, AND PLEASE DRAFT THE DOCUMENT.

15:50:14 7 BY MR. BUSCH:

15:50:14 8 Q. AND THEN WOULD THEY GIVE IT TO YOU TO
15:50:15 9 REVIEW BEFORE THEY SEND IT OFF TO DR. DRE?

15:50:18 10 A. NO. THEY -- I MEAN, IT MIGHT HAVE
15:50:20 11 HAPPENED HERE, BUT GENERALLY THE PEOPLE THAT I HAVE
15:50:21 12 DOING THIS ARE MORE THAN COMPETENT TO DRAFT A RECORDING
15:50:25 13 AGREEMENT WITHOUT HAVING ME LOOK AT IT.

15:50:28 14 Q. I SEE. SO DID YOU LOOK AT THIS DOCUMENT
15:50:30 15 BEFORE IT WAS SIGNED AND EXECUTED?

15:50:31 16 A. I HAVE NO IDEA.

15:50:36 17 Q. ARE THERE ANY INTERNAL DOCUMENTS AT YOUR
15:50:38 18 LAW FIRM THAT WOULD TELL YOU WHO ELSE WAS INVOLVED IN
15:50:42 19 THIS BESIDES YOURSELF?

15:50:44 20 A. THERE -- THERE SHOULD -- IF I -- THERE
15:50:49 21 SHOULD BE IN THE FILE SOME INDICATIONS OF WHO DID IT.

15:50:53 22 Q. HAVE YOU LOOKED AT THE FILE?

15:50:55 23 A. I HAVEN'T.

15:50:56 24 Q. TURN TO PAGE 15 OF THE AGREEMENT, IF YOU
15:50:59 25 WOULD, EXHIBIT 5. IT SAYS, "ACCEPTED AND AGREED

DEPOSITION OF PETER PATERNO

15:51:05 1 AFTERMATH ENTERTAINMENT."

15:51:07 2 WHOSE SIGNATURE IS THAT?

15:51:08 3 A. IT'S DRE'S.

15:51:09 4 Q. OKAY. WHO PRESENTED THIS TO DR. DRE TO
15:51:27 5 SAY, "I THINK THIS AGREEMENT IS READY TO BE SIGNED. YOU
15:51:30 6 SHOULD SIGN IT."

15:51:33 7 WOULD IT BE YOU?

15:51:34 8 A. IT WAS PROBABLY ME, BUT I DON'T REALLY
15:51:36 9 REMEMBER. GENERALLY, WE SEND THINGS OUT TO THE STUDIO,
15:51:39 10 AND HE SIGNS THEM AND SENDS THEM BACK IF HE'S OKAY WITH
15:51:42 11 THEM. AND THIS IS SOMETHING HE WANTED DONE, SO I DON'T
15:51:45 12 RECALL EXACTLY HOW IT HAPPENED.

15:51:47 13 Q. OKAY.

15:52:04 14 MR. BUSCH: I'M GOING TO MARK AS THE
15:52:06 15 NEXT EXHIBIT -- WHAT I'D LIKE TO DO IS MARK THE DRAFTS
15:52:10 16 AS A, B, C, D OF EXHIBIT 5, AND THAT WAY, RATHER THAN
15:52:15 17 MARK THEM SEPARATELY. DO YOU HAVE -- IS THAT A -- DO
15:52:18 18 YOU HAVE A PROBLEM WITH THAT?

15:52:19 19 MR. POMERANTZ: NO.

15:52:20 20 MR. BUSCH: OKAY. LET'S MARK AS EXHIBIT
15:52:39 21 6-A [SIC], B, C AND D A PRIOR -- OR DRAFTS OF THIS 1998
15:52:49 22 AGREEMENT.

15:52:51 23 MR. POMERANTZ: YOU STILL HAVE THE
15:52:52 24 WITNESS IN THE CAMERA?

15:52:54 25 THE VIDEOGRAPHER: YES.

DEPOSITION OF PETER PATERNO

15:56:03 1

MARK-UP COMING FROM PAUL.

15:56:04 2

Q. ARE THEY ALL -- ARE THEY ALL COMING FROM

15:56:04 3

PAUL?

15:56:04 4

A. WELL, NO. SOME ARE GOING TO PAUL.

15:56:06 5

Q. RIGHT. THAT'S MY -- THAT'S MY QUESTION.

15:56:06 6

MY QUESTION IS: LOOKING AT THE

15:56:08 7

HANDWRITING ON THE VARIOUS DOCUMENTS, DO YOU RECOGNIZE

15:56:10 8

ANY OF THESE TO BE HANDWRITING OTHER THAN

15:56:15 9

PAUL ROSENBERG?

15:56:17 10

MR. POMERANTZ: IS THERE HANDWRITING ON

15:56:18 11

ANY OF THEM OTHER THAN THE FIRST ONE?

15:56:21 12

THE DEPONENT: I DON'T THINK SO.

15:56:23 13

GENERALLY, HE'LL WRITE THE COMMENTS, WE'LL MAKE THE

15:56:26 14

CHANGES AND WE'LL SEND HIM A RED LINE, WHICH IS WHAT

15:56:28 15

LOOKS LIKE HAPPENED HERE.

15:56:30 16

BY MR. BUSCH:

15:56:30 17

Q. OKAY. DO YOU HAVE ANY INDEPENDENT

15:56:36 18

RECOLLECTION OF THIS NEGOTIATION PROCESS AND GOING

15:56:38 19

THROUGH THESE DRAFTS YOURSELF PERSONALLY?

15:56:40 20

A. NO.

15:56:41 21

Q. OKAY. I WANT TO DIRECT YOUR ATTENTION

15:56:48 22

TO SEVERAL ITEMS. FIRST, ON EXHIBIT NUMBER 5-A --

15:56:52 23

A. YES.

15:56:53 24

Q. -- PARAGRAPH 4, ROYALTIES, IN

15:57:01 25

EXHIBIT 5-A TALKS ABOUT, QUOTE/UNQUOTE, "U.S. SINGLES,"

DEPOSITION OF PETER PATERNO

15:57:06 1 BUT THERE'S NO DEFINITION IN THE CONTRACT TO DEFINE WHAT
15:57:09 2 A "U.S. SINGLE" IS.

15:57:12 3 DID YOU HAVE AN UNDERSTANDING OF WHAT
15:57:13 4 THAT MEANT?

