

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RALPH VARGAS, and
BLAND-RICKY ROBERTS

Plaintiffs,

vs.

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

Hon. William H. Pauley III

AMENDED NOTICE OF MOTION FOR SUMMARY JUDGMENT

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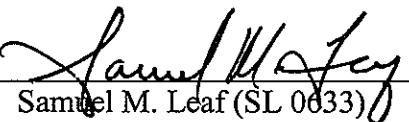
PLEASE TAKE NOTICE that, upon the upon the Declaration of Edward Kelly dated June 30, 2005, and the exhibits annexed thereto, the Declaration of Anthony Riciglione dated June 29, 2005, and the exhibits annexed thereto, the Declaration of Brad Stratton, dated June 29, 2005; the Declaration of Brian Transeau, dated June 28, 2005; the Declaration of Rhys Moody, dated June 27, 2005, the accompanying memorandum of law, and upon all prior pleadings and proceedings had herein, Defendants Pfizer, Inc., Publicis, Inc., Alanda Music, Ltd. d/b/a Fluid Music, East West Communications, Inc. and Brian Transeau (hereinafter "Defendants"), hereby move this Court, before the Honorable William H. Pauley III, at the United States Courthouse for the Southern District New York, located at 500 Pearl Street, New York, New York, for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure, dismissing the Complaint on the ground that the work allegedly infringed is not sufficiently original to be protectible under the Copyright Act.

The date for Plaintiffs' response and oral argument is set forth in the Court's Order of June 10, 2005.

WHEREFORE, Defendants request that the Court grant their motion and provide the relief set forth in the Proposed Order submitted herewith.

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By:  _____
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Dated: July 1, 2005

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