

**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 4

DEPOSITION OF RAND HOFFMAN

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UNITED STATES DISTRICT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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

PLAINTIFFS,)

VS.)

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

DEFENDANTS.)

CASE NO.
CV 07-3314 PSG
(MANX)

30(B)(6) DEPOSITION OF RAND HOFFMAN,
TAKEN ON BEHALF OF THE PLAINTIFFS,
AT 10250 CONSTELLATION BOULEVARD,
19TH FLOOR, LOS ANGELES, CALIFORNIA,
COMMENCING AT 10:39 A.M., THURSDAY,
MAY 22, 2008, BEFORE RENEE A.
PACHECO, RPR, CSR NUMBER 11564.

DEPOSITION OF RAND HOFFMAN

11:11:51 1

A. RESPONSIVE LETTER? NOT TO MY

11:11:53 2

KNOWLEDGE, OR NOT TO MY RECOLLECTION.

11:11:55 3

Q. DID UNIVERSAL EVER RESPOND TO THIS

11:11:56 4

LETTER IN ANY WAY?

11:12:07 5

A. NO.

11:12:09 6

Q. OKAY. TO THE PEOPLE WITH WHOM YOU

11:12:13 7

DID SPEAK ABOUT THIS LETTER, WHO MAY HAVE BEEN

11:12:18 8

SIGNATORIES TO THIS LETTER, WHAT DID YOU SAY, IF

11:12:19 9

YOU REMEMBER?

11:12:27 10

A. THINGS LIKE "WHAT'S THIS ALL ABOUT?

11:12:31 11

THIS IS VERY UNUSUAL TO SEE ALL OF YOU ON THE SAME

11:12:32 12

LETTER."

11:12:34 13

YOU SHOULD KNOW THAT MOST OF THESE

11:12:39 14

PEOPLE ARE MY FRIENDS AND ALL OF THEM ARE

11:12:42 15

COLLEAGUES -- PROFESSIONAL COLLEAGUES THAT I'VE

11:12:44 16

DEALT WITH OVER THE YEARS. SO TO SEE ALL OF THEM

11:12:47 17

ON THE SAME LETTER WAS UNUSUAL.

11:12:52 18

AND SO I SAID TO PEOPLE, "SO WHAT'S

11:12:54 19

THIS ALL ABOUT? HOW DID THIS COME ABOUT?"

11:12:55 20

Q. AND WHAT YOU -- AND -- BUT YOU

11:12:57 21

DON'T REMEMBER TO WHOM YOU SAID THIS?

11:12:58 22

A. NOT SPECIFICALLY, NO.

11:13:00 23

Q. AND WHAT DID THE PEOPLE WHO

11:13:04 24

RESPONDED TO YOU, WHOEVER THEY WERE, SAY IN

25

RESPONSE TO YOUR INQUIRY?

DEPOSITION OF RAND HOFFMAN

11:13:06 1 MR. POMERANTZ: OBJECTION TO THE
11:13:06 2 FORM.

11:13:09 3 THE DEPONENT: COULD YOU RESTATE
11:13:09 4 THE QUESTION?
11:13:10 5 BY MR. BUSCH:

11:13:10 6 Q. YES.

11:13:12 7 WHEN YOU SAID "WHAT'S THIS ALL
11:13:14 8 ABOUT? THIS IS UNUSUAL," WHAT WAS THE RESPONSE
11:13:15 9 THAT YOU GOT?

11:13:15 10 MR. POMERANTZ: SAME OBJECTION.

11:13:24 11 THE DEPONENT: "WE'D LIKE" -- "WE'D
11:13:26 12 LIKE A MORE FAVORABLE METHOD OF PAYMENT. WE'D
11:13:28 13 LIKE TO START A DIALOGUE."

11:13:28 14 BY MR. BUSCH:

11:13:30 15 Q. WAS THERE EVER A DIALOGUE STARTED?

11:13:32 16 A. AS FAR AS I KNOW, THERE WAS NO
11:13:36 17 DIALOGUE STARTED WITH THESE INDIVIDUALS AS A
11:13:36 18 GROUP.

11:13:50 19 Q. OKAY. AND DID YOU EVER DISCUSS THE
11:13:53 20 MERITS OF THIS LETTER AND WHAT WAS BEING SAID IN
11:13:56 21 THE LETTER WITH ANYBODY WHO SIGNED THE LETTER?