15:57:15 5 A. DO I HAVE AN UNDERSTANDING?

15:57:16 6 Q. YES.

15:57:17 7 A. YES.

15:57:17 8 Q. OKAY. WHAT DOES IT MEAN?

15:57:19 9 A. SINGLES WHICH WERE RECORDS, AND WHATEVER
15:57:24 10 CONFIGURATION, THAT HAD ONE OR TWO SONGS ON THEM.

15:57:28 11 Q. WHERE IS THAT DEFINITION? IS THAT -- IS
15:57:29 12 IT DEFINED IN THAT WAY IN THE AGREEMENT ANYWHERE?

15:57:32 13 A. IT MIGHT BE. I DON'T KNOW.

15:57:34 14 Q. DO YOU KNOW WHY THERE'S NO DEFINITION OF
15:57:35 15 IT?

15:57:36 16 A. BECAUSE THIS IS A SHORT FORM DEAL MEMO.
15:57:39 17 I THINK MOST PEOPLE KNOW WHAT SINGLES ARE.

15:57:41 18 Q. WELL, WAS THERE A DISCUSSION -- DO YOU
15:57:42 19 HAVE ANY RECOLLECTION OF IT BEING DISCUSSED DURING THE
15:57:45 20 NEGOTIATION PROCESS?

15:57:47 21 A. NO.

15:57:47 22 Q. OKAY. AND WAS THERE EVER A LONG FORM
15:57:49 23 AGREEMENT EXECUTED?

15:57:50 24 A. NO.

15:57:58 25 Q. IN EXECUTED CONTRACT -- EXHIBIT 6, WHICH

DEPOSITION OF PETER PATERNO

16:22:57 1

16:22:58 2

16:23:00 3

16:23:02 4

16:23:03 5

16:23:05 6

16:23:06 7

16:23:06 8

16:23:08 9

16:23:17 10

16:23:17 11

16:23:20 12

16:23:21 13

16:23:23 14

16:23:27 15

16:23:29 16

16:23:31 17

16:23:33 18

16:23:38 19

16:23:40 20

16:23:42 21

16:23:43 22

16:23:43 23

16:23:45 24

16:23:46 25

MR. POMERANTZ: IF THERE'S PARTICULAR LANGUAGE YOU WANT TO FOCUS HIM ON, IT'S PROBABLY A LITTLE MORE EFFICIENT FOR YOU TO JUST FOCUS HIM ON -- (SPEAKING SIMULTANEOUSLY.)

THE DEPONENT: THERE -- THERE ARE MINOR DIFFERENCES BETWEEN THEM.

BY MR. BUSCH:

Q. YOU THINK THERE ARE ONLY MINOR DIFFERENCES BETWEEN THEM?

A. YEAH.

Q. OKAY. DO YOU SEE THAT IN THE F.B.T. AGREEMENT, IT SAYS:

"ALL CONTROLLED LICENSE COMPOSITIONS WILL BE LICENSED TO AFTERMATH AND ITS DISTRIBUTORS/LICENSEES."

WHEREAS, IN THE AGREEMENT THAT WE JUST WENT OVER, IT SAYS, "ARE HEREBY LICENSED."

A. IT DOESN'T SAY "ARE HEREBY." IT SAYS, "YOU HEREBY," BUT THAT'S OKAY.

Q. YES.

A. OKAY.

Q. IS THAT A DIFFERENCE TO YOU?

A. NOT REALLY.

Q. IT'S NOT?

DEPOSITION OF PETER PATERNO

16:23:46 1

A. NO.

16:23:47 2

Q. IT'S -- DO YOU KNOW WHY THERE'S A

16:23:52 3

DIFFERENCE IN THE LANGUAGE?

16:23:54 4

A. PROBABLY BECAUSE WHOEVER DRAFTED IT

16:23:57 5

PULLED ONE FORM THAT HAD THIS LANGUAGE AND THEY PULLED

16:24:00 6

THE OTHER ONE THAT HAD THE OTHER LANGUAGE.

16:24:02 7

BELIEVE ME, THERE WAS NO INTENT TO HAVE

16:24:04 8

THEM HAVE A DIFFERENT EFFECT.

16:24:06 9

Q. WELL, WAS THERE ANY DISCUSSION ABOUT IT?

16:24:08 10

A. I HAVE NO IDEA. I DOUBT IT.

16:24:10 11

Q. DO YOU KNOW WHY -- YOU DON'T -- SO YOU

16:24:12 12

DON'T KNOW WHY ONE PARAGRAPH READS ONE WAY AND ANOTHER

16:24:16 13

PARAGRAPH DRAFTED BY YOUR OFFICE -- WELL, YOU HAVE NO

16:24:24 14

EXPLANATION OTHER THAN SOMEONE MAY HAVE PULLED A

16:24:27 15

DIFFERENT FORM --

16:24:28 16

A. IT'S CLEARLY A DIFFERENT FORM.

16:24:30 17

Q. -- WHY THE F.B.T. AGREEMENT ON MARCH 9,

16:24:33 18

'98, HAS LANGUAGE THAT TALKS ABOUT "WILL LICENSE TO

16:24:37 19

AFTERMATH," AS OPPOSED TO THE JUNE '98 AGREEMENT WITH

16:24:45 20

SOME THIRD PARTY THAT SAYS, "YOU HEREBY LICENSE TO US"?

16:24:46 21

YOUR ONLY EXPLANATION IS A DIFFERENT FORM WAS PULLED?

16:24:48 22

A. YEAH. THERE WAS -- REMEMBER, THE F.B.T.

16:24:51 23

AGREEMENT WAS DONE IN A SHORT PERIOD OF TIME, UNDER A

16:24:53 24

LOT OF, YOU KNOW, GET IT DONE. SO, I MEAN -- AGAIN,

16:24:58 25

IF --

DEPOSITION OF PETER PATERNO

16:26:38 1 WITHIN THE AGREEMENT?

16:26:39 2 A. I JUST THINK THAT'S BETTER WORDING. I
16:26:41 3 DON'T LIKE THE PASSIVE VOICE. IT'S IN THE ACTIVE VOICE.
16:26:44 4 IT'S -- I PREFER THIS, YES. I PREFER THE JUNE ONE TO
16:26:48 5 THIS LANGUAGE. BUT THEY -- BUT I'VE BEEN DOING THIS FOR
16:26:53 6 30 YEARS, SO I --

16:26:54 7 Q. THE JUNE 12TH?

