

**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 3

DEPOSITION OF MARNIE NIEVES

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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 MARNIE NIEVES, TAKEN
ON BEHALF OF THE PLAINTIFFS, AT 10250
CONSTELLATION BOULEVARD, 19TH FLOOR,
LOS ANGELES, CALIFORNIA, COMMENCING AT
10:04 A.M., THURSDAY, JUNE 5, 2008,
BEFORE ALEX BAKER, CSR NUMBER 11897.

DEPOSITION OF MARNIE NIEVES

10:13:04 1 MR. POMERANTZ: OBJECTION. VAGUE.

10:13:06 2 CALLS FOR A NARRATIVE. OBJECTION TO THE FORM.

10:13:07 3 BY MR. BUSCH:

10:13:09 4 Q. WHAT DO YOU SPECIFICALLY REMEMBER ABOUT
10:13:13 5 EITHER YOUR -- LET'S START WITH THIS.

10:13:14 6 WHAT DO YOU REMEMBER ABOUT YOUR
10:13:17 7 INVOLVEMENT WITH THAT AGREEMENT, FIRST OF ALL?

10:13:19 8 A. I REMEMBER THAT WE -- I REMEMBER THE
10:13:22 9 AGREEMENT HAPPENING. I REMEMBER US ENTERING INTO THE
10:13:27 10 AGREEMENT. AND I REMEMBER PARTICIPATING IN THE CREATION
10:13:29 11 OF THE DOCUMENT.

10:13:31 12 Q. OKAY. DO YOU REMEMBER ANY CONVERSATIONS
10:13:34 13 YOU HAD WITH F.B.T.'S REPRESENTATIVES OR EMINEM'S
10:13:42 14 REPRESENTATIVES, IF ANY, AS PART OF THAT PROCESS?

10:13:43 15 A. I RECALL TALKING TO THEM, YES.

10:13:44 16 Q. DO YOU RECALL THE SPECIFICS OF ANY SUCH
10:13:44 17 CONVERSATIONS?

10:13:45 18 A. I DO NOT.

10:13:59 19 Q. WHAT, IN GENERAL, DO YOU REMEMBER ABOUT
10:14:01 20 ANY SUCH CONVERSATIONS IF YOU DON'T REMEMBER THE
10:14:04 21 SPECIFICS OF ANY SUCH CONVERSATIONS?

10:14:04 22 MR. POMERANTZ: OBJECTION --

10:14:05 23 (SPEAKING SIMULTANEOUSLY.)

10:14:05 24 BY MR. BUSCH:

25 Q. IF ANYTHING.

DEPOSITION OF MARNIE NIEVES

10:14:07 1 MR. POMERANTZ: OBJECTION TO THE FORM.

10:14:08 2 MR. BUSCH: WELL, LET ME ASK THE

10:14:09 3 QUESTION A DIFFERENT WAY.

10:14:10 4 BY MR. BUSCH:

10:14:12 5 Q. DOES YOUR RECOLLECTION INVOLVE ANYTHING
10:14:15 6 OTHER THAN THE FACT THAT YOU HAD SOME CONVERSATIONS AND
10:14:19 7 YOU TRANSMITTED DOCUMENTS BACK AND FORTH; DO YOU RECALL
10:14:21 8 ANYTHING MORE THAN THAT AS FAR AS YOUR CONVERSATIONS?

10:14:22 9 A. NO.

10:14:31 10 Q. OKAY. ALL RIGHT. WHAT WAS THE -- WHAT
10:14:34 11 WAS YOUR ROLE IN THE PROCESS?

10:14:39 12 A. PETER REPRESENTED AFTERMATH. AND AS ONE
10:14:43 13 OF THE ATTORNEYS THAT WORKED FOR PETER, I REMEMBER BEING
10:14:50 14 INVOLVED IN DISCUSSIONS AND DRAFTING, BUT NOT
10:14:52 15 SPECIFICALLY THE ISSUES.

10:14:56 16 Q. OKAY. DISCUSSIONS IN -- JUST GENERALLY
10:14:59 17 HAVING DISCUSSIONS INTERNALLY WITH PETER?

10:15:00 18 A. YES.

10:15:05 19 Q. OKAY. WAS THERE ANY OTHER ASSOCIATE
10:15:11 20 BESIDES YOURSELF INVOLVED IN THE PROCESS OF THE DRAFTING
10:15:15 21 OF THE AGREEMENT OR BEING ASSIGNED TO THAT CASE?

