

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RALPH VARGAS and BLAND - RICKY
ROBERTS,

Plaintiffs,

- V. -

PFIZER INC., PUBLICIS, INC., FLUID
MUSIC, EAST WEST
COMMUNICATIONS, INC., and BRIAN
TRANSEAU p/k/a "BT",

Defendants.

Case No.: 04 CV 9772 (WHP)

ECF Case

[PROPOSED] JOINT PRETRIAL ORDER
EXHIBIT C

DEFENDANTS' EXHIBIT LIST

Defendants expect to introduce the following exhibits in the trial of this matter. Plaintiffs' objections, if any, are noted.

<u>No.</u>	<u>Description</u>	<u>Plaintiffs' Objection(s)</u>
A.	Second Amended Complaint	
B.	BT's Answer to Second Amended Complaint	
C.	East West's Answer to Second Amended Complaint	
D.	Exhibit B of Anthony Ricigliano's Declaration, Pro Tools Waveform Graphs of Celebrex commercial, <i>Aparthenonia</i> and <i>BDG</i>	Objection. This waveform graph was not produced with Ricigliano's declaration, not produced during discovery.
E.	Exhibit C of Anthony Ricigliano's Declaration, Excerpts of Drum Training/Method Books	

F.	Exhibit D of Anthony Ricigliano's Declaration, audio CD with 11 tracks and written transcriptions of the audio tracks	
G.	Exhibit A of Anthony Ricigliano's Supplemental Declaration, "Drums of indefinite pitch," <i>The New Harvard Dictionary of Music</i>	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial
H.	Exhibit B of Anthony Ricigliano's Supplemental Declaration, Turek, <i>The Elements of Music: Concepts and Applications</i> Volume 1, selected pages	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial
I.	Fig. 1 of Dr. Richard Boulanger's Original Report	
J.	Fig. 2 of Dr. Richard Boulanger's Original Report	
K.	Fig. 3 of Dr. Richard Boulanger's Original Report	
L.	Fig. 4 of Dr. Richard Boulanger's Original Report	
M.	Fig. 5 of Dr. Richard Boulanger's Original Report	
N.	Fig. 6 of Dr. Richard Boulanger's Original Report	
O.	Fig. 7 of Dr. Richard Boulanger's Original Report	
P.	Fig. 8 of Dr. Richard Boulanger's Original Report	
Q.	Fig. 9 of Dr. Richard Boulanger's Original Report	
R.	Fig. 10 of Dr. Richard Boulanger's Original Report	
S.	Fig. 11 of Dr. Richard Boulanger's Original Report	
T.	Fig. 12 of Dr. Richard Boulanger's Original Report	
U.	Fig. 13 of Dr. Richard Boulanger's Original Report	

V.	Fig. 14 of Dr. Richard Boulanger's Original Report	
W.	Fig. 15 of Dr. Richard Boulanger's Original Report	
X.	Fig. 16 of Dr. Richard Boulanger's Original Report	
Y.	Fig. 17 of Dr. Richard Boulanger's Original Report	
Z.	Fig. 18 of Dr. Richard Boulanger's Original Report	
AA.	Fig. 19 of Dr. Richard Boulanger's Original Report	
BB.	Fig. 20 of Dr. Richard Boulanger's Original Report	
CC.	Fig. 21 of Dr. Richard Boulanger's Original Report	
DD.	Fig. 22 of Dr. Richard Boulanger's Original Report	
EE.	Fig. 23 of Dr. Richard Boulanger's Original Report	
FF.	Fig. 24 of Dr. Richard Boulanger's Original Report	
GG.	Fig. 25 of Dr. Richard Boulanger's Original Report	
HH.	Fig. 26 of Dr. Richard Boulanger's Original Report	
II.	Fig. 27 of Dr. Richard Boulanger's Original Report	
JJ.	Fig. 28 of Dr. Richard Boulanger's Original Report	
KK.	Fig. 29 of Dr. Richard Boulanger's Original Report	
LL.	Fig. 30 of Dr. Richard Boulanger's Original Report	

MM.	Fig. 31 of Dr. Richard Boulanger's Original Report	
NN.	Fig. 32 of Dr. Richard Boulanger's Original Report	
OO.	Fig. 33 of Dr. Richard Boulanger's Original Report	
PP.	Fig. 34 of Dr. Richard Boulanger's Original Report	
QQ.	Fig. 35 of Dr. Richard Boulanger's Original Report	
RR.	Fig. 36 of Dr. Richard Boulanger's Original Report	
SS.	Ex. 2 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
TT.	Ex. 3 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
UU.	Ex. 4 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
VV.	Ex. 5 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
WW.	Ex. 6 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
XX.	Ex. 7 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
YY.	Ex. 8 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
ZZ.	Ex. 9 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
AAA.	Ex. 10 of Dr. Richard Boulanger's Rebuttal Report	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
BBB.	Audio Sample CD of Dr. Richard Boulanger's Rebuttal Report, tracks 1 - 52	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.