16:26:54 8 A. YEAH. THEY'RE THE SAME.

16:26:57 9 Q. OKAY. THAT'S YOUR VIEW?

16:26:58 10 A. IT'S, I THINK, THE VIEW OF -- PRETTY
16:27:00 11 MUCH ANY MUSIC LAWYER THAT READS THIS WILL TELL YOU THE
16:27:03 12 SAME THING.

16:27:03 13 Q. WE MAY FIND OUT.

16:27:11 14 A. THIS A SHORT FORM. YOU DON'T GET IT ALL
16:27:13 15 RIGHT IN THE SHORT FORM.

16:27:16 16 Q. ISN'T THIS THE SHORT FORM? ISN'T THE
16:27:17 17 JUNE 12TH, '98, AGREEMENT A SHORT FORM?

16:27:19 18 A. THIS IS -- THIS IS THE AFTERMATH
16:27:19 19 AGREEMENT. THAT'S IT. NO LONG FORM. THERE'S NO
16:27:19 20 LANGUAGE ABOUT A LONG FORM. THAT'S IT.

16:27:21 21 Q. DOESN'T IT SAY IN THE -- WHICH ONE?
16:27:23 22 WHICH ONE ARE WE TALKING ABOUT?

16:27:25 23 A. THE JUNE 12TH ONE.

16:27:29 24 THIS IS MY ATTEMPTS TO WRITE A PLAIN
16:27:31 25 LANGUAGE CONTRACT THAT'S SHORT.

DEPOSITION OF PETER PATERNO

16:27:33 1

Q. DID YOU WRITE THIS AGREEMENT?

16:27:35 2

A. THIS PARTICULAR ONE?

16:27:37 3

Q. THE JUNE 12TH.

16:27:38 4

A. I CAN'T SAY I WROTE IT. I WROTE THE

16:27:40 5

FORM.

16:27:44 6

Q. DID YOU EVER DISCUSS -- WAS THERE ANY

16:27:46 7

DISCUSSION BETWEEN THE PARTIES ABOUT WHAT WAS MEANT BY

16:27:50 8

PARAGRAPH 6 OF EXHIBIT 5?

16:27:54 9

A. NOT THAT I RECALL.

16:28:04 10

Q. IS THERE ANY LANGUAGE IN PARAGRAPH 6

16:28:06 11

THAT MAKES THE RATE APPLICABLE TO DIGITAL DISTRIBUTION

16:28:11 12

OF MUSIC STREAMING OR DIGITAL DOWNLOADS?

16:28:14 13

MR. POMERANTZ: I'M SORRY. I JUST

16:28:15 14

MISSED THE QUESTION. CAN YOU RESTATE IT OR HAVE IT READ

16:28:17 15

BACK.

16:28:18 16

MR. BUSCH: LET ME BACK UP FOR ONE

16:28:19 17

SECOND.

16:28:20 18

BY MR. BUSCH:

16:28:20 19

Q. IN PARAGRAPH 6, IT'S ENTITLED

16:28:22 20

"MECHANICAL ROYALTIES."

16:28:24 21

DOES THE FORMULA THAT IS IDENTIFIED

16:28:27 22

WITHIN PARAGRAPH 6 OF EXHIBIT 5 WORK WHEN IT COMES TO

16:28:32 23

DIGITAL DOWNLOADS, STREAMS, CONDITIONAL DOWNLOADS,

16:28:36 24

THINGS OF THAT NATURE?

16:28:37 25

MR. POMERANTZ: OBJECTION. VAGUE.

DEPOSITION OF PETER PATERNO

16:28:38 1 COMPOUND. AND ALSO TO THE EXTENT IT CALLS FOR A LEGAL
16:28:40 2 CONCLUSION.

16:28:41 3 YOU CAN ANSWER.

16:28:42 4 THE DEPONENT: WELL, I THINK IT WORKS.

16:28:44 5 BY MR. BUSCH:

16:28:44 6 Q. OKAY. IS THERE ANY MENTION OF
16:28:45 7 ANYTHING -- OF ANY DIGITAL MUSIC AS FAR AS -- IS THERE
16:28:52 8 ANY MENTION OF DIGITAL DISTRIBUTION OF MUSIC OR DIGITAL
16:28:55 9 MUSIC IN CONNECTION WITH PARAGRAPH 6?

16:28:59 10 A. SPECIFICALLY, I DON'T SEE IT.

16:29:17 11 Q. WHERE IT TALKS ABOUT THAT "ALL
16:29:19 12 CONTROLLED COMPOSITIONS WILL BE LICENSED TO AFTERMATH
16:29:22 13 AND ITS DISTRIBUTORS/LICENSEES," DOES THAT SUGGEST TO
16:29:26 14 YOU THAT THE PUBLISHER HAD THE RIGHT TO GET A LICENSE
16:29:34 15 NOT ONLY FROM AFTERMATH, BUT ALSO FROM AFTERMATH'S
16:29:37 16 DISTRIBUTORS OR LICENSEES?

16:29:40 17 A. NO.

16:29:41 18 Q. OKAY. WHY WAS THAT LANGUAGE USED, THAT
16:29:43 19 IT WILL BE LICENSED TO AFTERMATH AND ITS
16:29:47 20 DISTRIBUTORS/LICENSEES?

16:29:49 21 A. BECAUSE AFTERMATH DOESN'T DISTRIBUTE
16:29:51 22 RECORDS. U.M.G. DOES. OR U.M.D. WHATEVER THEY'RE
16:29:56 23 CALLED.

16:29:57 24 Q. OKAY. WHAT ABOUT LICENSEES? WHAT IF
16:30:04 25 THE MASTER WAS LICENSED BY -- BY UNIVERSAL OR U.M.D. OR

DEPOSITION OF PETER PATERNO

16:30:06 1 AFTERMATH TO K-TEL, FOR EXAMPLE, AND K-TEL WAS
16:30:12 2 RESPONSIBLE FOR GETTING THE PUBLISHING LICENSE? WOULD
16:30:16 3 THE PUBLISHER HAVE A RIGHT TO GET THE LICENSE --
16:30:19 4 NEGOTIATE A LICENSE OR SIGN A MECHANICAL LICENSE WITH
16:30:22 5 THE LICENSEE?