10:15:15 22 (WHEREUPON, MARK A. LEVINSOHN ENTERED
10:15:16 23 THE DEPOSITION PROCEEDINGS.)

24 THE DEPONENT: AT PETER'S OFFICE?

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DEPOSITION OF MARNIE NIEVES

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10:15:39 10
10:15:44 11
10:15:44 12
10:15:46 13
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10:15:56 17
10:15:56 18
10:16:00 19
10:16:01 20
10:16:01 21
10:16:03 22
10:16:05 23
10:16:06 24
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BY MR. BUSCH:

Q. AT PETER'S OFFICE.

A. NOT THAT I RECALL.

Q. WHAT WAS PETER'S ROLE IN THE PROCESS?

A. HE WAS THE ATTORNEY FOR THE CLIENT,
AFTERMATH ENTERTAINMENT.

Q. SO HE REVIEWED, SUPERVISED, WAS INVOLVED
IN THE PROCESS AS WELL?

A. CORRECT.

Q. OKAY. ALL RIGHT. YOU WERE WITH
PETER PATERNO FROM '97 TO '99; IS THAT WHAT YOU SAID?

A. YES.

Q. AND WHY DID YOU LEAVE MR. PATERNO'S
OFFICE IN 1999?

A. I LEFT TO GO TAKE A RECORD COMPANY
BUSINESS AFFAIRS JOB AT M.C.A. RECORDS.

Q. WHICH IS PART OF UNIVERSAL?

A. CORRECT.

Q. OKAY. AND WHAT YEAR WAS THAT -- THAT
WAS '99?

A. YES.

Q. AND HAVE YOU WORKED AT M.C.A. OR
UNIVERSAL SINCE THAT TIME?

A. YES, I HAVE.

Q. ALL RIGHT. FROM 1999 ONWARD, JUST TELL

DEPOSITION OF MARNIE NIEVES

10:16:12 1 ME WHAT YOUR DUTIES AND RESPONSIBILITIES AT M.C.A. OR
10:16:15 2 UNIVERSAL HAVE BEEN, OR IF THEY'RE DIFFERENT OVER TIME,
10:16:18 3 TELL ME THE DIFFERENT POSITIONS YOU'VE HELD OR DIFFERENT
10:16:22 4 DUTIES AND RESPONSIBILITIES AND THE YEAR THAT ANY OF
10:16:24 5 THESE RESPONSIBILITIES CHANGED.

10:16:27 6 A. I STARTED AT M.C.A. IN 1999 AS AN
10:16:32 7 ATTORNEY IN BUSINESS AND LEGAL AFFAIRS. MY DUTIES WERE
10:16:35 8 SIMILAR: NEGOTIATING AND DRAFTING AGREEMENTS,
10:16:40 9 NEGOTIATING CONTRACTS WITH ATTORNEYS THAT REPRESENTED
10:16:44 10 THE ARTIST, TALKING TO MANAGERS.

10:16:48 11 AND THEN M.C.A. WAS MERGED INTO ANOTHER
10:16:53 12 DIVISION OF UNIVERSAL, INTERSCOPE GEFFEN A&M. I WAS
10:16:55 13 MOVED INTO THAT BUSINESS, IN THE LEGAL AFFAIRS
10:16:58 14 DEPARTMENT. I BELIEVE THAT WAS 2002. BUT MY
10:17:01 15 RESPONSIBILITIES STAYED THE SAME, ALTHOUGH THEY'VE
10:17:05 16 INCREASED. I'M RESPONSIBLE FOR MORE ARTISTS, MORE
10:17:10 17 VENTURES. I DO MORE COMPLICATED DEALS. BUT GENERALLY
10:17:12 18 THE RESPONSIBILITIES ARE THE SAME.

10:17:19 19 Q. OKAY. SINCE YOUR INVOLVEMENT WITH THE
10:17:25 20 ORIGINAL F.B.T.-EMINEM-AFTERMATH AGREEMENT IN 1998, HAVE
10:17:28 21 YOU HAD ANY INVOLVEMENT WHATSOEVER WITH ANY SUBSEQUENT
10:17:30 22 AGREEMENTS BETWEEN THOSE PARTIES?

10:17:38 23 A. NO, SIR.