CCC.	<i>Breakz from the Nu Skool</i> (BT 00026 & 00027, two audio CDs)	Objection. Relevance. Only infringing composition should be admitted as evidence.
DDD.	<i>Aparthenonia</i> , master version as rendered from Logic (BT 00021, audio CD, one track)	Objection. Not produced during discovery. Motion in <i>Limine</i> to preclude introduction at trial.
EEE.	James Brown Funky Drummer Comparisons, audio CD, 4 tracks (BT 00028) (Defendant's Deposition Exhibit 4)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
FFF.	Royalty Report for January 2003 - December 2004 re: BT (EW 007)	
GGG.	Royalty Report for June 2002 - December 2002 re: BT (EW 008)	
HHH.	Royalty Report for October 2001 - June 2002 (EW 009)	
III.	Agreement between Brian Transeau and East West Communications, dated 4/6/2001 (EW 001-006)	
JJJ	Confidential Settlement Agreement and General Release (FL 001 - FL 014)	Objection. Not produced during discovery. Inadmissible. Motion in <i>Limine</i> to preclude introduction at trial.
KKK.	Audio CD Edan, <i>Sound of The Funky Drummer</i> , with track list (BT 00022 - 00024)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
LLL.	LL Cool J, <i>Mama Said Knock You Out</i> , from the album <i>All World: Greatest Hits</i> (BT 00025, audio CD Track 1)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
MMM.	Pop Will Eat Itself, <i>Not Now James, We're Busy</i> , from the album <i>This Is the Day...This Is the Hour...This Is This!!</i> (BT 00025, audio CD Track 2)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
NNN.	Sinéad O'Connor, <i>I Am Stretched Out on Your Grave</i> , from the album <i>I Do Not Want What I Haven't Got</i> (BT 00025, audio CD Track 3)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.

OOO.	New Order, <i>Ruined in a Day</i> , from the album <i>Republic</i> (US Release) (BT 00025, audio CD Track 4)	Objection. Not produced during discovery. No relevance
PPP.	Nine Inch Nails, <i>Piggy (Nothing Can Stop Me Now)</i> , from the album <i>Further Down the Spiral</i> (BT 00025, audio CD Track 5)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
QQQ.	Fine Young Cannibals, <i>I'm Not the Man I Used to Be</i> , from the album <i>The Raw & the Cooked</i> (BT 00025, audio CD Track 6)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
RRR.	MC Frontalot, <i>Good Old Clyde</i> , from the album <i>Nerdcore Hiphop (demo)</i> (BT 00025, audio CD Track 7)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
SSS.	Dr. Dre, <i>Let Me Ride</i> , from the album <i>The Chronic</i> (BT 00025, audio CD Track 8)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
TTT.	Public Enemy, <i>Fight the Power</i> , from the album <i>20th Century Masters - The Millennium Collection: The Best of Public Enemy</i> (BT 00025, audio CD Track 9)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
UUU.	Chubb Rock & Hitman Howie Tee, <i>Talkin' Loud, Ain't Sayin' Jack</i> , from the album <i>And the Winner Is?</i> (BT 00025, audio CD Track 10)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
VVV.	The Pharcyde, <i>Officer</i> , from the album <i>Bizarre Ride II</i> (BT 00025, audio CD Track 11)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
WWW	Elton John, <i>Little Jeannie</i> , from the album <i>Greatest Hits, Vol. III</i> (BT 00025, audio CD track 11)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
XXX	Elton John, <i>Sad Songs Say so Much</i> , from the album <i>Greatest Hits, Vol. III</i> (BT 00029, audio CD track 2)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.

YYY	Billy Joel, <i>Big Shot</i> , from the album <i>Greatest Hits, Vol. II</i> (BT 00029, audio CD track 3)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
ZZZ	Chicago, <i>We Can't Stop the Hurtin'</i> , from the album <i>Chicago 17</i> (BT 00029, audio CD track 4)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
AAAA	The Miracles, <i>Love Machine</i> , from the album <i>Love Machine</i> (BT 00029, audio CD track 5)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
BBBB	James Brown, <i>Papa's Got a Brand New Bag</i> , from album <i>20 All Time Greatest Hits</i> (BT 00029, audio CD track 6)	Objection. Not produced during discovery. No relevance. Motion in <i>Limine</i> to preclude introduction at trial.
CCCC	Plaintiffs' Responses and Objections to Fluid Music's Document Requests (7/24/2005)	
DDDD	Plaintiffs' Responses and Objections to Fluid Music's Interrogatories (7/24/2005)	
EEEE	Plaintiffs' Responses and Objections to Fluid Music's Requests to Admit (7/24/2005)	
FFFF	Plaintiffs' Responses and Objections to Document Requests (Nov. 9, 2005)	
GGGG	Plaintiffs' Supplemental Responses and Objections to Document Requests (April 11, 2006)	
HHHH	Plaintiffs' Second Supplemental Response and Objections to Document Requests (7/26/2006)	
IIII	Plaintiffs' Responses and Objections to Interrogatories (11/9/2005)	
JJJJ	Plaintiffs' Supplemental Responses and Objections to Interrogatories (7/26/2006) (with Roberts's verification dated 7/28/2006 and Vargas's verification dated 7/28/2006)	Objection. Cumulative. Defendants are already producing this document. Motion in <i>Limine</i> to preclude introduction at trial.
KKKK	7/26/2006 Letter from Paul Chin to Julie Ahrens re discovery	Objection. Neither Plaintiffs' counsel nor Defendants' counsel will be witnesses at trial

LLL	8/28/2006 Letter from Julie Ahrens to Paul Chin re discovery	Objection. Neither Plaintiffs counsel nor Defendants' counsel will be witnesses at trial
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