16:30:23 6 A. THIS WASN'T INTENDED TO TAKE CARE OF
16:30:27 7 K-TEL, BUT THE LANGUAGE COULD BE INTERPRETED TO TAKE
16:30:30 8 CARE OF K-TEL.

16:30:31 9 Q. WHAT DO YOU MEAN, IT WASN'T INTENDED TO
16:30:33 10 TAKE CARE OF K-TEL?

16:30:34 11 A. IT WAS INTENDED TO TAKE CARE OF OUR
16:30:36 12 PARTNERS.

16:30:37 13 Q. BUT IT SAYS, "DISTRIBUTORS/LICENSEES."
16:30:39 14 DO YOU SEE THAT?

16:30:40 15 A. OKAY. THAT'S FINE.

16:30:41 16 Q. WELL, CAN YOU READ THAT TO MEAN THAT THE
16:30:43 17 PUBLISHER HAS A RIGHT TO OBTAIN A LICENSE AND NEGOTIATE
16:30:46 18 A LICENSE WITH A LICENSEE OF AFTERMATH OR UNIVERSAL?

16:30:51 19 MR. POMERANTZ: OBJECTION TO THE EXTENT
16:30:52 20 IT CALLS FOR A LEGAL CONCLUSION. OBVIOUSLY YOU CAN ASK
16:30:55 21 HIM FOR FACTS, BUT NOT FOR INTERPRETATIONS.

16:30:57 22 BY MR. BUSCH:

16:30:58 23 Q. WELL, YOU DRAFTED THIS AGREEMENT. WAS
16:30:59 24 THERE ANY DISCUSSION ABOUT THIS?

16:31:00 25 A. I DOUBT IT.

DEPOSITION OF PETER PATERNO

16:55:11 1 HERE TO ANSWER YOUR QUESTIONS.

16:55:14 2 THE DEPONENT: SATAN.

16:55:23 3 BY MR. BUSCH:

16:55:24 4 Q. OKAY. DID YOU DRAFT THIS LANGUAGE?

16:55:32 5 A. WHICH LANGUAGE?

16:55:33 6 Q. THE LANGUAGE WE JUST READ, PARAGRAPH 8
16:55:35 7 OF THE CONTROLLED COMPOSITION CLAUSE.

16:55:38 8 A. I DOUBT IF I -- I DOUBT IF I DID THIS
16:55:41 9 DOCUMENT. THE ORIGINAL FORM THAT IT'S TAKEN FROM, I
16:55:44 10 DRAFTED.

16:55:45 11 Q. OKAY.

16:55:46 12 A. WHAT HAPPENED TO IT BETWEEN WHEN I
16:55:48 13 DRAFTED IT AND HERE, I DON'T KNOW. BUT IT LOOKS ABOUT
16:55:50 14 THE SAME.

16:55:51 15 Q. WOULD IT BE FAIR TO SAY THAT THE "YOU
16:55:54 16 HEREBY LICENSE" LANGUAGE IN THE CONTROLLED COMPOSITION
16:55:57 17 CLAUSE IS THE LANGUAGE THAT IS GENERALLY USED IN YOUR
16:56:01 18 AGREEMENTS?

16:56:03 19 A. IN THIS FORM, YES.

16:56:05 20 Q. OKAY. DO YOU HAVE -- WHEN YOU SAY "IN
16:56:08 21 THIS FORM," WHAT DO YOU MEAN?

16:56:09 22 A. WELL, THERE'S A -- THIS IS A FORM WE TRY
16:56:14 23 TO USE, BUT WE DON'T ALWAYS USE IT. BUT MOST OF THE
16:56:16 24 TIME WE DO.

16:56:17 25 Q. ALL RIGHT. DO YOU KNOW THAT THERE WAS A

DEPOSITION OF PETER PATERNO

16:56:39 1 2003 AGREEMENT BETWEEN AFTERMATH AND F.B.T. THAT
16:56:44 2 SUPERSEDED THE '98 AGREEMENT AND A 2000 NOVATION?

16:56:52 3 A. I MEAN, I KNOW THERE WERE AGREEMENTS
16:56:54 4 DONE THAT CHANGED -- THERE WERE AMENDMENTS THAT WERE
16:56:57 5 DONE. I KNOW THAT.

16:56:58 6 Q. WHAT WAS THE PURPOSE OF THOSE
16:56:59 7 AMENDMENTS?

16:57:01 8 A. I THINK THE -- I DON'T KNOW WHICH ONE
16:57:05 9 WAS WHICH, BUT AT SOME POINT THE IDEA WAS TO SEPARATE
16:57:07 10 EMINEM OUT FROM F.B.T. AND HAVE F.B.T. HAVE A SEPARATE
16:57:11 11 AGREEMENT AND EMINEM HAVE A SEPARATE AGREEMENT WITH
16:57:13 12 AFTERMATH.

16:57:14 13 Q. WERE THERE OTHER -- ANY OTHER CHANGES,
16:57:14 14 OR WERE THE DOCUMENTS AT THE TIME THAT -- LET ME
16:57:18 15 REPHRASE AND LET ME STRIKE THAT.

16:57:21 16 IN 2003, WHEN A NEW AGREEMENT WAS
16:57:23 17 ENTERED INTO, DID YOU DO ANY REVIEW OF THE '98 AGREEMENT
16:57:27 18 TO CLEAN ANY OF THE LANGUAGE UP OR DO ANYTHING TO CHANGE
16:57:30 19 THE TERMS OF THE AGREEMENT OTHER THAN TO SEPARATE OUT
16:57:34 20 EMINEM FROM F.B.T.?

16:57:36 21 MR. POMERANTZ: OBJECTION. I THINK IT
16:57:37 22 MISSTATES HIS TESTIMONY. AND YOU ARE MERGING TOGETHER
16:57:40 23 TWO DIFFERENT AGREEMENTS THERE.

16:57:42 24 BY MR. BUSCH:

16:57:42 25 Q. I'M TALKING ABOUT THE 2003 AGREEMENT.

DEPOSITION OF PETER PATERNO

16:57:43 1 I'M JUST ASKING YOU WHETHER, IN 2003, OR IN ANY
16:57:47 2 AGREEMENT THAT SUCCEEDED THE '98 AGREEMENT, WHETHER YOU
16:57:52 3 DID ANY REVIEW OF ANY OF THE LANGUAGE THAT WAS CONTAINED
16:57:55 4 IN THE '98 AGREEMENT TO MODIFY OR CHANGE ANYTHING THAT
16:57:59 5 YOU THOUGHT WAS UNCLEAR OR MISSTATED IN THE '98
16:58:01 6 AGREEMENT.