10:17:41 24 Q. SO IS YOUR TOTAL INVOLVEMENT WITH -- YOU
25 UNDERSTAND THAT -- YOU UNDERSTAND THERE'S A LAWSUIT THAT

DEPOSITION OF MARNIE NIEVES

10:23:09 1 COMPANIES -- WHERE THERE WAS A DISCUSSION ABOUT THE
10:23:13 2 LICENSE PROVISION INVOLVED IN ARTIST AGREEMENTS AS IT
10:23:21 3 RELATED TO PAYMENT OF ROYALTIES FOR DIGITAL DOWNLOADS?

10:23:21 4 MR. POMERANTZ: OBJECTION TO THE FORM OF
10:23:25 5 THE QUESTION. IT'S VAGUE. IT'S ALSO COMPOUND.

10:23:25 6 BY MR. BUSCH:

10:23:27 7 Q. LET ME BACK UP FOR ONE SECOND. OKAY.
10:23:31 8 AND I'LL TRY TO CURE MR. POMERANTZ'S OBJECTIONS.

10:23:34 9 ARE YOU AWARE THAT -- BASED UPON YOUR
10:23:38 10 EXPERIENCE WITH ARTIST AGREEMENTS, THAT THERE IS, IN
10:23:41 11 MANY AGREEMENTS, A PROVISION THAT SAYS SOMETHING ALONG
10:23:44 12 THE LINES THAT FOR LICENSES OF THE MASTERS, THE RECORD
10:23:50 13 LABEL AND THE ARTIST WOULD SHARE IN ROYALTIES 50/50?
10:23:52 14 ARE YOU AWARE OF THAT PROVISION, IN GENERAL, BEING IN
10:23:53 15 ARTIST AGREEMENTS?

10:23:54 16 MR. POMERANTZ: OBJECTION TO THE FORM.

10:23:55 17 THE DEPONENT: YES.

10:23:55 18 BY MR. BUSCH:

10:24:01 19 Q. OKAY. NOW, AT ANY TIME AFTER YOU JOINED
10:24:05 20 M.C.A. OR BECAME INVOLVED WITH INTERSCOPE, WERE YOU PART
10:24:11 21 OF ANY CONVERSATIONS WITH ANYONE ABOUT WHETHER THAT
10:24:18 22 PROVISION MIGHT APPLY TO DIGITAL DOWNLOADS OF THE MASTER
10:24:19 23 RECORDINGS?

10:24:20 24 MR. POMERANTZ: AGAIN, I'M GOING TO
25 INSTRUCT YOU NOT TO ANSWER THAT QUESTION TO THE EXTENT

DEPOSITION OF MARNIE NIEVES

10:44:32 1 BY MR. BUSCH:

10:44:33 2 Q. OKAY. MY QUESTION TO YOU -- BECAUSE I'M
10:44:35 3 GOING TO TAKE A BREAK IN A SECOND, AND JUST I WANT TO
10:44:37 4 GET TO THIS BEFORE WE TAKE A BREAK.

10:44:40 5 MY QUESTION TO YOU IS: DO YOU HAVE ANY
10:44:42 6 RECOLLECTION WHY THE LANGUAGE "WILL BE LICENSED" WAS
10:44:46 7 USED AS OPPOSED TO "IS HEREBY LICENSED"?

10:44:47 8 A. NO.

10:44:49 9 Q. OKAY. YOU DON'T HAVE A RECOLLECTION OF
10:44:53 10 MAKING A CONSCIOUS DECISION TO USE ONE VERSUS THE OTHER?

10:44:54 11 A. NO.

10:44:55 12 MR. BUSCH: OKAY. ALL RIGHT. LET'S
10:44:56 13 TAKE A BREAK FOR A MINUTE.

10:44:57 14 THE VIDEOGRAPHER: OFF THE RECORD AT
10:44:58 15 10:45 A.M.

10:44:58 16 (WHEREUPON, A RECESS WAS HELD
10:59:34 17 FROM 10:45 A.M. TO 10:59 A.M.)

10:59:35 18 THE VIDEOGRAPHER: BACK ON THE RECORD AT
10:59:37 19 10:59 A.M.

10:59:37 20 BY MR. BUSCH:

10:59:39 21 Q. ALL RIGHT. SO BEFORE THE BREAK, WE WERE
10:59:42 22 DISCUSSING THE '98 AGREEMENT. AND I THINK I WAS ASKING
10:59:46 23 YOU ABOUT YOUR -- WHETHER YOU MADE A CONSCIOUS CHOICE TO
10:59:51 24 USE LANGUAGE THAT SAID "HEREBY" VERSUS THE LANGUAGE THAT
25 ULTIMATELY FOUND ITS WAY INTO THE AGREEMENT, AND YOU

DEPOSITION OF MARNIE NIEVES

12:25:11 1 THE DEPONENT: ACCORDING TO THIS
12:25:12 2 CONTRACT, I DON'T BELIEVE IT DOES.

