

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.

04 CV 9772 (WHP)
ECF CASE

DECLARATION OF BRIAN BAUGHN

I, BRIAN BAUGHN, declare as follows:

1. I make this declaration based on my personal knowledge of the facts set forth herein. I am over 18 years of age, and if called upon to testify, I could and would testify competently to the matters stated herein.
2. I currently reside at 41 ½ South Sunnyslope Avenue, Pasadena, California 91107. I am an employee of Sonik Architects, a company owned by Brian Transeau ("BT"). I am familiar with Logic Audio software and Propellerhead Reason software.
3. On November 16, 2006, at the Binary Acoustics studio, I witnessed BT recreate from scratch the drum track *Aparthenonia*.
4. In addition to myself and BT, the following people were also present during BT's recreation: a videographer, Wonseok Choi, and Julie Ahrens.
5. I witnessed every part of the recreation and the saw the videographer videotaping the recreation.
6. I watched BT and saw him use the following hardware and software to recreate *Aparthenonia*: (a) an Apple G4 computer; (b) Propellerhead Reason 1.0 software; and (c) Logic Audio software.
7. I saw BT open the Propellerhead Reason 1.0 software, open sound files, and use those sounds files to program the beat.

8. After recreating the track in Reason, I saw BT save the file on the G4 computer. I watched as BT then opened the file with the recreated track into the Logic Audio software and performed additional editing and processing steps to finish the *Aparthenonia* recreation track. BT then saved that recreation track to the G4 computer.

9. Then and only then did BT open the *Breakz from the Nu Skool* CD, load the disk into the computer and open the original *Aparthenonia* track. He used the original *Aparthenonia* track as a comparison, to make his recreated version a closer match to the original. Upon comparing the two tracks in Logic Audio, BT further fine-tuned the recreated track to make it even more of an exact match to the original *Aparthenonia*. BT also performed time correction to the recreated track. BT then saved this file to the G4 computer.

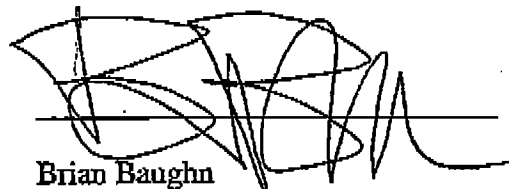
10. I did not see BT copy any elements from the original *Aparthenonia*, or from any other source, into the recreated *Aparthenonia*.

11. I watched as BT inserted a blank compact disk into the disk drive of the G4 and copied the recreated *Aparthenonia* files onto that disk. BT then handed the compact disk to his attorney, Julie Ahrens.

12. Other than watching BT open the sound files from the Propellerhead Reason 1.0 software, I did not see BT use any other sounds or sampled music to make the recreation of *Aparthenonia*. I did not see BT use a turntable or any sampling equipment when he recreated *Aparthenonia*.

I declare under penalty of perjury under the laws of the United States of America that the above statement is true and correct to the best of my recollection.

Executed this 30 day of November, 2006 at Los Angeles, California.


Brian Baughn