16:58:03 7 A. WE AFFIRMATIVELY DECIDED NOT TO. THAT
16:58:05 8 WE -- THERE WERE THINGS THAT WERE UNCLEAR THAT WE DIDN'T
16:58:09 9 LIKE, AND WE JUST SAID THE PARTIES ALL AGREE THAT WE'D
16:58:12 10 JUST LIVE WITH WHAT WE HAD.

16:58:14 11 Q. WHO SAID -- WHEN YOU SAID THAT "WE JUST
16:58:15 12 AGREED NOT TO," IS THAT "WE" ON THE AFTERMATH SIDE?

16:58:18 13 A. I BELIEVE IT WAS EVERYBODY, BUT THAT WAS
16:58:21 14 A CONVERSATION I HAD WITH RAND HOFFMAN.

16:58:24 15 Q. OKAY. SO --

16:58:24 16 MR. POMERANTZ: LET ME -- LET ME JUST,
16:58:25 17 THEN -- YOU KNOW, TO THE EXTENT THAT THAT IS A
16:58:27 18 PRIVILEGED COMMUNICATION, WE WOULD MOVE TO STRIKE IT.

16:58:30 19 MR. BUSCH: WELL, I DON'T KNOW THAT IT'S
16:58:32 20 A PRIVILEGED CONVERSATION.

16:58:34 21 BY MR. BUSCH:

16:58:34 22 Q. THESE ARE JUST CONTRACT NEGOTIATIONS;
16:58:35 23 RIGHT?

16:58:36 24 A. YEAH. BUT I DON'T NEGOTIATE WITH RAND.
16:58:38 25 WE'RE ON THE SAME SIDE.

DEPOSITION OF PETER PATERNO

16:58:39 1 Q. RIGHT. AND SO WHEN YOU WERE DISCUSSING
16:58:41 2 ISSUES WITH RAND, YOU AND RAND DECIDED THERE WERE THINGS
16:58:44 3 YOU WEREN'T HAPPY ABOUT, THINGS THAT WERE UNCLEAR, BUT
16:58:47 4 YOU JUST DECIDED FROM YOUR END NOT TO MAKE ANY CHANGES
16:58:51 5 TO THE AGREEMENT.

16:58:52 6 IS THAT WHAT YOU'RE SAYING?

16:58:58 7 MR. POMERANTZ: I'M GOING TO INSTRUCT
16:58:58 8 HIM NOT TO ANSWER TO THE EXTENT IT'S BASED ON
16:58:59 9 CONVERSATIONS HE HAD WITH RAND.

16:58:59 10 IF YOU WANT TO REPHRASE THE QUESTION SO
16:58:59 11 IT --

16:58:59 12 MR. BUSCH: YEAH, I'LL REPHRASE THE
16:58:59 13 QUESTION.

16:58:59 14 BY MR. BUSCH:

16:59:00 15 Q. WAS THERE A DECISION MADE ON YOUR SIDE
16:59:00 16 NOT TO CHANGE OR CLARIFY ITEMS THAT YOU EITHER WERE
16:59:02 17 UNHAPPY WITH OR WERE UNCLEAR?

16:59:03 18 MR. POMERANTZ: AND, AGAIN, TO THE
16:59:04 19 EXTENT YOU CAN ANSWER THAT WITHOUT DIVULGING PRIVILEGED
16:59:07 20 COMMUNICATIONS, YOU CAN DO SO.

16:59:09 21 THE DEPONENT: WELL, YES. THE ANSWER IS
16:59:10 22 YES.

16:59:10 23 BY MR. BUSCH:

16:59:11 24 Q. OKAY. DO YOU HAVE A RECOLLECTION NOW OF
16:59:29 25 WHICH SUCH PROVISIONS THERE WERE THAT YOU WERE UNHAPPY

DEPOSITION OF PETER PATERNO

17:09:20 1

ARTISTS.

17:09:21 2

Q. EMINEM IS A HUGE ARTIST, IS HE NOT?

17:09:23 3

A. YES. EMINEM IS A HUGE ARTIST.

17:09:26 4

Q. OKAY.

17:09:46 5

A. FOR WHAT IT'S WORTH, THOSE THINGS ARE

17:09:48 6

SPECIFICALLY NEGOTIATED. THEY'RE NOT DONE BY

17:09:51 7

INADVERTENCE.

17:10:03 8

Q. ARE YOU AWARE THAT ON MARCH 9 OF '98,

17:10:06 9

THAT EMINEM ALSO ENTERED INTO A LETTER OF INDUCEMENT

17:10:10 10

WITH AFTERMATH?

17:10:11 11

A. I MEAN, AM I AWARE? NO. BUT I'M SURE

17:10:13 12

HE DID.

17:10:15 13

MR. BUSCH: OKAY. LET'S MARK AS THE

17:10:16 14

NEXT EXHIBIT IN LINE HERE.

17:10:32 15

WHAT EXHIBIT ARE WE UP TO?

17:10:34 16

DEPOSITION OFFICER: EIGHT.

17:10:34 17

MR. BUSCH: EXHIBIT 8, A MARCH 9, 1998,

17:10:40 18

LETTER OF INDUCEMENT.

17:10:45 19

(WHEREUPON, PLAINTIFFS' EXHIBIT NUMBER

17:10:45 20

8 WAS MARKED FOR IDENTIFICATION BY THE

17:10:45 21

DEPOSITION OFFICER AND IS BOUND UNDER

17:10:45 22

SEPARATE COVER.)

17:10:56 23

MR. POMERANTZ: IT DOES INCLUDE THE

17:10:57 24

FIRST PAGE?

17:10:58 25

MR. BUSCH: I TOOK THE FIRST PAGE OFF.