12:25:13 3 BY MR. BUSCH:

12:25:17 4 Q. OKAY. AND THAT'S BASED UPON -- WELL,
12:25:20 5 SINCE YOU'VE ANSWERED IT THAT WAY, LET'S -- WE'LL NEED
12:25:21 6 TO GO THROUGH IT.

12:25:24 7 LET'S LOOK AT EXHIBIT NUMBER 5, AND
12:25:27 8 LET'S GO TO THE CONTROLLED COMPOSITION CLAUSE, IF WE
12:25:37 9 COULD. WE TALKED ABOUT EARLIER THAT YOU'VE SEEN
12:25:39 10 CONTROLLED COMPOSITION CLAUSES THAT SAY "IS HEREBY
12:25:40 11 LICENSED," THAT LANGUAGE, "IS HEREBY LICENSED"; CORRECT?

12:25:41 12 A. I'VE SEEN THAT, YES.

12:25:42 13 Q. AND YOU WOULD AGREE THAT A CONTROLLED
12:25:45 14 COMPOSITION CLAUSE -- OR YOU WOULD SAY THAT A CONTROLLED
12:25:48 15 COMPOSITION CLAUSE THAT SAYS "IS HEREBY LICENSED" IS
12:25:50 16 SELF-EFFECTUATING?

12:25:50 17 MR. POMERANTZ: OBJECTION TO THE FORM AS
12:25:53 18 VAGUE AND AMBIGUOUS.

12:25:53 19 THE DEPONENT: YES.

12:25:53 20 BY MR. BUSCH:

12:25:57 21 Q. OKAY. NOW, THIS -- YOU'LL AGREE WITH ME
12:26:00 22 THAT THIS CONTROLLED COMPOSITION CLAUSE DOES NOT SAY "IS
12:26:02 23 HEREBY LICENSED"; CORRECT?

12:26:03 24 A. THAT'S NOT WHAT IT SAYS.

25 Q. OKAY. IT SAYS THAT ALL CONTROLLED

DEPOSITION OF MARNIE NIEVES

12:26:11 1 COMPOSITIONS WILL BE LICENSED TO AFTERMATH AND ITS
12:26:13 2 DISTRIBUTORS/LICENSEES.

12:26:14 3 DO YOU SEE THAT?

12:26:14 4 A. I DO.

12:26:16 5 Q. DID YOU EVER HAVE ANY CONVERSATION WITH
12:26:21 6 ANYONE INTERNALLY, FIRST OF ALL, ABOUT WHAT IT MEANS TO
12:26:25 7 SAY "AND ITS DISTRIBUTORS/LICENSEES"?

12:26:26 8 A. NO.

12:26:28 9 Q. OKAY. DID YOU EVER HAVE ANY
12:26:31 10 CONVERSATIONS WITH ANYONE INTERNALLY AT MR. PATERNO'S
12:26:34 11 OFFICE ABOUT WHAT THE DIFFERENCE WAS, IF ANY, IN A
12:26:38 12 CONTROLLED COMPOSITION CLAUSE THAT SAYS "IS HEREBY
12:26:41 13 LICENSED" VERSUS "WILL BE LICENSED"?

12:26:43 14 DID YOU EVER HAVE ANY CONVERSATION WITH
12:26:46 15 HIM ABOUT ANY DIFFERENCE IN THE IMPACT, IF ANY, WHEN
12:26:49 16 THAT DIFFERENT LANGUAGE IS USED?

12:26:52 17 A. I DON'T RECALL A SPECIFIC CONVERSATION
12:26:57 18 ABOUT THE DIFFERENCES BETWEEN THE TWO PHRASES YOU JUST
12:26:58 19 USED.

12:27:02 20 Q. OKAY. NOW, WITH RESPECT TO PERMANENT
12:27:06 21 DOWNLOADS, PERMANENT DOWNLOADS WERE NOT IN EXISTENCE IN
12:27:08 22 1998, TO THE BEST OF YOUR KNOWLEDGE; CORRECT?

12:27:09 23 A. CORRECT.

12:27:10 24 Q. THERE WAS NO STATUTORY RATE FOR
25 PERMANENT DOWNLOADS IN 1998?