11:14:05 22 MR. POMERANTZ: OBJECTION; ASKED
11:14:05 23 AND ANSWERED.

11:14:05 24 BY MR. BUSCH:

25 Q. SPECIFICALLY THE PROVISION THAT

DEPOSITION OF RAND HOFFMAN

12:19:04 1 OTHERS, FOR THEIR MANUFACTURE AND
12:19:06 2 SALE OF RECORDS OR FOR ANY OTHER
12:19:10 3 USES, YOUR ROYALTY SHALL BE AN
12:19:12 4 AMOUNT EQUAL TO 50 PERCENT OF OUR
12:19:14 5 NET RECEIPTS FROM THE SALE OF
12:19:16 6 THOSE RECORDS OR FROM THOSE OTHER
12:19:18 7 USES OF THE MASTERS."
12:19:18 8 DO YOU SEE THAT?
12:19:18 9 A. YES.
12:19:24 10 Q. OKAY. I WANT YOU TO TELL ME
12:19:34 11 WHETHER -- IF THE UNIVERSAL ARRANGEMENT WITH
12:19:40 12 ITUNES IS A MASTER LICENSED BY UNIVERSAL TO APPLE
12:19:44 13 FOR THEIR MANUFACTURE AND SALE OF RECORDS OR FOR
12:19:46 14 ANY OTHER USE, WHETHER THIS PROVISION APPLIES.
12:19:48 15 MR. POMERANTZ: OBJECTION TO THE
12:19:48 16 FORM.
12:19:54 17 THE DEPONENT: I DON'T BELIEVE THE
12:19:58 18 INTENT OF THE PARTIES IS THAT WHETHER -- IF THE
12:20:00 19 APPLE-UNIVERSAL RELATIONSHIP IS A LICENSE THAT
12:20:02 20 THIS APPLIES.
12:20:06 21 I ACKNOWLEDGE THAT YOU COULD
12:20:08 22 INTERPRET THE LANGUAGE THAT WAY, BUT I DON'T
12:20:10 23 BELIEVE THAT'S WHAT THE LANGUAGE MEANS.
12:20:10 24 BY MR. BUSCH:
25 Q. WERE YOU INVOLVED -- YOU SAID YOU

DEPOSITION OF RAND HOFFMAN

12:20:14 1 DON'T BELIEVE IT WAS THE INTENT OF PARTIES. YOU
12:20:16 2 WEREN'T INVOLVED IN THE NEGOTIATION OF THE
12:20:18 3 AGREEMENT IN 1998, WERE YOU?

12:20:18 4 A. I WAS NOT.

12:20:18 5 Q. OKAY. AND YOU SAW THAT IN MARCH --
12:20:22 6 ON MARCH 24TH, 2004, A LETTER WAS SENT TO
12:20:24 7 UNIVERSAL THAT YOU SAID YOU RECEIVED A COPY OF,
12:20:24 8 EXHIBIT NUMBER 64?

12:20:24 9 A. YES.

12:20:28 10 Q. OKAY. AND I SHOWED YOU THAT THIS
12:20:30 11 LETTER WAS SIGNED BY PETER PATERNO?

12:20:32 12 A. YES.

12:20:32 13 Q. DO YOU SEE THAT?

12:20:34 14 AND I READ TO YOU THE LANGUAGE IN
12:20:38 15 THIS EXHIBIT THAT SAYS:

12:20:40 16 "RATHER THAN RECOGNIZE THE
12:20:42 17 ARRANGEMENTS BETWEEN THE MAJOR
12:20:44 18 LABELS AND INDEPENDENT ELECTRONIC
12:20:46 19 DISTRIBUTORS AS LICENSES FOR
12:20:48 20 WHICH WE FEEL THERE COULD BE NO
12:20:50 21 BONA FIDE LEGAL DISPUTE AND
12:20:50 22 PAYING OUR CLIENTS ACCORDING TO
12:20:52 23 THE APPLICABLE PROVISION OF THEIR
12:20:54 24 CONTRACTS, ALL FIVE MAJOR RECORD
25 COMPANIES HAVE ADJUSTED -- HAVE

DEPOSITION OF RAND HOFFMAN

12:32:52 1 WAS SUPPOSED TO MEAN, THEN, YES, I AGREE WITH YOU.

12:32:52 2 BUT I DON'T THINK THAT IT IS.