DEPOSITION OF PETER PATERNO

17:11:01 1
17:11:02 2
17:11:06 3
17:11:08 4
17:11:10 5
17:11:13 6
17:11:14 7
17:11:16 8
17:11:17 9
17:11:21 10
17:11:23 11
17:11:28 12
17:11:31 13
17:11:41 14
17:11:42 15
17:11:42 16
17:11:43 17
17:11:44 18
17:11:47 19
17:11:48 20
17:11:48 21
17:11:51 22
17:11:53 23
17:11:55 24
17:11:58 25

BY MR. BUSCH:

Q. CAN YOU IDENTIFY THIS DOCUMENT?

A. IT LOOKS LIKE A LETTER OF INDUCEMENT.

Q. OKAY. IS IT A LETTER OF INDUCEMENT THAT YOUR -- THAT -- WHO DRAFTED THIS DOCUMENT?

A. I DON'T KNOW.

Q. OKAY. WHAT IS THE NATURE OF THE LETTER OF INDUCEMENT?

A. IT'S TO ENSURE THAT THE ARTIST -- THAT AN ARTIST THAT SIGNED THEIR PRODUCTION COMPANY CONTINUES TO PERFORM FOR THE LABEL, THE CASE BEING AFTERMATH, EVEN IF THE -- IF THERE'S SOME DISPUTE OR, FOR SOME REASON, THE PRODUCTION COMPANY LOSES THE SERVICES OF THE ARTIST.

Q. OKAY.

A. DISPUTE WITH.

Q. AND IN IT, IN THIS AGREEMENT EMINEM, ACKNOWLEDGED AND APPROVED THE AGREEMENT BETWEEN F.B.T. AND AFTERMATH FOR EMINEM'S EXCLUSIVE RECORDING SERVICES; CORRECT?

A. YES.

Q. OKAY. AND YOU REPRESENTED AFTERMATH AND YOUR OFFICE REPRESENTED AFTERMATH IN THE NEGOTIATION AND PREPARATION OF THIS DOCUMENT?

A. I ASSUME SO. I DON'T REMEMBER THIS.

Q. OKAY. YOU HAVE NO REASON TO DOUBT THAT,

DEPOSITION OF PETER PATERNO

17:12:00 1 DO YOU?

17:12:00 2 A. NO.

17:12:01 3 Q. OKAY. AND, ONCE AGAIN, IT WOULD HAVE
17:12:04 4 BEEN YOU, AS THE LEAD PERSON, AND SOMEONE, PROBABLY
17:12:08 5 MARNI NIEVES, UNDERNEATH YOU IN CONNECTION WITH THIS
17:12:10 6 DOCUMENT?

17:12:12 7 A. YEAH. THESE ARE STRAIGHT-UP FORMS. I
17:12:14 8 MEAN, SHE PULLED THE FORM FROM THE SHELF AND SENT IT
17:12:17 9 OUT.

17:12:17 10 Q. OKAY. WHO SIGNED THIS EXHIBIT ON BEHALF
17:12:21 11 OF AFTERMATH?

17:12:25 12 A. DRE.

17:12:26 13 Q. OKAY. AND DID ANYONE HAVE TO GIVE
17:12:30 14 APPROVAL FOR MR. YOUNG, OR DR. DRE, TO SIGN THIS EXHIBIT
17:12:36 15 ON BEHALF OF AFTERMATH?

17:12:37 16 A. WHAT DO YOU MEAN, DID SOMEONE HAVE TO
17:12:39 17 GIVE APPROVAL?

17:12:40 18 Q. WELL, I MEAN, OBVIOUSLY HE OWNS THE
17:12:41 19 COMPANY, SO HE CAN DO WHAT HE WANTS.

17:12:43 20 A. RIGHT.

17:12:43 21 Q. BUT I GUESS MY POINT IS THAT SOMEONE
17:12:44 22 FROM YOUR OFFICE PRESENTED THIS DOCUMENT TO HIM AND
17:12:46 23 SAID, "THIS IS GOOD TO GO. YOU SHOULD READ IT, BUT WE
17:12:50 24 THINK IT'S FINE TO SIGN"?

17:12:53 25 A. WE PRESENTED IT TO HIM AND TOLD HIM IT

DEPOSITION OF PETER PATERNO

18:10:25 1 A. THERE'S -- THERE'S A LOT OF LANGUAGE
18:10:28 2 THAT COVERS THIS SAME TERRITORY. THIS IS A LONG FORM,
18:10:31 3 SO --

18:10:32 4 Q. THE SPECIFIC LANGUAGE OR THE LANGUAGE OF
18:10:35 5 THE 50/50 IS NOT CONTAINED IN THIS AGREEMENT, IS IT?
18:10:38 6 THE 50/50 SPLIT ON LICENSE --

18:10:41 7 A. YEAH, IT IS.
18:10:42 8 (SPEAKING SIMULTANEOUSLY.)
18:10:43 9 BY MR. BUSCH:

18:10:43 10 Q. CAN YOU SHOW ME WHERE?

18:10:44 11 A. IT'S ON PAGE 24 OF THE EXHIBIT, AND THEN
18:10:49 12 THERE'S LANGUAGE THAT DEALS WITH DOWNLOADS. AND THERE'S
18:10:53 13 A -- IT SAYS THAT IT DOESN'T APPLY TO THAT.

18:10:56 14 Q. WELL, ACTUALLY, LET'S LOOK -- I WANT TO
18:10:57 15 UNDERSTAND THIS AGREEMENT.

18:10:57 16 NOW, THIS AGREEMENT IS -- WAS ENTERED
18:10:59 17 INTO ON DECEMBER 1, 2003; CORRECT?

18:11:03 18 A. THAT'S WHAT IT SAYS.

18:11:04 19 Q. THAT'S THE -- THAT'S THE -- ACTUALLY, WE
18:11:07 20 HAVE A DECEMBER 1, 2003, AGREEMENT WITH EXHIBIT -- DO
18:11:15 21 YOU KNOW WHEN THE NEGOTIATIONS FOR THIS AGREEMENT BEGAN?

18:11:20 22 A. NO.

18:11:22 23 Q. YOU DO NOT?

18:11:25 24 A. NO. SOMEWHERE AROUND THEN.

18:11:27 25 Q. AND THE AFTERMATH AGREEMENT WITH

DEPOSITION OF PETER PATERNO

18:11:31 1 MARSHALL MATHERS WAS ALSO 2003, IN JULY OF 2003;

18:11:34 2 CORRECT?

18:11:36 3 A. OKAY.

18:11:37 4 Q. OKAY. THIS AGREEMENT, THE AGREEMENT
18:11:40 5 THAT YOUR FIRM DRAFTED IN 2003, ALSO HAS SPECIFIC
18:11:46 6 ROYALTY PROVISIONS RELATING SPECIFICALLY TO DOWNLOADS,
18:11:49 7 DOES IT NOT?