DEPOSITION OF MARNIE NIEVES

12:33:31 1
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12:33:48 10
12:34:07 11
12:34:09 12
12:34:11 13
12:34:13 14
12:34:17 15
12:34:18 16
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12:34:23 19
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LICENSEES" LANGUAGE.

AND YOU SEE WHERE IT SAYS, "WILL BE LICENSED TO AFTERMATH AND ITS DISTRIBUTORS/LICENSEES"? DO YOU SEE THAT LANGUAGE?

A. I DO.

Q. DOES THAT -- DOES THAT MEAN AFFILIATED DISTRIBUTORS/LICENSEES OR ANY DISTRIBUTORS OR LICENSEES?

MR. POMERANTZ: OBJECTION TO THE FORM. ALSO LACK OF FOUNDATION.

BY MR. BUSCH:

Q. DO YOU KNOW?

A. CAN YOU REPEAT THE QUESTION. SORRY.

Q. YES. DOES THE PHRASE "AND ITS DISTRIBUTORS/LICENSEES" APPLY TO AFFILIATED DISTRIBUTORS AND LICENSEES OR IS IT MEANT TO APPLY TO ANY DISTRIBUTORS OR ANY LICENSEES?

MR. POMERANTZ: OBJECTION TO THE FORM OF THE QUESTION. AND ALSO TO THE EXTENT THAT IT'S ASKING THIS WITNESS TO SPECULATE.

BY MR. BUSCH:

Q. IF YOU KNOW. DO YOU KNOW?

A. I DON'T KNOW.

Q. OKAY. ISN'T IT CORRECT, MA'AM, THAT IF UNIVERSAL LICENSES A MASTER TO A THIRD PARTY FOR USE, FOR EXAMPLE, IN A COMPILATION ALBUM --

DEPOSITION OF MARNIE NIEVES

12:34:35 1

A. UH-HUH.

12:34:39 2

Q. -- AN UNAFFILIATED LICENSEE, LIKE A

12:34:41 3

K-TEL OR LIONEL RECORDS OR SOMETHING LIKE THAT, THAT IT,
12:34:44 4 GENERALLY SPEAKING, IS THE OBLIGATION OF THE LICENSEE TO
12:34:47 5 GO TO THE PUBLISHER TO GET A MECHANICAL LICENSE?

12:34:48 6

A. THAT'S CORRECT.

12:34:50 7

Q. EVEN IF THERE'S A CONTROLLED COMPOSITION

12:34:51 8

CLAUSE?

12:34:52 9

A. IN CONNECTION WITH THE COMPILATION

12:34:55 10

LICENSE THAT'S GOING TO BE DISTRIBUTED BY SOMEBODY ELSE.

12:34:59 11

Q. OKAY. SO WHERE AN UNAFFILIATED LICENSEE

12:35:04 12

DISTRIBUTES A PRODUCT, THEN IT IS THE GENERAL PRACTICE

12:35:10 13

THAT IT IS THE UNAFFILIATED LICENSEE'S OBLIGATION TO GET

12:35:15 14

THE MECHANICAL LICENSE, EVEN IF UNIVERSAL HAS A

12:35:17 15

CONTROLLED COMPOSITION CLAUSE; CORRECT?

12:35:18 16

MR. POMERANTZ: OBJECTION TO THE FORM OF

12:35:20 17

THE QUESTION. THE PHRASE "PRODUCT" IS VAGUE AND

12:35:20 18

AMBIGUOUS.

12:35:23 19

ARE YOU REFERRING TO A COMPILATION ALBUM

12:35:25 20

OR SOMETHING DIFFERENT?

12:35:27 21

MR. BUSCH: ISN'T THAT WHAT SHE JUST

12:35:27 22

SAID?

12:35:29 23

MR. POMERANTZ: WITH RESPECT TO

12:35:31 24

COMPILATION PRODUCTS.

25

THE DEPONENT: RIGHT. WHEN -- WHEN THE

DEPOSITION OF MARNIE NIEVES

12:35:35 1 PRODUCT IS BEING RELEASED BY A THIRD PARTY AND ON THEIR
12:35:37 2 PRODUCT, THEY'RE RESPONSIBLE.

12:35:37 3 BY MR. BUSCH:

12:35:38 4 Q. SO IF -- OKAY.