12:32:52 3 BY MR. BUSCH:

12:32:54 4 Q. OKAY. DO YOU REMEMBER ME ASKING

12:32:58 5 YOU WHETHER AT ANY TIME YOU HAD ANY

12:33:02 6 CONVERSATIONS -- THE VERY BEGINNING OF THIS

12:33:04 7 DEPOSITION, DO YOU RECALL ME ASKING YOU WHETHER

12:33:08 8 YOU HAD ANY CONVERSATIONS WITH ANY REPRESENTATIVES

12:33:12 9 OF EITHER EMINEM OR WITH F.B.T. ABOUT THIS LICENSE

12:33:16 10 PROVISION IN THE '98 OR 2003 AGREEMENT, AND

12:33:20 11 WHETHER DIGITAL DOWNLOADS DO OR DO NOT FALL WITHIN

12:33:20 12 THOSE PROVISIONS?

12:33:22 13 DO YOU RECALL YOUR -- ME ASKING

12:33:22 14 THOSE QUESTIONS?

12:33:22 15 A. YES.

12:33:24 16 Q. AND DO YOU RECALL YOU SAYING THAT

12:33:28 17 THE ONLY CONVERSATIONS THAT YOU HAD WITH ANYONE

12:33:30 18 WERE AFTER THIS LAWSUIT WAS FILED?

12:33:30 19 DO YOU RECALL YOUR TESTIMONY THERE

12:33:30 20 AS WELL?

12:33:36 21 A. WITH REPRESENTATIVES OF EMINEM OR

12:33:38 22 F.B.T., YES, I DO.

12:33:40 23 Q. OKAY. SO I TAKE IT, THEN, THAT IN

12:33:44 24 CONNECTION WITH -- BASED UPON THAT TESTIMONY --

25 WHICH I ASSUME WAS TRUTHFUL WHEN GIVEN?

DEPOSITION OF RAND HOFFMAN

12:33:48 1 A. YES, YES.

12:33:52 2 Q. -- THAT IN CONNECTION WITH YOUR
12:33:54 3 INVOLVEMENT IN THE CONTRACTS BETWEEN
12:33:58 4 REPRESENTATIVES OF F.B.T. AND EMINEM, FROM THE
12:34:02 5 TIME YOU BEGAN AT INTERSCOPE UNTIL THE TIME THIS
12:34:06 6 LAWSUIT WAS FILED, THERE WAS NEVER ANY DISCUSSION
12:34:08 7 ABOUT THESE PROVISIONS AND WHETHER THEY APPLY TO
12:34:14 8 DIGITAL DOWNLOADS; CORRECT?

12:34:14 9 A. YES.

12:34:18 10 Q. OKAY. SO WHAT IS YOUR BASIS FOR
12:34:20 11 SAYING THAT YOU KNOW THAT THE INTENT OF THE
12:34:22 12 PARTIES WAS THAT THIS WAS NOT TO APPLY TO
12:34:22 13 PERMANENT DOWNLOADS?

12:34:26 14 A. IN PART, THE PROCESS OF THE AUDIT
12:34:32 15 THAT LED TO THIS LAWSUIT. THAT'S THE END OF MY
12:34:34 16 SENTENCE.

12:34:34 17 Q. WHAT DO YOU MEAN BY THAT?

12:34:42 18 A. I DON'T REMEMBER WHETHER I SPOKE
12:34:44 19 DIRECTLY TO THE AUDITOR OR I SPOKE TO OUR ROYALTY
12:34:48 20 PEOPLE, WHO WERE TALKING TO THE AUDITOR, OR I
12:34:54 21 SPOKE TO REPRESENTATIVES -- LAWYERS REPRESENTING
12:35:00 22 EMINEM OR -- OR F.B.T. OR AFTERMATH -- I'M SORRY,
12:35:04 23 NOT AFTERMATH -- F.B.T. OR EMINEM, BUT I
12:35:08 24 DISTINCTLY RECALL THAT THIS AUDIT COULD HAVE
25 SETTLED FOR A CERTAIN AMOUNT OF MONEY MORE THAN WE

DEPOSITION OF RAND HOFFMAN

12:51:21 1 DOWNLOAD WAS NOT A PHONORECORD FOR THE PURPOSE OF
12:51:22 2 THE STATUTORY RATE.

12:51:38 3 Q. WOULD YOU PLEASE TURN YOUR
12:51:47 4 ATTENTION TO THE -- IN EXHIBIT NUMBER 5, PARAGRAPH
12:51:59 5 NUMBER 6, MECHANICAL ROYALTIES.