18:11:51 8 A. YES.

18:11:51 9 Q. OKAY. FOR EXAMPLE, ON PAGE 2, A.F.T.
18:11:58 10 56460, ROYALTIES, RETAIL BASE, THE STANDARD CONTAINER
18:12:04 11 DEDUCTIONS, THERE IS A 4-D THAT SAYS:

18:12:08 12 "DOWNLOADS. THE BASIC L.P.
18:12:10 13 ROYALTY RATE WITH NO CONTAINER
18:12:11 14 DEDUCTION OR FREE GOODS DEDUCTION."

18:12:14 15 THAT'S WHAT IT SAYS; CORRECT?

18:12:15 16 A. YES.

18:12:15 17 Q. DO YOU KNOW WHY THAT PROVISION WAS NOT
18:12:17 18 INSERTED ANYWHERE IN THE 2003 F.B.T.-AFTERMATH
18:12:22 19 AGREEMENT?

18:12:24 20 A. WE TALKED ABOUT THIS ABOUT TWO HOURS
18:12:26 21 AGO.

18:12:27 22 Q. YOU DECIDED NOT TO MAKE ANY CHANGES?

18:12:29 23 A. WE DECIDED NOT TO MAKE ANY CHANGES.

18:12:31 24 Q. OKAY. THAT WAS A DECISION THAT YOU
18:12:32 25 MADE --

DEPOSITION OF PETER PATERNO

18:12:33 1

A. I DIDN'T MAKE IT.

18:12:34 2

Q. INTERSCOPE MADE THAT DECISION?

18:12:35 3

A. I THINK INTERSCOPE, AND TALKING TO

18:12:38 4

PAUL ROSENBERG, AGREED THAT THAT'S WHAT WE'RE GOING TO DO.

18:12:40 5

18:12:41 6

Q. SO INTERSCOPE COULD HAVE INSISTED THAT

18:12:44 7

THERE BE A SEPARATE PROVISION FOR DOWNLOADS?

18:12:46 8

A. POSSIBLY.

18:12:46 9

Q. OKAY.

18:12:48 10

A. THEY COULD HAVE INSISTED, AND PAUL COULD

18:12:49 11

HAVE SAID, "I'M NOT SIGNING IT."

18:12:51 12

Q. OKAY. RIGHT. THAT'S EXACTLY WHAT COULD

18:12:53 13

HAVE HAPPENED; ISN'T THAT RIGHT? THAT WAS NOT A RISK

18:12:55 14

THAT --

18:12:56 15

MR. POMERANTZ: I THINK YOU INTERRUPTED

18:12:57 16

HIM.

18:12:58 17

MR. BUSCH: NO, I DID NOT.

18:12:58 18

BY MR. BUSCH:

18:12:59 19

Q. THAT WAS NOT A RISK THAT -- THAT

18:13:00 20

INTERSCOPE WANTED TO TAKE; RIGHT?

18:13:02 21

A. NO. OR IT COULD VERY WELL BE THAT

18:13:04 22

INTERSCOPE FELT THAT THEY WERE COMPLETELY PROTECTED BY

18:13:07 23

THE EXISTING DOCUMENTS AND DIDN'T HAVE TO RAISE THIS

18:13:09 24

POINT.

18:13:10 25

THIS WAS NOT A POINT THAT ANYBODY CARED

DEPOSITION OF PETER PATERNO

18:13:12 1 ABOUT AT THE TIME. YOU'RE ASSUMING A LOT OF INTEREST IN
18:13:15 2 SOMETHING THERE WAS NO INTEREST IN.

18:13:16 3 Q. YOU WEREN'T A PART OF ALL THIS
18:13:16 4 CONVERSATION IN 2003. THAT'S WHAT YOU SAID, ISN'T IT?

18:13:19 5 A. I CERTAINLY WASN'T. BUT WHEN YOU TALK
18:13:20 6 TO THE PEOPLE THAT WERE, YOU'LL FIND OUT THAT NOBODY
18:13:23 7 FOCUSED ON THIS.

18:13:24 8 Q. MAYBE THEY SHOULD HAVE.

18:13:25 9 A. MAYBE THEY SHOULD. THEN YOU WOULDN'T
18:13:28 10 HAVE TO BE HERE. YOU WOULDN'T BE MAKING ANY MONEY.

18:13:30 11 Q. AND MAYBE YOUR CLIENT WOULDN'T HAVE TO
18:13:32 12 PAY A LOT OF MONEY EITHER.

18:13:34 13 A. IT DEFINITELY WOULDN'T HAVE COME OUT THE
18:13:34 14 WAY YOU WOULD WANT IT TO COME OUT IF SOMEBODY HAD
18:13:34 15 FOCUSED ON IT.

18:13:36 16 Q. ISN'T THAT THE JOB OF THE RECORD
18:13:38 17 COMPANY, TO MAKE SURE THAT --

18:13:39 18 MR. POMERANTZ: WE'RE JUST ARGUING WITH
18:13:40 19 EACH OTHER. ASK ANOTHER QUESTION.

18:13:41 20 BY MR. BUSCH:

18:13:41 21 Q. 4-D IN THIS 2003 AGREEMENT THAT YOUR
18:13:45 22 FIRM DRAFTED SPECIFICALLY SAYS:

18:13:46 23 "DOWNLOADS, THE BASIC L.P.

18:13:47 24 ROYALTY RATE WITH NO CONTAINER

18:13:49 25 DEDUCTION OR FREE GOODS DEDUCTION."

DEPOSITION OF PETER PATERNO

18:13:51 1 CORRECT?

18:13:51 2 A. CORRECT.

18:13:51 3 Q. THAT'S A PROVISION OR A PROVISION

18:13:53 4 ADDRESSING DOWNLOADS IS NOT CONTAINED IN THE

18:13:55 5 2003 AFTERMATH AGREEMENT; CORRECT?

18:13:56 6 MR. POMERANTZ: YOU JUST ASKED HIM THAT

18:13:57 7 QUESTION.

18:13:58 8 (SPEAKING SIMULTANEOUSLY.)

18:13:59 9 MR. POMERANTZ: OBJECTION. ASKED AND

18:13:59 10 ANSWERED.

18:14:07 11 BY MR. BUSCH:

18:14:07 12 Q. THAT'S CORRECT, THAT THERE'S NO SIMILAR

18:14:09 13 PROVISION ADDRESSING DOWNLOADS IN THE F.B.T. 2003

18:14:13 14 AGREEMENT; CORRECT?