12:35:43 5 SO IF THERE IS A -- BEFORE THE ADVENT OF
12:35:46 6 PERMANENT DOWNLOADS -- BEFORE THE ADVENT OF PERMANENT
12:35:50 7 DOWNLOADS, WHERE THERE MAY BE CONFUSION ON -- OR
12:35:55 8 AMBIGUITY, LET'S SAY, ON VARIOUS ISSUES, BEFORE THE
12:35:58 9 ADVENT OF PERMANENT DOWNLOADS, WOULD YOU AGREE THAT --
12:36:03 10 CAN YOU THINK OF ANY EXAMPLE OF MUSIC BEING LICENSED TO
12:36:08 11 A UNAFFILIATED THIRD PARTY FOR DISTRIBUTION WHERE IT
12:36:13 12 WOULD NOT BE THE OBLIGATION OF THE LICENSEE TO OBTAIN A
12:36:19 13 MECHANICAL LICENSE EVEN IF UNIVERSAL HAS A CONTROLLED
12:36:21 14 COMPOSITION CLAUSE?

12:36:21 15 MR. POMERANTZ: OBJECTION TO THE FORM OF
12:36:25 16 THE QUESTION. ALSO LACK OF FOUNDATION. AND TO THE
12:36:28 17 EXTENT IT CALLS FOR A LEGAL CONCLUSION.

12:36:29 18 THE DEPONENT: IN MY EXPERIENCE, THE
12:36:34 19 DISTINCTION IS THE PRODUCT THAT IS BEING RELEASED.

12:36:35 20 BY MR. BUSCH:

12:36:36 21 Q. YOU NEED TO LISTEN TO MY QUESTION,
12:36:39 22 PLEASE. I REALLY AM TRYING TO MAKE THIS AS CLEAR AS
12:36:40 23 POSSIBLE.

12:36:42 24 PRIOR TO PERMANENT DOWNLOADS -- OKAY,
25 LET'S TAKE PERMANENT DOWNLOADS OUT OF THE EQUATION --

DEPOSITION OF MARNIE NIEVES

12:36:55 1 CAN YOU THINK OF ANY SITUATION WHERE UNIVERSAL WOULD
12:36:56 2 LICENSE A MASTER TO A THIRD PARTY FOR REPRODUCTION AND
12:37:01 3 FOR DISTRIBUTION BY THAT UNAFFILIATED LICENSEE WHERE IT
12:37:05 4 WOULD NOT BE THE OBLIGATION OF THE UNAFFILIATED LICENSEE
12:37:08 5 TO OBTAIN A SEPARATE MECHANICAL LICENSE?

12:37:09 6 MR. POMERANTZ: SAME OBJECTIONS AS TO
12:37:11 7 THE PRIOR QUESTION.

12:37:13 8 THE DEPONENT: I CAN'T THINK OF ANYTHING
12:37:26 9 NOW, BUT THAT DOESN'T MEAN IT DOESN'T EXIST.

12:37:27 10 MR. BUSCH: OKAY. ALL RIGHT. THAT'S
12:37:27 11 ALL I HAVE.

12:37:28 12 MR. POMERANTZ: ALL RIGHT. THANK YOU.
12:37:29 13 SAME STIPULATION AS PRIOR DEPOSITIONS,
12:37:33 14 IS THAT OKAY?

12:37:33 15 DEPOSITION OFFICER: COUNSEL, SO
12:37:34 16 STIPULATED?

12:37:37 17 MR. BUSCH: SURE. I'M NOT SURE WHAT
12:37:40 18 THAT STIPULATION IS, BUT, SURE.

12:37:41 19 THE VIDEOGRAPHER: OKAY. OFF THE RECORD
20 AT 12:37 P.M.

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(WHEREUPON, AT THE HOUR OF
12:37 P.M., THE PROCEEDINGS
WERE CONCLUDED.)

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DEPOSITION OF MARNIE NIEVES

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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14
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16 EXECUTED AT _____ ON _____.

17
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19
20 _____
21 (SIGNATURE OF DEPONENT)

DEPOSITION OF MARNIE NIEVES

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

3

4 I, ALEX BAKER, CERTIFIED SHORTHAND REPORTER,
5 CERTIFICATE NUMBER 11897, FOR THE STATE OF CALIFORNIA,
6 HEREBY CERTIFY:

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

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

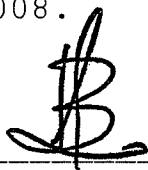
13 THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT
14 TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

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

18 IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED MY
19 NAME THIS 11TH DAY OF JUNE, 2008.

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