12:52:01 6 AND YOU SEE WHERE IT SAYS:

12:52:03 7 "MECHANICAL ROYALTIES. ALL
12:52:05 8 CONTROLLED COMPOSITIONS" -- THEN
12:52:08 9 THERE'S A PARENTHETICAL -- "WILL
12:52:10 10 BE LICENSED TO AFTERMATH AND ITS
12:52:13 11 DISTRIBUTORS/LICENSEES."

12:52:14 12 DO YOU SEE THAT?

12:52:14 13 A. YES.

12:52:19 14 Q. OKAY. DO YOU KNOW WHETHER THIS IS
12:52:22 15 TYPICAL LANGUAGE IN A CONTROLLED COMPOSITION
12:52:24 16 CLAUSE OR TYPICALLY IT WILL SAY THAT ALL
12:52:28 17 CONTROLLED COMPOSITIONS ARE HEREBY LICENSED TO THE
12:52:29 18 RECORD LABEL?

12:52:30 19 MR. POMERANTZ: OBJECTION TO THE
12:52:31 20 FORM.

12:52:32 21 THE DEPONENT: I DON'T KNOW ABOUT
12:52:37 22 TYPICAL, BUT I KNOW THAT THE FORM THAT I USE DAY
12:52:39 23 TO DAY SAYS "HEREBY LICENSED."
12:52:44 24 BY MR. BUSCH:

25 Q. AND DO YOU SEE WHERE IT SAYS:

DEPOSITION OF RAND HOFFMAN

13:00:49 1 AFTERMATH ENTERS INTO A LICENSE, IT CAN EITHER
13:00:55 2 MAKE AVAILABLE THIS LICENSE, BECAUSE IT'S THERE OR
13:00:58 3 IT CAN CHOOSE TO SAY TO ITS LICENSEE, NO, THIS IS
13:01:02 4 NOT AVAILABLE, GO OUT AND DEAL WITH THE PUBLISHER
13:01:04 5 YOURSELF.

13:01:04 6 BY MR. BUSCH:

13:01:07 7 Q. SO WERE YOU INVOLVED IN THE
13:01:08 8 DRAFTING OF THIS LANGUAGE, OF THIS CONTROLLED
13:01:09 9 COMPOSITION CLAUSE?

13:01:10 10 A. NO.

13:01:12 11 Q. DID YOU EVER -- DID YOU EVER SPEAK
13:01:15 12 TO ANY OF THE PARTIES ABOUT WHAT WAS MEANT BY THE
13:01:18 13 "WILL BE LICENSED TO AFTERMATH AND ITS
13:01:21 14 DISTRIBUTORS/LICENSEES" LANGUAGE?

13:01:23 15 MR. POMERANTZ: BY "PARTIES," YOU
13:01:26 16 MEAN EITHER THE F.B.T. OR EMINEM PARTIES?

13:01:28 17 MR. BUSCH: YES. OR MR. PATERNO.

13:01:29 18 MR. POMERANTZ: WELL, I'M GOING TO
13:01:32 19 INSTRUCT HIM NOT TO ANSWER MR. PATERNO TO THE
13:01:33 20 EXTENT IT'S PRIVILEGED.

13:01:33 21 THE DEPONENT: I DON'T RECALL.

13:01:34 22 BY MR. BUSCH:

13:01:36 23 Q. OKAY. AND SO YOU DON'T KNOW WHAT
13:01:39 24 THE INTENT OF THE PARTIES WAS WITH RESPECT TO THIS
25 LANGUAGE IN THIS AGREEMENT, DO YOU?

DEPOSITION OF RAND HOFFMAN

16:06:23 1 AGREEMENT, IF YOU COULD GET THEM BOTH IN FRONT OF
16:06:41 2 YOU, PLEASE.

16:06:44 3 IN 1998, WHEN THE -- THIS AGREEMENT
16:06:51 4 WAS ORIGINALLY ENTERED INTO, DO YOU KNOW WHETHER
16:06:55 5 PERMANENT DOWNLOADS WERE A FORM OF -- A COMMERCIAL
16:06:59 6 FORM OF REPRODUCTION?

16:07:00 7 MR. POMERANTZ: OBJECTION; VAGUE,
16:07:01 8 ARGUMENTATIVE.
16:07:01 9 BY MR. BUSCH:

16:07:02 10 Q. DO YOU KNOW WHETHER PERMANENT
16:07:04 11 DOWNLOADS WERE IN EXISTENCE AT THE TIME OF THE
16:07:05 12 1998 AGREEMENT?