18:14:16 15 MR. POMERANTZ: OBJECTION ASKED AND

18:14:17 16 ANSWERED.

18:14:23 17 THE DEPONENT: YES.

18:14:23 18 BY MR. BUSCH:

18:14:23 19 Q. CORRECT?

18:14:24 20 A. YES.

18:14:24 21 MR. POMERANTZ: HOW MUCH LONGER DO YOU

18:14:24 22 HAVE?

18:14:24 23 MR. BUSCH: A WHILE.

18:14:25 24 MR. POMERANTZ: CAN WE TAKE A

18:14:25 25 FIVE-MINUTE BREAK SO WE CAN USE THE RESTROOM?

DEPOSITION OF PETER PATERNO

18:14:26 1 MR. BUSCH: I'D LIKE TO GET THROUGH THIS
18:14:27 2 DOCUMENT FIRST, IF I COULD, PLEASE. IT'S NOT GOING TO
18:14:28 3 TAKE ME VERY LONG. BUT --

18:14:28 4 MR. POMERANTZ: WE'RE NOT GOING TO GET
18:14:29 5 ALONG VERY WELL IF YOU DON'T EVEN LET SOMEBODY HAVE A
18:14:31 6 BATHROOM BREAK, BUT GO AHEAD.

18:14:32 7 MR. BUSCH: WE GOT --

18:14:32 8 MR. POMERANTZ: I LET YOU HAVE YOUR
18:14:33 9 BATHROOM BREAK WHEN WE WERE IN THE MIDDLE OF TESTIMONY.

18:14:36 10 THE DEPONENT: I JUST WANT THIS TO BE
18:14:36 11 OVER.

18:14:37 12 MR. POMERANTZ: I'M ENTITLED TO GO TO
18:14:38 13 THE BATHROOM.

18:14:39 14 MR. BUSCH: YOU ARE. BUT I JUST WANT TO
18:14:40 15 FINISH A FEW MORE QUESTIONS ON THIS SUBJECT. THIS IS AN
18:14:42 16 IMPORTANT SUBJECT THAT I'M ASKING QUESTIONS ABOUT NOW.

18:14:42 17 MR. POMERANTZ: ALL YOU'RE ASKING HIM TO
18:14:43 18 DO IS READ THE DOCUMENT.

18:14:45 19 MR. BUSCH: NO, I'M NOT.
18:14:45 20 BY MR. BUSCH:

18:14:46 21 Q. IF YOU'D TURN TO PAGE 24, SIR.

18:14:49 22 A. YES.

18:14:51 23 Q. PARAGRAPH 9.02C. IT TALKS ABOUT IF THE
18:14:59 24 COMPANY SELLS OR LICENSES TO ANY THIRD PARTY THE RIGHT
18:15:03 25 TO SELL PERMANENT DOWNLOADS OF RECORDS HEREUNDER, AND IT

DEPOSITION OF PETER PATERNO

18:16:35 1 A. WHERE ARE YOU?

18:16:36 2 Q. IN 4-C, II.

18:16:41 3 A. OH, OKAY. YES.

18:16:44 4 Q. SO FOR STREAMS AND CONDITIONAL DOWNLOADS
18:16:48 5 IN THIS AGREEMENT THAT YOU DRAFTED, UNIVERSAL IS PAYING
18:16:52 6 50 PERCENT OF NET RECEIPTS; CORRECT?

18:16:55 7 A. WAIT. I DIDN'T DRAFT THIS AGREEMENT.

18:16:57 8 Q. THAT WAS --

18:16:57 9 A. THIS IS AN INTERSCOPE FORM. I HAD
18:16:59 10 NOTHING TO DO WITH THIS AGREEMENT. WE ATTACHED IT TO A
18:17:01 11 SHORT FORM THAT I -- THAT I DRAFTED.

18:17:03 12 Q. OKAY. YOU WERE INVOLVED IN THE PROCESS
18:17:04 13 OF SIGNING THIS ARTIST AND -- AND WORKING ON THESE
18:17:07 14 AGREEMENTS; CORRECT?

18:17:08 15 A. I WAS INVOLVED IN THE PROCESS OF
18:17:09 16 STAPLING THIS FORM TO THE TWO-PAGE AGREEMENT THAT I DID
18:17:12 17 DRAFT.

18:17:12 18 Q. OKAY.

18:17:13 19 A. OR THREE-PAGE AGREEMENT.

18:17:14 20 Q. SO INTERSCOPE, YOUR CO-VENTURE --
18:17:14 21 CO-VENTURE PARTNER, IN THIS AGREEMENT AGREED TO PAY
18:17:17 22 50 PERCENT OF NET RECEIPTS FOR STREAMING AND CONDITIONAL
18:17:20 23 DOWNLOADS; CORRECT?

18:17:22 24 A. LIMITED DOWNLOADS, YES.

18:17:24 25 Q. YOU SAID SOMETHING A MOMENT AGO THAT I

DEPOSITION OF PETER PATERNO

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS.

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6 DEPONENT'S DECLARATION

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10 I CERTIFY UNDER PENALTY OF PERJURY THAT THE
11 FOREGOING IS TRUE AND CORRECT.

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16 EXECUTED AT _____ ON _____.

17
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20 _____
21 (SIGNATURE OF DEPONENT)

DEPOSITION OF PETER PATERNO

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) SS.

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I, ALEJANDRIA BAKER, CERTIFIED SHORTHAND REPORTER,
CERTIFICATE NUMBER 11897, FOR THE STATE OF CALIFORNIA,
HEREBY CERTIFY:

THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME AT
THE TIME AND PLACE THEREIN SET FORTH, AT WHICH TIME THE
DEPONENT WAS PLACED UNDER OATH BY ME;

THE TESTIMONY OF THE DEPONENT AND ALL OBJECTIONS
MADE AT THE TIME OF THE EXAMINATION WERE RECORDED
STENOGRAPHICALLY BY ME AND WERE THEREAFTER TRANSCRIBED;

THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT
TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

I FURTHER CERTIFY THAT I AM NEITHER COUNSEL FOR NOR
RELATED TO ANY PARTY TO SAID ACTION, NOR IN ANY WAY
INTERESTED IN THE OUTCOME THEREOF.

IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY
NAME THIS 12TH DAY OF MAY, 2008.