16:07:21 13 A. MY RECOLLECTION IS THAT THERE -- IT
16:07:23 14 WAS TECHNOLOGICALLY POSSIBLE, AND THERE MAY HAVE
16:07:26 15 BEEN A FEW ISOLATED CASES, BUT NOBODY HAD STARTED
16:07:33 16 A BUSINESS IN 1998 OF DISTRIBUTING DOWNLOADS.

16:07:34 17 Q. DO YOU KNOW WHETHER IT WAS
16:07:37 18 CONTEMPLATED BY THE PARTIES IN 1998 THAT PERMANENT
16:07:40 19 DOWNLOADS WOULD OR WOULD NOT BE COVERED BY THE
16:07:41 20 CONTROLLED COMPOSITION CLAUSE?

16:07:42 21 A. I BELIEVE IT WAS CONTEMPLATED.

16:07:44 22 Q. AND WHAT IS YOUR BASIS FOR SAYING
16:07:45 23 "IT WAS CONTEMPLATED"?

16:07:47 24 A. EVERYBODY IN 1998 WAS FAMILIAR WITH
25 THE INTERNET, EVERYBODY IN 1998 KNEW THAT AT SOME

DEPOSITION OF RAND HOFFMAN

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16:26:18 2
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16:26:30 6
16:26:32 7
16:26:35 8
16:26:37 9
16:26:39 10
16:26:40 11
16:26:43 12
16:26:43 13
16:26:45 14
16:26:47 15
16:26:52 16
16:26:54 17
16:27:02 18
16:27:09 19
16:27:12 20
16:27:15 21
16:27:16 22
16:27:20 23
16:27:23 24
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THE DEPONENT: WELL, IT'S NOT
SIGNED SO I DON'T KNOW IF IT'S A LICENSE.
BUT, YES, I READ IT.
BY MR. BUSCH:
Q. OKAY. DO YOU SEE THAT -- DO YOU
SEE THAT IN PARAGRAPHS 9 AND 10 THERE IS A --
PROVISIONS THAT SAY -- WELL, TERMINATION
PROVISIONS, IN PARAGRAPHS 9 AND 10, DIFFERENT
TERMINATION PROVISIONS?
A. I SEE WHAT 9 AND 10 SAY. YES.
Q. OKAY. DO YOU KNOW WHETHER
UNIVERSAL AGREED TO THIS DOCUMENT, THIS LICENSE?
A. I DO NOT.
Q. DO YOU KNOW WHETHER IT'S IN EFFECT?
A. I DO NOT.
Q. LET ME ASK YOU THIS, MR. HOFFMAN:
DO YOU HAVE ANY KNOWLEDGE WHATSOEVER, AS YOU SIT
HERE TODAY, OF THE SENDING BACK AND FORTH OF THE
PROPOSED MECHANICAL LICENSES AND THE CONVERSATIONS
SPECIFICALLY THAT OCCURRED BETWEEN MR. MARTIN AND
THE COPYRIGHT DEPARTMENT AT UNIVERSAL, WITH
RESPECT TO THOSE LICENSES?
A. THE ONLY THINGS THAT I KNOW I
BECAME AWARE OF IN PREPARATION FOR THIS
DEPOSITION.

DEPOSITION OF RAND HOFFMAN

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

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DEPONENT'S DECLARATION

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

EXECUTED AT _____ ON _____.

(SIGNATURE OF DEPONENT)

DEPOSITION OF RAND HOFFMAN

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

3

4 I, RENEE A. PACHECO, CERTIFIED SHORTHAND
5 REPORTER, CERTIFICATE NUMBER 11564, FOR THE STATE
6 OF CALIFORNIA, HEREBY CERTIFY:

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

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

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

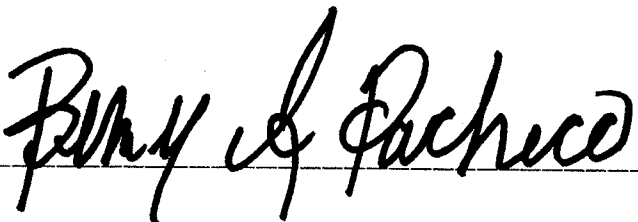
17 I FURTHER CERTIFY THAT I AM NEITHER
18 COUNSEL FOR NOR RELATED TO ANY PARTY TO SAID
19 ACTION, NOR IN ANY WAY INTERESTED IN THE OUTCOME
20 THEREOF.

21 IN WITNESS WHEREOF, I HAVE HEREUNTO
22 SUBSCRIBED MY NAME THIS 28TH DAY OF MAY, 2008.

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March 24, 2004

Michele Anthony
Sony Music Entertainment, Inc.
550 Madison Avenue
New York, NY 10022-3211

Zach Horowitz
Universal Music Group
2220 Colorado Avenue
Santa Monica, CA 90404

David H. Johnson
Warner Music Group, Inc.
75 Rockefeller Plaza
4th Floor
New York, NY 10019

Michael Smellie
BMG Entertainment
1540 Broadway
Times Square
44th Floor
New York, NY 10036-4098

David Munns
EMI Recorded Music
150 Fifth Ave.
8th Fl.
New York, NY 10011

Dear Friends:

We read with great interest Andrew Lack's February 5, 2004 interview in *Daily Variety* in which Mr. Lack expressed "surprise that lawyers in our business seem somewhat detached from this issue, almost ambivalent to the digital revolution...smart lawyers haven't stood up, and I think the reason is they're confused. I hope we can have more positive progress". Many of us heard Mr. Lack echo similar sentiments at the Entertainment Law Initiative luncheon in early February.

We are not ambivalent about the digital revolution and in fact are very cognizant of the important legal and business issues associated with file sharing. However we wish to express our concern about the manner in which major record companies are dealing with artists in the critical, new frontier of music downloads by iTunes and similar companies. Among the most sensitive issues is the royalty itself.

PIFS EXHIBIT 64
DEPONENT *[Signature]*
DATE 5-22-08
RENEE PACHECO, CSR, RPR

FBT - 00502

Rather than recognize the arrangements between the major labels and independent electronic distributors as licenses, for which we feel there can be no *bona fide* legal dispute, and paying our clients according to the applicable provision of their contracts, all five major record companies have adopted the position that paid downloads are equivalent to sales of CDs through retailers. This significantly reduces the amount paid to our clients. The difference, in many cases, varies from the artists' contractual entitlement by more than two-thirds. While there may be a few exceptional contracts, mostly signed in the last 18 months, entitling labels to take this position, the vast majority do not.

Treating digital downloads as normal sales triggers a variety of other contractual provisions which generally would be inapplicable to permitted licensing.

The impact of this collective action by the record companies is three-fold:

First, it deprives our clients of the benefits of their contracts, and unjustly enriches the labels.

Second, paying the artists a mere fraction of their entitlement will validate consumers' feelings that choosing to pay for legitimate downloads in lieu of illicit file sharing will not ultimately benefit the artists, and

Finally, depriving artists of their fair share of on-line distribution revenue polarizes the issue, discouraging artists from lending support to the labels' efforts to mitigate piracy. Given the hearings in Sacramento on royalty issues, we cannot think of a better time for labels and artists to present a united front.

Digital distribution raises many other contractual, legal and philosophical issues currently the subject of considerable, thoughtful public and private debate. Contractual concerns related to various matters - not originally contemplated by the parties - if left unresolved, threaten to further impair the growth of new revenue streams. We must also recognize that legislative solutions may be necessary to insure uniformity and fairness to all parties affected by the current changes occurring in the marketplace. Unless we devise a consistent and mutually acceptable position on these issues, we risk further artist indifference, consumer apathy and the imposition of legislation that could further threaten our collective livelihoods.

The undersigned are prepared to commence an immediate dialogue on these issues and to help our clients become participants in the process of solving these challenging problems facing our industry. It is only in an environment of cooperation and fairness that artists can provide their critical assistance to the labels in this struggle.

Very truly yours,

David Altschul

Elliot Groffman

Jeremy Mohr

Scott T. Brisbin

Gregg Harrison

Milton E. Olin Jr.

Kenneth L. Burry

Kenneth B. Hertz

Donald S. Passman

David Byrnes

Allen Lenard

Peter Paterno

Jay Cooper

Seth Lichtenstein

Steven J. Plinio

Fred Davis

Jeffrey Light

Eugene Salomon

Glenn B. Davis

Douglas Mark

Gary Stiffelman

Fred Goldring

Jamarco Milagros Woeckner

Mitch Tenzer

Eric Greenspan

Francois Mobasser

Jamie Young